

**ORDINANCE NO. 820**

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**26.01 TITLE.** This chapter shall be known as, referred to or cited as the “Historic Preservation Code of the City of Clintonville.”

**26.03 PURPOSE AND INTENT.** In accordance with the authority granted by section 62.23(7)(em), Wisconsin Statutes, it is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of special character or special archeological, architectural or historic interest or value is a public necessity and it required in the interest of health, prosperity, safety and welfare of the people. The purpose of this chapter is to:

- (1) Effect and accomplish the protection, enhancement and continued use of such improvements, sites and districts which represent or reflect elements of the City’s cultural, social, archeological, economic, political and architectural history.
- (2) Safeguard the City’s historic and cultural heritage, as embodied and reflected in such historic structures, sites and districts.
- (3) Foster civic pride in the notable accomplishments of the past.
- (4) Stabilize and improve property values.
- (5) Protect and enhance the City’s attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.
- (6) Improve and enhance the visual and aesthetic character of the City.
- (7) Educate the public regarding the need and desirability of a historic preservation program and its enhancement of the quality of life.

**26.05 DEFINITIONS.** The following terms shall be defined as follows:

- (1) **ALTERATION** for purposes of this chapter alteration means:
  - (a) Sandblasting, whether such sandblasting is part of a project requiring a building permit or not; or
  - (b) Any other act or process that changes the exterior of an improvement and which requires a building permit or other license from the City including, but not limited to, the addition, expansion, removal or reconstruction of architectural features or structures; demolition of structures; relocation of structures; addition of signage; cleaning and painting of masonry surfaces; sandblasting; or residing.
- (2) **CERTIFICATE OF APPROPRIATENESS** means the certificate issued by the Common Council on recommendation of the Commission approving rehabilitation, construction, reconstruction, demolition, or alteration of a historic structure, historic site or any improvement in a historic district.
- (3) **COMMISSION** means the historic preservation commission created under this section.

(4) **HISTORIC DISTRICT** means an area designated by the Common Council on recommendation of the Commission that contains two or more historic improvements or sites.

(5) **HISTORIC SITE** means any parcel of land of national, state or local historic significance due to a substantial value in tracing the history or pre-history of man, or upon which a historic event has occurred, and which has been designated as a historic site under this section, or an improvement parcel, or part thereof, on which is situated a historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.

(6) **HISTORIC STRUCTURE** means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the City, State or Nation and which has been designated as a historic structure pursuant to the provisions of this chapter.

(7) **IMPROVEMENT** means any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment.

(8) **IMPROVEMENT PARCEL** is unit of property, which includes a physical betterment constituting an improvement and the land embracing the site thereof, and is treated as a single entity for the purposes of levying real estate taxes. Provided, however, that the term “improvement parcel” shall also include any unimproved area of land which is treated as single entity for such tax purposes.

(9) **NOMINATION** is the application for designation of a historic site, structure or district of the Common Council.

**26.06 HISTORIC PRESERVATION COMMISSION.** A Historic Preservation Commission is hereby created, consisting initially of seven (7) members who shall be residents of the City.

(1) The Commission shall include one member from the City Plan Commission who shall serve a term, which is co-terminus with his or her term upon the City Plan Commission.

(2) Each member shall have, to the highest extent practicable; a known interest in historic preservation.

(3) One additional member representing each historic preservation district shall be appointed upon adoption of each such district.

(4) The Mayor shall appoint the Commissioners subject to confirmation by the Common Council.

(5) Of the initial members so appointed, two shall serve a term of one year, two shall serve a term of two years, two shall serve a term of three years, and the City Plan Commission member shall serve a term which is co-terminus with his or her term upon the City Plan Commission. Thereafter, the term for each non-City Plan Commission member shall be three years.

(6) The City Clerk shall give each member written notice of their appointment and shall administer the official oath to citizen members required by Section 19.01, Wisconsin Statutes. The Commission shall elect a chairperson, vice-chairperson and a secretary. The Commission shall make and file in the office of the City clerk its own rules of procedure consistent with this chapter and with the Wisconsin Statutes, which are subject to approval by the Common Council.

(7) In accordance with applicable State and local law, all meetings of the Commission shall be open to the public and any person shall be entitled to appear and be heard on any matter before the Commission before it reaches its decisions. The Commission shall keep a record of its resolutions, proceedings and actions and a copy shall be filed with the City Clerk.

(8) The Commission shall meet on a regular basis at least once each month, unless they have no business to conduct.

**26.07 HISTORIC PRESERVATION COMMISSION DUTIES AND POWERS.**

(1) To develop appropriate criteria and standards for identifying and evaluating neighborhoods, places, structures, and improvements, which might be classified as landmarks, landmark sites, historic districts, or specially designated landmarks.

(2) To identify landmarks, landmark sites, and historic districts within the City subject to official designation by the Common Council; and which upon such official designation shall be subject to the provisions herein.

(3) To compile a list of structures, which would be eligible for specially, designated landmark status. Such structures may be within or outside of a historic district.

(4) To prepare with the assistance of the City Administrator and City Plan Commission an Historic Preservation Plan. Historic designation may be made for districts/structures/sites having particular historic, architectural or cultural significance to the City which:

(a) Is identified with historic personages or with important events in national, state or local history; or,

(b) Embodies the distinguishing characteristics of architectural type or specimens inherently valuable for the study of a period or periods, styles, methods of construction, indigenous materials or craftsmanship; or,

(c) Is representative of the notable works of master builders, designers, or architects who influenced their age.

Each historic preservation plan shall include a cultural and architectural analysis supporting the significance of the area, the specific guidelines for alternations and new construction, and a statement of preservation objectives.

(5) OTHER DUTIES. In addition to those duties already specified in this Section, the Commission shall:

(a) Cooperate with the historic preservation officer for the State of Wisconsin, and the State Historic Preservation Review Board, in attempting to include such properties hereunder designated as historic structures, sites, or districts in the National Register of Historic Places.

(b) Where necessary and appropriate recommend to the City Plan Commission that the City acquire an interest in historic properties by purchase, donation or bequest, including the use of “preservation easements,” where appropriate.

(c) Establish appropriate markers for officially designated landmarks and historic districts.

(d) Promote public education, interest and support for the preservation and enhancement of historic landmarks, landmark sites, and historic districts.

(e) To advise owners of landmarks, landmark sites or structures of the benefits, problems and techniques of preservation and encourages their participation in preservation activities.

**26.08 BUDGET AND FINANCE.** For the purposes enumerated in Section 26.03 of this Chapter, the Historic Preservation Commission may:

(1) Any funds deemed necessary shall be included in the City Administrator’s budget, and will be monitored to assure expenditures are consistent with city policy.

(2) Upon authorization by the Common Council, apply for state and/or federal funding.

(3) Upon authorization by the Common Council, raise funds and accept grants or gifts from public and private sources. Such funds shall be placed in a separate account as may be established by the City Administrator may be used upon authorization by the Common Council.

(4) Recommend contracting for services using such funds as may be authorized in the City Administrator’s budget or from other sources as may be approved by the Common Council. All such contracts require Common Council approval and shall be administered by the City Administrator.

**26.09 DESIGNATION CRITERIA.**

(1) For the purposes of this chapter, the Common Council may place a historic structure, historic site or historic district designation on any improvement, improvement parcel or other unit of real property located within the corporate limits of the City that has been determined by the Council upon recommendation of the Commission to be of historic or architectural significance to the people of the City and that is listed on the national register of historic places in Wisconsin or the state register of historical places.

(2) The quality of significance is present in a historic structure, historic site, or historic district depicting the history, architecture, archeology and culture of the City or the United States that:

(a) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community; or

(b) Is identified with historic personages or with important events in national, state or local history; or

(c) Embodies the distinguishing characteristics or architectural types or specimens inherently valuable for the study of a period or periods, styles, methods of construction, or indigenous materials or craftsmanship; or

(d) Is representative of notable works of masterbuilders, designers or architects who influence their age; or

- (e) Has yielded or may likely yield information important in prehistory or history;
- or
- (f) Has a unique location or singular physical characteristic, which represents an established and familiar visual feature of neighborhood, area, or place.

**26.10 DESIGNATION-RECISION.**

(1) The Commission may, after notice and public hearing, recommend historic structures, historic sites, or historic districts to the Common Council, or recommend the recision of such designation to the Common Council.

(2) At least thirty (30) days prior to such hearing, the Commission shall notify the owners of record as listed in the office of the City Assessor, who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the property affected or within the boundaries of the proposed historic district. These owners shall have the right to confer with the Commission prior to final action by the Commission on the recommendation for designation. Notice of such hearing shall be published as a class 1 notice, under the Wisconsin Statutes. The Commission shall also notify the following: the Public Works Manager, the City Building Inspector, and the City Plan Commission.

(3) The Commission shall conduct a public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or recision.

(4) Within ten (10) days after the close of the public hearing, the Commission may recommend the property be designated as either a historic structure, historic site, or recommended its inclusion in a historic district, or recommend the recision of such designation. After the recommendation of designation or recision has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the City Clerk, Building Inspector, and City Plan Commission. The recommendation shall then be submitted to the Common Council.

(5) After a designation or recision has been made by the Common Council, notification shall be sent by the Commission to the owners of record. Notification shall also be given to the City Clerk, Building Inspector, City Assessor and City Plan Commission.

(6) The Commission shall cause the designation or recision to be recorded in the Office of the Register of Deeds.

**26.11 MAP.** The Commission shall cause to be created and maintained a map showing designated historic structures, sites and districts. This map shall be filed with the City Clerk and shall be made available for public inspection upon request.

**26.12 PROCEDURE FOR THE REVIEW OF PROPOSED ALTERATIONS TO DESIGNATED PROPERTIES AND FOR NEW CONSTRUCTION IN DESIGNATED DISTRICTS.**

(1) No owner, lessee, occupant or other person in charge of a historic structure, historic site, vacant property or an improvement parcel within a historic district shall undertake an alteration as defined under 26.05(1) of such property, or demolish such property unless a Certificate of Appropriateness

has been granted by the Common Council. Unless such certificate has been granted by the Common Council, the City's building inspection department shall not issue a permit or license for any such work.

(2) Applications for Certificates of Appropriateness shall be submitted to the Commission for review and recommendation. The application shall be accompanied by a description or illustration of the proposed work that is of sufficient detail and scope to enable the Commission to readily understand the nature of proposed work.

(3) Upon receipt of an application, the Commission shall review the project at its next regular meeting. The Commission may find the project appropriate and recommend that the Common Council grant a Certificate at that time or shall set a public hearing date within forty-five days of its original review.

(4) When reviewing the Certificate application, the Commission shall consider:

(a) Whether, in the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement upon which said work is to be done; and

(b) Whether in the case of the construction of a new improvement upon a historic site, or within a historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements; and

(c) Whether in the case of any property located in the historic district, the proposed construction, re-construction, exterior alteration, or demolition conforms to the purpose and intent of this chapter and to the objectives and design criteria of the historic preservation plan for said district as duly adopted by the Common Council;

(d) Whether the building or structure is of such architectural or historic significance that its demolition would be detrimental to the public interest and contrary the general welfare of the people of the City and State;

(e) Whether the building or structure is of such old and unusual or uncommon design, texture, and/or material that it could be reproduced without great difficulty and/or expense;

(f) Whether retention of the building or structure would promote the general welfare of the people of the City or the State by encouraging the study of American history, architecture, and design or by developing an understanding of American culture and heritage;

(g) Whether the building or structure is in such a deteriorated condition that it is not structurally or economically feasible to preserve or restore it, provided that any hardship or difficulty claimed by the owner which is self-created or which is the result of any failure to maintain the property in good repair shall not qualify as a basis for the issuance of a Certificate of Appropriateness;

(h) Whether any new structure or change in use proposed to be made, is compatible with the buildings and character of the area in which the property is located.

(5) In addition to the above criteria, the Commission may consider and give decisive weight to any or all of the following standards:

- (a) The property shall be used for its historic purpose or be placed in a use that requires minimal change to the defining characteristics of the building and its site and environment.
  - (b) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
  - (c) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historic development, such as, adding conjectural features or architectural elements from other buildings, shall not be undertaken.
  - (d) Properties change over time; those changes which have acquired historic significance in their own right shall be retained and preserved.
  - (e) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
  - (f) Deteriorated historic features shall be repaired rather than replaced whenever practicable. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
  - (g) Chemical or physical treatments, such as, sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
  - (h) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, adequate mitigation measures shall be undertaken.
  - (i) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
  - (j) New additions and adjacent or related new construction shall be undertaken in such manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- (6) If the Commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, and within the above guidelines, it shall recommend that the Common Council issue the Certificate of Appropriateness. Upon the issuance of such a Certificate by Council, the building permit shall then be issued by the building inspector. The Commission shall make its recommendation within sixty (60) days of the filing of the application.
- (7) The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the City. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certification of Appropriateness required for the proposed work. In so far as they are applicable to the historic structure, historic site, or improvement in an historic district designated under this section, any provision of the plumbing code, electrical code,

building or housing code of the City shall apply unless waived by the Common Council. The Commission may support or propose such waivers before the appropriate State or City appeals body.

(8) Work in compliance with Certificate of Appropriateness shall be started within twenty-four (24) months after the issuance of the Certificate, and the work shall conform to the provisions of the Certificate. The City may inspect the work during and after construction in order to assure compliance. Failure to comply with a Certificate of Appropriateness or failure to obtain a Certificate of Appropriateness shall be violation of this chapter. In addition to other penalties and remedies, the City may issue a stop work order, and all work shall cease on the designated property. No additional work shall be undertaken as long as such stop work order shall continue in effect.

(9) Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

**26.13 CONDITIONS DANGEROUS TO LIFE, HEALTH OR PROPERTY.** Nothing contained in this chapter shall prohibit the making of necessary alterations or the demolition of any historic structure or improvement in a historic district by order of any governmental agency or by any court judgment to remedy emergency conditions determined to be dangerous to life, health or property. In such cases, no approval from the Commission shall be required although the Commission shall be notified of the alteration or demolition as soon as possible.

**26.14 INTERIM CONTROL.** No building permit shall be issued by the Building Inspector for alteration, construction, demolition or removal of a nominated historic structure, historic site, or any property or structure within a nominated historic district from the date of the meeting of the Historic Preservation Commission at which a nomination form is first presented until the final disposition by the Common Council unless such alteration, removal or demolition is authorized by formal resolution of the Common Council as necessary for public health, welfare or safety.

**26.15 CONFORMANCE WITH REGULATIONS.** The Mayor may appoint the Building Inspector or any other individual or groups of individuals, subject to confirmation by the Common Council, to determine compliance with the provisions of this chapter.

**26.16 PREVENTION OF NEGLECT.** Every person in charge of an improvement on a historic site or in any historic district shall keep in good repair all of the exterior portions of such improvement and all interior portions thereof which, if not so maintained may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair, including but not limited to:

- (1) The deterioration of exterior walls or other vertical supports;
- (2) The deterioration of roofs or other horizontal members;
- (3) The deterioration of external chimneys;
- (4) The deterioration or crumbling of exterior plasters or mortars;
- (5) The ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors;

- (6) The peeling of paint, rotting, holes, or other forms of decay;
- (7) The deterioration of surrounding environment, i.e., fences, gates, sidewalks, steps, signs, accessory structures, and landscaping;
- (8) The deterioration of any features so as to create or permit the creation of any hazardous or unsafe condition or conditions;
- (9) All interior portions thereof which may cause the exterior to deteriorate or become damaged or otherwise to fall into a state of disrepair.

The purpose of this section is to prevent the demolition of a building or structure by neglecting it and permitting damage to it by weather by vandalism.

**26.17 EMERGENCY CONDITIONS.** In any case where the Building Inspector determines that there are emergency conditions dangerous to life, health or property affecting a historic structure, historic site or a property in the historic district, the Building Inspector may order the remedy of these conditions without the approval of the Commission. The Building Inspector shall promptly notify the Commission of the action being taken. When the emergency conditions do not require demolition, the Building Inspector shall make every effort to carry out the intent of this ordinance and to use the design guidelines of the Commission when remedying the emergency conditions.

**26.18 PENALTIES FOR VIOLATIONS.** Any person or persons violating any provision of this chapter shall be fined \$35 for each separate violation. Each and every day in which a violation continues shall be deemed to be a separate offense. Notice of violation shall be issued by the Building Inspector. If the violations remain uncorrected after the time specified in the notice, the City may, at its election, impose fines and/or have the violations corrected at City expense and have a lien placed against the property equal to the cost of the repairs, plus applicable fines and administrative costs.

**26.19 SEVERABILITY.** If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.