

## Title 13 ► Chapter 4

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# Historic Preservation

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### **Sec. 13-4-1 Purpose and Intent.**

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 architectural or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this Chapter is to:

- (a) Effect and accomplish the protection, enhancement and preservation of such improvements;
- (b) Safeguard the City of Washburn's heritage by preserving sites and structures, which reflect elements of the City's cultural, social, economic, political, visual or architectural history;
- (c) Foster civic pride in the beauty and notable accomplishments of the past;
- (d) Stabilize and improve property values;
- (e) Improve and enhance the visual and aesthetic character, diversity and interest of the City of Washburn;
- (f) Protect and enhance the City of Washburn's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry; and
- (g) Educate the public regarding the need and desirability of a Washburn historic preservation program and its enhancement of the quality of life.

### **Sec. 13-4-2 Definitions.**

The following definitions shall be applicable in this Chapter:

- (a) **Certificate of Appropriateness.** The certificate issued by the Historic Preservation Commission approving alteration, rehabilitation, construction, reconstruction or demolition of a historic structure or historic site.

- (b) **Commission.** The Historic Preservation Commission created under this Chapter.
- (c) **Historic Property.** Collective term meaning historic site or historic structure.
- (d) **Historic Site.** Any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which a historic event has occurred, and which has been designated as a historic site under this Chapter, 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.
- (e) **Historic Structure.** Any improvement which has a special character or special historic interest or value as part of the development of the City of Washburn; includes the heritage or cultural characteristic of the City, state or nation and which has been designated as a historic structure pursuant to the provisions of this Chapter.
- (f) **Improvement.** Any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.
- (g) **Improvement Parcel.** The unit of property which includes the physical betterment constituting an improvement and the land embracing the site thereof, and is treated as a single entity for the purpose of levying real estate taxes. Provided, however, that the term "improvement parcel" shall also include any unimproved area of land which is treated as a single entity for such tax purposes.

### **Sec. 13-4-3 Historic Preservation Commission.**

- (a) **Composition; Appointment.**
  - (1) The Historic Preservation Commission ("Commission") is hereby created and shall consist of the then-sitting members of the Common Council.
  - (2) The Zoning Administrator shall serve as an ad hoc member of the Commission and shall not be entitled to a vote.
  - (3) The terms of the members of the Commission run concurrently with their terms on the Common Council. No compensation shall be paid to Commission members except for expenses necessary in carrying out their duties. The Commission shall annually select from its members a Chairperson, Vice-Chairperson and Secretary and shall fill vacancies in such offices.
- (b) **Meetings.** The Commission shall meet on a regular basis, as needed, but no less than two (2) times per calendar year. The Common Council by majority vote, or the Mayor, shall have the authority to call and schedule said meetings.
- (c) **Powers and Duties.** The Commission shall have the following powers and duties:
  - (1) The Commission shall review and study historic properties and sites within Washburn with respect to nominations to designate a City Historic Property.

- (2) The Commission shall review applications for Certificate of Appropriateness and shall issue such certificates.
- (3) The Commission shall assist persons applying to have property listed on the state register of historic places or the national register of historic places with the application process.
- (4) The Commission shall provide information to interested persons regarding investment tax credit programs, grants or loans that may be available with respect to historic rehabilitation efforts. The Commission shall assist interested individuals in understanding and meeting the eligibility requirements for such programs.
- (5) The Commission shall educate the public regarding the benefits to the community, businesses and property owners from historic preservation.

### **Sec. 13-4-4 Criteria for Historic Designation.**

For the purposes of this Chapter, a Historic Property designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic architectural, archeological or cultural significance to the City of Washburn, such historic structures, sites or district which:

- (a) Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
- (b) Identify with a person or persons who significantly contributed to the City's culture and development; or
- (c) Embody the distinguishing characteristics of an architectural style, period, form, or treatment; or
- (d) Identify the work of an architect or master builder whose individual work has influenced the City's development; or
- (e) Has yielded, or may be likely to yield, information important to prehistory or history; or
- (f) The unique location or singular physical characteristic representing and established and familiar feature of a neighborhood, community or the City of Washburn.

### **Sec. 13-4-5 Procedures for Historic Designation.**

- (a) **Nomination Process.**
  - (1) The Commission shall have the power to nominate historic structures and historic sites for historic designation. Such designations shall be made based on Section 13-4-4.
  - (2) The owner or owners of the nominated property shall be notified in writing by the Commission that said property is being considered by the Commission for such designation. If the owner, for any reason, elects or chooses to not participate with his/her property in the historic structure or site designation, said owner can appeal in

writing to the Common Council within ten (10) days of receipt of the notice of the Commission's nomination, which shall be served either by personal service or certified mail. Upon receipt of said appeal by the Common Council, the matter shall be placed on the next regular Council meeting agenda for the purpose of removing the appellant's property from the nomination process. The Common Council shall remove said property from the nomination process, unless there is clear and satisfactory evidence that the subject property represents a historical structure or site of such important to the history of Washburn, and the public good, that the removal of the property from the nomination process would represent a likely danger that the property's historical significance will be seriously damaged or lost. An appeal under this Section stays any further hearings by the Commission regarding the nominated property.

- (3) The Commission shall hold a public hearing to consider the nomination of the structure or site as a Historic Property. The public hearing shall not be conducted less than fourteen (14) days after the publication of a public meeting notice.
  - (4) After considering written and oral input obtained through the public hearing process, the Commission shall make its recommendations to the Common Council as to whether the structure or site should be designated a Historic Property. The Commission's written recommendation shall include reasons in support of the Commission's recommendations. The Commission shall forward a copy of its written recommendations to every person who owns all or part of the property described by the nomination.
  - (5) The Common Council shall hold a public hearing to consider the Commission's recommendation to designate the structure or site as a Historic Property. The Common Council may then approve or deny the designation by majority vote.
- (b) **Obligations of Historic Properties.** Upon approval by the Common Council as a Historic Property, the designated property and the owner or owners, shall abide by the guidelines and regulations governing Historic Properties.

### **Sec. 13-4-6 Regulations Governing Historic Properties.**

- (a) After the Historic Property has been designated as such by the Common Council, no owner or person in charge of a Historic Property shall reconstruct, alter or demolish all or any part of the exterior of such Historic Property unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission. The Zoning Administrator shall not issue a building permit for such work unless a Certificate of Appropriateness has been granted by the Commission. No additional structures shall be permitted to be constructed or placed upon the historic property unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission. Any reconstruction, remodeling or other similar work

- to the interior of the structures on the Historic Property shall not require a Certificate of Appropriateness, but must comply with any rules regarding issuance of a building permit.
- (b) The owner of a Historic Property must complete an application for a Certificate of appropriateness for any desired changes to be made to the Historic Property described in Subsection (a).
- (c) Upon filing of any application for the Certificate of Appropriateness with the Commission, the Commission shall approve the application unless:
- (1) In the case of a designated Historic Property, the proposed work would detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement or site upon which said work is done;
  - (2) In the case of the construction of a new improvement upon a Historic Property, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site;
  - (3) In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this Chapter and the objectives and design criteria of the historic preservation plan for such a district;
  - (4) The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of Washburn and the state;
  - (5) The building or structure is of such old and unusual or uncommon design, texture, and/or material that it could not be reproduced without great difficulty and/or expense.
  - (6) In the case of request for the demolition of a deteriorated building or structure, any hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.
- (d) In addition, in determining whether to issue a Certificate of Appropriateness, the Commission shall consider and give weight to any or all of the following standards:
- (1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to defining the characteristics of the building and its site and environment.
  - (2) The historic character of the property shall be retained and preserved. The removal of historic material or alteration of features and spaces that characterize the property shall be avoided.
  - (3) Each property shall be recognized as a physical record of time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
  - (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
  - (5) Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize the property shall be retained and preserved.

- (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of distinctive features, 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.
- (e) 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 within the stated guidelines, it shall issue a Certificate of Appropriateness. Upon the issuance of such a certificate, the building permit shall be issued by the Zoning Administrator. The Commission shall make this decision within thirty (30) days of the filing of the application.
- (f) Should the Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines, the Commission shall provide suggestions as to how the proposed alterations could be completed so as to minimize any adverse affects to the Historic Property and to assist the applicant in obtaining the desired Certificate of Appropriateness within the guidelines of this Chapter.
- (g) Applicants may appeal the Commission's decision to the Common Council within thirty (30) days of receipt of the decision of the Commission. The appeal is a de novo review. The owner may seek as a remedy upon appeal rescission of the historical designation, if the owner of the property subject to the historical designation can establish by clear and convincing evidence that the Commission is acting in an arbitrary and capricious manner, which has resulted in an unreasonable hardship to the owner.
- (h) The Zoning Administrator is responsible for assuring that all work is done in accordance with the Certificate of Appropriateness and the issued building permit.
- (i) Agencies of the City and all public utility and transportation companies undertaking projects affecting historic structures, sites, or districts shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures and buildings on property, easements, or streets owned or franchised by the City.
- (j) Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided the work involves repairs to existing features of a historic structure or site and the replacement of elements of the exterior portion of the structure with pieces identical in appearance and provided the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

### **Sec. 13-4-7 Rescission of Historic Property Designation.**

- (a) If the person listed as the owner of record of a Historic Property is unable to sell his/her property due to the obligations imposed by this Chapter, such a person may petition the

Commission for a rescission of its designation. Such petition shall contain a statement under oath that the person has made responsible attempts in good faith to find and attract such a buyer, as well as further information deemed reasonably necessary by the Commission of the purpose of evaluating the petition request.

- (b) Following any such rescission, the Commission may not redesignate the subject property as a Historic Property for at least five (5) years from the date of rescission.