

28.06 Procedures

1. HEARINGS AND NOTIFICATIONS. (Am. #9-13) Subject to approval by the Common Council, the Commission may, after notice and public hearing, establish landmarks, landmark sites and historic districts, or rescind such designation after application of the criteria in §28.04. The Commission shall also implement the following procedures:
 - a. At least 20 days prior to such hearing, the Commission shall notify the owners of record as well as owners of properties in whole or in part situated within 200 feet of the boundaries of the property affected.
 - b. Notice of such hearing shall also be published as a Class 2 notice, pursuant to Wis. Stat. Chapter 985.
 - c. The Commission shall also notify the following departments: Public Works, Park and Recreation and Forestry, Fire, Police, Building Inspection and City Planning. Each department shall respond to the Commission within 20 days of notification with its comments on the proposed designation or rescission.
 - d. The Commission shall then conduct a public hearing, may hear expert witnesses and shall have the power to subpoena witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or rescission.
 - e. (Am. #9-13) Within 10 days after the close of the public hearing, the Commission may, subject to Common Council approval, designate the property as either a Landmark or a Landmark Site, or include it in a Historic District, or rescind such designation. After the designation or rescission has been approved by the Common Council, notification shall be sent within 10 days to the property owner or owners and to other persons who appeared at the public hearing. Notification shall also be given to the City Clerk, City Attorney, Building Inspector and City Assessor. The Commission shall cause such designation or rescission to be recorded, at City expense, in the Waukesha County Register of Deeds office.
2. PETITION FOR HISTORIC DISTRICT ZONING. (Am. #50-80) HPD Historic Preservation Overlay District Zoning shall be applied to each Landmark or Historic District property upon Common Council approval of its designation. A clear boundary of the designation shall be provided for Plan Commission and Common Council review as part of their review.
3. VOLUNTARY RESTRICTIVE COVENANTS. The owner of any Landmark or Landmark Site may, at any time following such designation of the property, enter into a restrictive covenant with the Commission on the subject property. The Commission may assist the owner in preparing such restrictive covenant in the interest of preserving the Landmark or Landmark Site, and the owner shall record such covenant in the Waukesha County Register of Deeds office, and shall notify the City Assessor of such covenant and the conditions thereof.
4. CREATION OF HISTORIC DISTRICTS.
 - a. For preservation purposes, the Landmarks Commission may select geographically defined areas within the City to be designated as Historic Districts and shall, with the assistance of the City Planning Department, prepare a historic preservation plan in ordinance form for each area. A Historic District may be designated for any geographic

area of particular historic, architectural, or cultural significance to the City in accordance with §28.04(1). Each historic preservation plan prepared for or by the Landmarks Commission 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.

b. Reviewal and Adoption.

- (1) Landmarks Commission. The Landmarks Commission shall hold a public hearing when considering the plan for a Historic District. Notice of the time, place and purpose of such hearing shall be given by publication as a Class 2 Notice pursuant to Wis. Stat. Chapter 985 and shall also be sent by the City Clerk to the Alderman of the Aldermanic district or districts in which the Historic District is located, and the owners of record, who are owners of property situated in whole or in part within the Historic District, or situated in whole or in part within 200' of the boundaries of the Historic District. Said notice is to be sent at least 10 days prior to the date of such public hearing. Within 10 days following the public hearing, the Landmarks Commission shall vote to approve, reject, or withhold action on the plan. This recommendation shall be forwarded to the City Plan Commission and the Common Council.
- (2) Plan Commission. The Plan Commission shall review the Historic District Plan and make a recommendation to the Common Council within 60 days of receiving the Landmark Commission's report.
- (3) Common Council. The Common Council, upon receipt of the recommendation from the Landmarks Commission and Plan Commission, shall hold a public hearing, notice to be given as directed in subsection (4)(b), and shall, following the public hearing, either designate or reject the Historic District. Designation of the Historic District shall constitute adoption of the plan in ordinance form prepared for that district and direct the implementation of said plan.

5 APPEAL OF A DECISION OF THE LANDMARKS COMMISSION. Upon receipt of a timely appeal of a decision of the Landmarks Commission, the Common Council shall promptly review the decision of the Commission applying the factors set forth in § 28.05(3)(d) of this ordinance.

- a. Procedure for the appeal shall be as follows: 1. Explanation by Department staff of the Landmarks Commission's Standards; 2. Presentation of the application by staff, as presented to the Landmarks Commission; 3. A statement by the Chair of the Landmarks Commission, or by a designee, in support of the Landmarks Commission's decision. 4. A statement by the applicant in support of the appeal.
- b. Each step shall be followed by an opportunity for question and clarification by the Common Council members. All questions must come from the Council and responses must be directed to the Council. Cross examination of Commission members or Department staff by the applicant or of the applicant by Landmarks Commission members shall not be permitted.
- c. After hearing from staff, the Commission, and the applicant, the Council shall deliberate and vote in open session. The Council may reverse, modify, or affirm wholly or partly the decision of the Commission.

- d. Any person or persons having a substantial interest in a property which has been designated as a Landmark or Landmark Site, may appeal the designation by requesting a review of the determination within 30 days of the date of Common Council approval, in accordance with §2.11(3)(a) of the Waukesha Municipal Code.

