

12.26-2 HO HISTORICAL OVERLAY DISTRICT (6/12/12)

(a) Purpose and Intent

It is hereby the finding of the Kenosha County Board of Supervisors that the protection, enhancement, perpetuation and use of improvements in areas of special character or special historical interest or value may be required in the public interest. The purpose of this district is to:

- 1 Effect and accomplish the protection, enhancement and perpetuation of such improvements and areas which represent or reflect elements of the County's cultural, social, economic, political and architectural history.
- 2 Safeguard the County's historic and cultural heritage, as embodied and reflected in such landmarks and historic districts.
- 3 Stabilize and improve property values.
- 4 Foster civic pride and promote education in the beauty, culture, tradition, and noble accomplishments of the past.
- 5 Protect and enhance the County's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.
- 6 Strengthen the economy of the County.

This district may be implemented only upon creation of a historical preservation commission created pursuant to subsection (d) of this section.

(b) Definitions In this section, unless the context clearly requires otherwise:

- 1 "Historic area" means a designated area or areas containing one or more landmarks as well as those abutting improvement parcels which have been determined to fall under the provisions of this section to assure that their appearance and development is harmonious with such landmarks.
- 2 "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.
- 3 "Improvement parcel" is the 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 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.
- 4 "Landmark" means any improvement, parcel of land, or area designated as such pursuant to this ordinance and which:
 - a. Has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the county, state or nation

or reflects the broad political, economic or social history of the county, state or nation, or

- b. Has substantial value in tracing the history of aboriginal man, or
- c. Is the site of an historic event which has occurred or is identified with historic personages or with important events in national, state or local histories, or
- d. Embodies the distinguishing characteristics of an architectural type specimen, inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship, or
- e. Is representative of a notable work of a master builder, designer or architect whose individual genius influences his age.

(c) Historical Overlay District Designation

For purpose of this ordinance, a Historical Overlay District designation may be placed on any site which may be designated as a "landmark" or "historic area" pursuant to the provisions of this section.

(d) Advisory Historical Preservation Commission.

Composition and Terms.

An Advisory Historical Preservation Commission may be created without further town board approval, consisting of seven (7) members. Of the membership, one shall be a registered architect; one shall be a historian qualified in the field of historic preservation; one shall be a licensed real estate broker; one shall be a County Board Supervisor; and three shall be citizen members. Each member shall have, to the highest extent practicable, a known interest in landmark preservation. The County Executive shall appoint the commissioners subject to confirmation by the County Board. Of the initial members so appointed two shall serve a term of one year, two shall serve a term of two years, and three shall serve a term of three years. Thereafter, the term for each member shall be three years.

(e) Duties of Historical Preservation Commission

- 1 Recommendation. The commission shall have the responsibility subject to subsection (f) of this section, to recommend the designation of historical overlay districts as defined in this section within the unincorporated areas of the County. Such recommendation shall be made in accordance with the criteria set forth in this section.
- 2 In addition, the commission shall:
 - a Actively work for the passage of enabling legislation which would permit the granting of full or partial tax exemptions to properties it has designated under the provisions of this section in order to encourage historic district owners to assist in carrying out the intent of this ordinance.
 - b Work closely with the State of Wisconsin liaison officer and the Governor's liaison committee for National Register of Historic Places of the United States

National Park Service in attempting to include such properties hereunder designated as historic districts on the Federal Register.

- c Work for the continuing education of the citizens about the historic heritage of this County and the historic districts designated under the provisions of this section.
- d Receive and solicit funds, as it deems advisable, for the purpose of historic district preservation in the County. Such funds shall be placed in a special county account for such purpose.

(f) Procedures

1 Designation of Historical Overlay Districts.

The commission may, after notice and public hearing, recommend the establishment of historical overlay districts, or recommend the rescission of such designation, after application of the criteria set forth in this section. At least ten (10) days prior to such hearing, the commission shall notify the owners of record, as listed in the office of the County Assessor, who are owners of property in whole or in part situated within five hundred (500) feet of the boundaries of the property affected. These owners shall have the right to confer with the commission prior to final action by the commission on the designation. Notice of such hearing shall also be published as a Class 1 Notice, under the Wisconsin Statutes. The Commission shall also notify the following: the Town Board wherein the District is proposed or located, the County Park Commission and the Kenosha County Department of Planning and Development. Each such department may respond to the commission within thirty (30) days of notification with its comments and proposed recommendation. The commission shall then conduct such 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 rescission. Within ten (10) days after the close of the public hearing, the commission may recommend designating the property as an historical overlay district or recommend rescission of such designation.

2 Petition for Historical Overlay District

After the recommendation set forth in subsection 1 has been made, the commission shall petition the Kenosha County Planning, Development & Extension Education Committee for a rezoning of the subject property or properties from its original zoning classification to an Historical Overlay District or in the alternative, may petition that property currently located in the Historical Overlay District be rezoned. Where the property has been rezoned to a Historical Preservation District, only those uses permitted in the underlying district shall be permitted. The underlying district may be changed without additional costs at the same time as the Historical Preservation District is created. The Planning, Development & Extension Education Committee shall follow the procedures outlines in section 12.38 of this ordinance in proceeding with the petition for an amendment to this ordinance. (11/5/84)

3 Historical Overlay District Preservation Plan

At the public hearing held before the Planning, Development & Extension Education Committee pursuant to section 12.38 of this ordinance, the Commission shall present an Historical Overlay District Preservation Plan prepared for the Commission by an architect or historian which shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development and a statement of preservation objectives. At the public hearing before the Planning, Development & Extension Education Committee, the Committee shall make findings that the proposed area or areas are suitable for designation by the county board as "landmark" or "historic areas" and therefore for historic preservation and set forth the reasons for such finding. In addition, the committee shall adopt the Historical Overlay District Preservation Plan without change. Guidelines to be considered in the development of Historical Overlay District Preservation Plan for an historic area are to be as follows: (11/5/84)

- a All new structures shall be constructed to a height visually compatible with the building and environment with which they are visually related.
- b The gross volume of any new structure shall be visually compatible with the buildings and environment with which it is visually related.
- c In the street elevation(s) of a building the proportion between the width and height in the facade(s) should be visually compatible with the building environment with which it is visually related.
- d The proportions and relationships between doors and windows in the street facade(s) should be visually compatible with the buildings and environment with which it is visually related.
- e The rhythm of solids to voids, created by openings in the facade, should be visually compatible with the buildings and environment with which it is visually related.
- f The existing rhythm created by existing building masses and spaces between them should be preserved.
- g The materials used in the final facade(s) should be visually compatible with the buildings and environment with which it is visually related.
- h The texture inherent in the facade should be visually compatible with the buildings and environment with which it is visually related.
- i Colors and patterns used on the facade (especially trim) should be visually compatible with the buildings and environment with which it is visually related.
- j The design of the roof should be visually compatible with the buildings and environment with which it is visually related.
- k The landscape plan should be sensitive to the individual building, its occupants and their needs. Further, the landscape treatment should be visually compatible with the buildings and environment with which it is visually related.
- l All street facade(s) should blend with other buildings via directional expression. When adjacent buildings have a dominant horizontal or vertical expression, this expression should be carried over and reflected.
- m Architectural details should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.

4 County Board Action

The action and recommendation of the Planning, Development & Extension Education Committee shall be forwarded to the Kenosha County Board of Supervisors for final

determination. Once a site or sites have been designated as a landmark or historic area and a Historical Overlay District created by the County Board and the Zoning Map amended and the Historical Preservation Plan adopted and notice of the designation filed with the Register of Deeds Office for Kenosha County, and all town building inspectors, such districts shall be subject to all of the provisions of this ordinance. (11/5/84)

(g) Regulation of Construction, Reconstruction and Exterior Alteration

- 1 Any application for a permit from a township building inspector involving the exterior of a designated landmark, or structure within an historical area shall be filed with the Historical Preservation Commission.
- 2 No owner or person in charge of a landmark, or structure within an Historic area shall reconstruct or alter all or any part of the exterior of such property or construct any improvement upon such designated property or properties within an Historical Overlay District or cause or permit any such work to be performed upon such property unless a Certificate of Appropriateness has been granted by the Historical Preservation Commission. Unless such certificate has been granted by the commission, a township Building Inspector shall not issue a permit for any such work.
- 3 Upon filing of the application with the Historical Preservation Commission, the Historical Preservation Commission shall determine:
 - a Whether, 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, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site; and
 - c Whether, in the case of any property located in a historic area, designated pursuant to the terms of section (f)4, hereunder, the proposed construction, reconstruction or exterior alteration would or would not conform to the objectives and design criteria of the historical preservation plan for said historic area as duly adopted by the County Board.
- 4 If the commission finds the guidelines set forth in subparagraphs a, b, and c of Paragraph 3 have been met, it shall issue the Certificate of Appropriateness. Upon the issuance of such certificate, the building permit shall then be issued by the appropriate Township Building Inspector. The commission shall make this decision within thirty (30) days of the filing of the application. Should the commission fail to issue a Certificate of Appropriateness due to failure of the proposal to conform to the above guidelines, the applicant may appeal such decision in accordance with the procedures set forth in section 12.35 of this ordinance. In addition, if the commission fails to issue a Certificate of Appropriateness, the commission shall, at the request of the applicant, cooperate and work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this ordinance.
- 5 A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with

12.26.-1 (d), flood resistant material used and construction practices and floodproofing methods shall comply with 12.12-4(l). Repair or rehabilitation of historic structures shall be exempt from the development standards of 12.28-10(d) if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

(h) Regulation of Demolition

No permit to demolish all or part of a landmark, or improvement in an Historical Overlay District, shall be granted by the appropriate Township Building Inspector except as follows:

- 1 Any person in charge of a landmark, or structure in an historic area shall not be granted a permit to demolish such property without written approval of the commission.
- 2 At such time as such person applies for a permit to demolish such property, such application shall be filed with the commission. Upon such application, the commission may refuse to grant such written approval for a period of up to ten (10) months from the time of such application, during which time the commission and the applicant shall undertake serious and continuing discussions for the purpose of finding a method to save such property. During such period, the applicant and the commission shall cooperate in attempting to avoid demolition of the property. At the end of this ten (10) month period, if no mutually agreeable method of saving the subject property bearing a reasonable prospect of eventual success is underway, or if no formal application for funds from any governmental unit or nonprofit organization to preserve the subject property is pending, the appropriate Township Building Inspector may issue the permit to demolish the subject property without the approval of the commission. If such mutually agreeable method for saving the subject property is not successful or no such funds to preserve the subject property have been obtained and are available for disbursement within a period two (2) months following the end of such ten (10) month period, the appropriate Township Building Inspector may issue the permit to demolish the subject property without the approval of the commission.

(i) Recognition of Landmarks and Historic Areas

At such time as a landmark or historic area has been properly designated in accordance with this ordinance, the commission shall cause to be prepared and erected on such property at County expense, a suitable plaque declaring that such property is a landmark or historic area. Such plaque shall be so placed as to be easily visible to passing pedestrians. In the case of a landmark, the plaque shall state the accepted name of the landmark, the date of its construction, and other information deemed proper by the commission. In the case of a landmark site which is not the site of a landmark building, such plaque shall state the common name of the site, and such other information deemed appropriate by the commission.

(j) Sale of Landmarks

Any party who is listed as the owner of record of a landmark at the time of its designation, and who can demonstrate to the commission that by virtue of such designation he is unable to find a buyer willing to preserve such landmark, even though he has made reasonable attempts in good faith to find and attract such a buyer, may petition the commission for a rescission of its designation. Following the filing of such petition with the commission:

- 1 The owner and the commission shall work together in good faith to locate a buyer for the subject property who is willing to abide by its designation.

- 2 If, at the end of a period not exceeding six (6) months from the date of such petition, no such buyer can be found, and if the owner still desires to obtain such rescission, the commission shall rescind its designation of the subject property.
- 3 In the event of such rescission, the commission shall notify the county clerk, the appropriate Township Clerk, and the appropriate Township Building Inspector and the County Assessor of same, and shall cause the same to be recorded, at its own expense, in the office of the Kenosha County Register of Deeds.
- 4 Following any such rescission, the commission may not redesignate the subject area as a landmark or historic area for a period of not less than five (5) years following the date of rescission.

(k) Conformance with Regulations

Every person in charge of any landmark, or improvement in a historic area shall maintain the same or cause to permit it to be maintained in a condition consistent with the provisions of this section. The County Board may appoint the Kenosha County Department of Planning and Development or any other individual or group of individuals to inspect the premises and to enforce this ordinance. The duties of the inspection officer shall include periodic inspection at intervals provided by the County Board of designated landmarks and historic areas. Such inspections may include physical entry upon the property to ensure that interior alterations or maintenance will not jeopardize the exterior appearance or structural stability of the improvement. If an owner refuses permission for the enforcement officer to enter for purposes of inspection at reasonable hours, the inspection officer may obtain a warrant of entry pursuant to Wisconsin Statutes, section 66.122 and take any other reasonable measures to further the enforcement of this ordinance.

(l) Maintenance of Landmarks and Historic Areas

Every person in charge of an improvement in an Historical Overlay District shall keep in good repair all 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. This provision shall be in addition to all other provisions of law requiring such improvement to be kept in good repair.

(m) Conditions Dangerous to Life, Health or Property

Nothing contained in this section shall prohibit the making of necessary construction, reconstruction, alteration or demolition of any improvement on a landmark site or in a historic area for the purpose of remedying emergency conditions determined to be dangerous to life, health, or property. In such cases, no approval from the commission shall be required.

(n) Any party violating any section of this ordinance pertaining to historical preservation shall be subject to the provisions of section 12.33 of this ordinance.

12.26-3 RESERVED FOR FUTURE USE (3/16/04)