

ORDINANCE 2021-07

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AMENDING SECTION 2.15 (DESIGN AND PRESERVATION COMMISSION) OF CHAPTER 17 (ZONING CODE) OF THE MUNICIPAL CODE OF THE CITY OF PRAIRIE DU CHIEN, CRAWFORD COUNTY, WISCONSIN. TO UPDATE THE ROLES, RESPONSIBILITIES, DUTIES, AND AUTHORITY OF THE DESIGN AND PRESERVATION COMMISSION

PURPOSE: THE AMENDMENT UPDATES THE ROLES, RESPONSIBILITIES, DUTIES, AND AUTHORITY OF THE DESIGN AND PRESERVATION COMMISSION.

The Common Council of the City of Prairie du Chien, Crawford County, Wisconsin, does ordain that Section 2.15 of Chapter 17 of the Municipal Code be amended as follows:

SECTION 1:

CHAPTER 2.15
DESIGN AND PRESERVATION COMMISSION

- (1) CREATION OF DESIGN AND PRESERVATION COMMISSION. There is created a City Design and Preservation Commission to be organized and operated in accordance with this section.
 - (2) PURPOSE AND INTENT. It is hereby declared a matter of public policy that the protection, enhancement, perpetuation, and use of those features of special character, beauty, or special historical interest or value are public necessities and are required in the interest of health, prosperity, safety, and welfare of the people. The purpose of this Section is to:
 - (a) Effect and safeguard the protection, enhancement, and perpetuation of our City's cultural, social, natural, economic, political, and architectural history as embodied and reflected in improvements, historic or landmark structures, historic or landmark sites, and natural features.
 - (b) Safeguard the City's historic, prehistoric, and cultural heritage, as embodied and reflected in such historic structures, sites, and districts.
 - (c) Stabilize and improve property values.
 - (d) Foster civic pride in the beauty and noble accomplishments of the past and present.
 - (e) Protect and enhance the City's attractions to residents, tourists, and visitors, and serve as a support and stimulus to business and industry.
 - (f) Promote the use of aesthetic and historic resources for people's education, pleasure, and welfare.
 - (g) Strengthen the economy of the City.
 - (h) Promote the use of historic structures, sites and districts for the education, pleasure and welfare of the people of the City.
 - (3) DEFINITIONS. In this chapter, unless the context clearly requires otherwise:
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- (a) “Commission” means the Design and Preservation Commission created under this chapter.
 - (b) “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, including streets, alleys, sidewalks, curbs, lighting fixtures, signs, work of art, and the like.
 - (c) “Historic or landmark 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 or landmark structure pursuant to the provisions of this chapter.
 - (d) “Historic or landmark site” means any parcel of land of 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 or landmark site under this section, or a parcel, or part thereof, on which is situated a historic or landmark structure and any abutting parcel, or part thereof, used as and constituting part of the premises on which the historic or landmark structure is situated.
 - (e) “Demolition by Neglect” means the process of allowing landmarks, landmark sites or improvements in historic districts to decay, deteriorate, become structurally defective, or otherwise fall into disrepair.
- (4) DESIGN AND PRESERVATION COMMISSION COMPOSITION AND TERMS. The Design and Preservation Commission is hereby created, consisting of seven [7] Commissioners. Of the membership, one shall be a representative of the Plan Commission, one shall be a member of the Downtown Revitalization Inc. board of directors, one shall be an alderperson, one shall be a local preservationist or historian, one shall be an architect or architectural historian, and two shall be citizens. Each member shall have, to the highest extent practicable, a known interest in city beautification and historic preservation. The Mayor shall appoint the commissioners subject to confirmation by the Common Council. 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. Such terms shall initially expire one, two, or three years from the May 1 immediately following the effective date of this Section and on the same date each year thereafter. Members of the Commission may be appointed for succeeding terms. A vacancy occurring in the membership for any cause shall be filled by a person appointed by the Mayor and confirmed by the Common Council for the unexpired term. The members of said Commission shall receive no compensation except for necessary expenses sustained in carrying out their duties, which expenses shall be paid by the City of Prairie du Chien as may be authorized by the Common Council. The Commission shall elect a chairman, vice-chairman, and secretary/treasurer and shall adopt rules and regulations for its government not inconsistent with the provisions of this section.
- (5) HISTORIC OR LANDMARK STRUCTURES, HISTORIC OR LANDMARK SITES, AND DESIGN AND PRESERVATION DISTRICT DESIGNATION CRITERIA.
- (a) For purposes of this chapter, a historic or landmark structure, historic or landmark site, or design and preservation district designation may be placed on any area, natural or improved, including any building, improvement or structure

located thereon, or any area of particular historic, archaeological, architectural or cultural significance to the City, such as historic structures or sites which:

1. Exemplifies or reflects the broad cultural, political, natural, economic, or social heritage of the City of Prairie du Chien, State or Nation: or
2. Is identified with historic personages or with important events in National, State, or local history; or
3. Embodies the distinguishing characteristics of an architectural type inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
4. Is representative of notable work of a master builder, designer, or architect whose individual genius influences an era; or
5. Is important, due to its visibility to major travel patterns, to the overall aesthetic image of the City.

(6) POWER AND DUTIES.

- (a) The Commission may adopt specific operating guidelines for historic or landmark structure, historic or landmark site, and design and preservation district designation providing such are in conformance with the provisions of this chapter.
- (b) Publicly advocate opinions and recommendations on issues involving historic preservation.
- (c) Cooperate with the Wisconsin 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.
- (d) Accept, receive, and solicit funds for the purpose of historic preservation in the City. Such funds shall be placed in a special City account for such purposes.
- (e) Develop and recommend programs and legislations and otherwise provide information on aesthetic improvement and historic preservation to the Common Council.
- (f) Work for the continuing education of the citizens about the aesthetic qualities and the historic heritage of the city.
- (g) Designate appropriate markers for specially designated historic or landmark structures and historic districts.
- (h) Provide information, when requested, on adaptive re-use concepts and procedures for historic structures.
- (i) Make an annual report to the City Council and the SHPO regarding its activities including meeting minutes.
- (j) Designation: The Commission shall have the power, subject to Sections (7)(a), to recommend the designation of historic or landmark structures, historic or landmark sites, and design and preservation districts within the City limits of Prairie du Chien. Such designations shall be based upon the criteria established under Section (5)(Aa). Once designated by the Common Council, such historic or landmark structures, historic or landmark sites, and design and preservation districts shall be subject to all the provisions of the ordinance, and such designation of district shall be recorded, at City expense, at the Crawford County Register of Deed's Office. The owner of such historic structure, site, and improvement shall notify any purchasers of such designation and such historic

structures, sites, improvements, and districts shall be subject to all the provisions of this Code.

(k) Regulation of Exterior Construction, Reconstruction, and Alteration.

1. Any application for a permit from the Building Inspector involving the exterior of a structure within a design and preservation district or a historic or landmark structure or historic or landmark site shall be filed with the Design and Preservation Commission.
2. The applicant shall submit a detailed description for the proposed construction, reconstruction, excavation, or alteration together with any architectural drawings, if those services have been utilized by the application, and a sufficient description of the construction or alteration and use to enable the Commission to determine what the final appearance of the property will be, including measurements, building materials, furnish materials, and name brands of products when available. Upon filing of any application with the Historic Sites Preservation Commission, the Commission shall review the application and assess the effects of the application on the historic site, structure, district, or archaeological site. The Commission shall make recommendations regarding the application within 30 days of receipt of the application if a meeting of the Commission is able to meet within that timeframe. If the Commission is not able to meet within 30 days, the Chair of the Commission shall confer with Zoning and may make a recommendation on an application if feasible. The Commission shall advise, cooperate, educate, and work with the applicant to preserve the historical significance of the site or structure.
3. Any owner or agent in charge of a site or structure within a design and preservation district or a historic or landmark structure, historic or landmark site shall obtain a Certificate of Approval, granted by the Design and Preservation Commission, before reconstructing or altering any part of a structures exterior or constructing any exterior improvement upon a site. Unless such certificate has been granted by the Commission, the Building Inspector shall not issue a permit for any such work.
4. Upon filing of any application with the Commission, the Commission shall consider the following guidelines in reviewing the application:
 - a. Whether proposed work on the improvement would not detrimentally change, destroy, or adversely affect any character-defining exterior architectural feature; and
 - b. Whether, in the case of the construction of a new improvement, the exterior of such improvement would not adversely affect or would harmonize with the appearance of the immediate area; and
 - c. If located within a design and preservation district, whether the proposed construction or exterior alteration shall conform to the design review standards adopted by the Commission for said district.
 - d. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property should be preserved;
 - e. Deteriorated historic features should be repaired rather than replaced. Where the severity of deterioration requires

replacement of a distinctive feature, the new feature should match the old in design, color, texture and other visual qualities and, where possible, materials;

- f. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of historic structures shall be undertaken using the methods promulgated by the U.S. Department of the Interior, National Park Service, the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation Historic Buildings (36 CFR 67 and 68 as amended).
 - g. New additions, exterior alterations, or related new construction should not destroy historic materials that characterize the property. The new should be differentiated from the old and should be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
 - h. New additions and adjacent or related new construction should be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
5. In addition, the following aspects are to be considered in the development of design and preservation review guidelines in order to ensure that the exterior reconstruction or altering of existing structures or improvements preserve architecturally important features and that new structures and/or improvements are visually compatible with the buildings and environment with which they are visually related:
- a. The height and gross volume of new structures.
 - b. The proportion between the width and height in the facades of buildings in street elevations.
 - c. The proportion and relationships between doors and windows in the street façade.
 - d. The design of the roof.
 - e. The materials, texture, colors, and patterns used on the exterior of an improvement.
 - f. The relationship between old structures and contemporary architecture.
 - g. The preservation and enhancement of views of the City from the Mississippi River and from major travel patterns in the City.
6. Ordinary maintenance and repairs shall be undertaken without an application to the Commission provided that the work involves repairs to existing features of a historic property site or the replacement of elements of a property or site with materials similar in appearance and provided that the work does not change the exterior appearance of the property or site and does not require the issuance of a building permit.
7. If the Commission determines Subsection 1, 2, and 3 of Paragraph (c) above in the affirmative, it shall issue the Certificate of Approval. Then a building permit may be issued by the Building Inspector.

8. Should the Commission fail to issue a Certificate of Approval due to the failure of the proposal to conform to the above guidelines, the applicant must be notified in writing and given the reason for denial. In addition, the Commission shall, at the request of the applicant, cooperate and work with the applicant in an attempt to obtain a Certificate of Approval within the guidelines of this Ordinance.
- (l) Regulation of Demolition. No permit to demolish all or part of an improvement in a design and preservation district or a historic or landmark site shall be granted by the Building Inspector, except as follows:
1. The owner or agent, in charge of an improvement in a design and preservation district or a historic or landmark structure shall file a demolition application with the Commission.
 2. Upon such application, the Commission may refuse to grant written approval for a period of up to twelve (12) months from the time of filing of such application, during which time the Commission and the applicant shall undertake serious, cooperative, and continuing negotiations for the purpose of finding a method to save such property. However, the owner, or their agent, may appeal any refusal of a demolition application to the Common Council during the said twelve (12)-month period.
 3. At the end of this twelve (12) 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 non-profit organization to reserve the subject property is pending, the Building Inspector may issue the permit to demolish the subject property without approval of the Commission.
- (m) Sale of Historic or Landmark Structure and Historic or Landmark Sites. Any party who is listed as the owner of record of a historic or landmark structure or historic or landmark site at the time of its designation, who can demonstrate to the Commission that by virtue of such designation the owner is unable to find a buyer willing to preserve such a historic or landmark structure or historic or landmark site, 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 secretary of 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 twelve (12) 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 in accordance with the procedures contained within Section (7)(a).
 3. In the event of such rescission, the Commission shall notify the City Clerk, Building Inspector, City Attorney, and the City Assessor of the rescission, and shall cause the same to be recorded, at the owner's expense, in the office of the Crawford County Register of Deeds.

4. Following any such rescission, the Commission may not re-designate the subject property a historic or landmark structure or historic or landmark site for a period of not less than five (5) years following a date of rescission, without the owner's permission.

(7) PROCEDURES.

(a) Designation of Design and Preservation Districts

1. To accomplish the intent of this ordinance, the Design and Preservation Commission may select geographically defined areas within the City of Prairie du Chien to be designated as design and preservation districts by the Common Council. The Commission shall prepare a district plan in ordinance form for each area. Each plan shall include a map of the proposed district, an analysis supporting the significance of the district, a statement of district objectives, and guidelines for reviewing development proposals within the district. A design and preservation district may be designated for any geographic area of particular historic, aesthetic, architectural, or cultural significance to the City of Prairie du Chien in accordance with Section (5).
2. Any person, including the owner of a structure or site, or any member of the Commission, may nominate a specific site, structure, or district for designation by the Commission. Any person who wishes to nominate a structure, site, or district for approval by the Commission, shall submit such a request in writing to the Commission.
3. Review and Adoption Procedures
 - a. The commission shall hold a public hearing when considering the plan for a design and preservation district, historic structure, or site. Notice of the time, place, and purpose of such hearings shall be given by publication as a Class 2 Notice under the Wisconsin Statutes and shall also be sent by the City Clerk to the alderman of the Aldermanic District or Districts in which the design and preservation district is located. At least twenty (20) days prior to such hearing, the Commission shall notify the Department of Public Works, the Building Inspector, the Plan Commission, and the Board of Parks Commissioners. Each such department or commission shall respond to the Commission within twenty (20) days of notification with its comments on the proposed district plan. At said public hearing, the public shall have an opportunity for written and oral comment regarding said nominations. As soon as possible after such public hearing, the Commission shall act on the nomination, either approving, modifying and approving, or disapproving of the same. If the nomination is approved, a resolution shall be prepared and presented to the City Council for approval.
 - b. The Common Council. If approved by the City Council, all property owners in the district or of a designated property shall be notified of the designation within 10 days, and that the property shall be subject to the provisions of this Chapter. Designation of the design

and preservation district shall constitute adoption of the plan in ordinance form prepared for the district and direct the implementation of said plan.

- (b) Designation of Historic or Landmark Structures or Historic or Landmark Sites. Upon completion of the form entitled “Historic or Landmark Structure or Historic or Landmark Site Nomination”, the designation of Historic or Landmark Structures and Historic or Landmark Sites shall follow the procedures contained within Section (7)(a) above, with the aforementioned form replacing the plan for a design and preservation commission.
 - (c) Rescission of Design and Preservation Districts, Historic or Landmark Structures or Historic or Landmark Sites. The rescission of design and preservation districts, historic or landmark structures, and historic or landmark sites shall follow the procedures contained within Section (7)(A)(a) above, with the rescission petition replacing the plan for a design and preservation commission.
 - (d) Voluntary Restrictive Covenants. The owner of any historic or landmark structures or historic or landmark site may, at any time following such designation of the property, enter into a restricting covenant with the Commission on the subject property. The Commission may assist the owner in preparing such covenant in the interest of preserving the historic or landmark structure or historic or landmark site, and the owner shall record such covenant in the Crawford County Register of Deeds office, and shall notify the City Assessor of such covenant and the conditions thereof.
- (8) MAINTENANCE OF HISTORIC OR LANDMARK STRUCTURES, HISTORIC OR LANDMARK SITES, AND HISTORIC DISTRICTS. Every owner or agent in charge of an improvement within a design and preservation district, or a historic or landmark site 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 improvements 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.
- (9) DEMOLITION BY NEGLECT. The owner of a landmark, improvement on a landmark site, historic structure, or improvement in a historic district, may not allow the landmark or improvement to undergo demolition by neglect.
- (a) Notice of Demolition by Neglect. If the Building Inspector or Design and Preservation Commission, believe that a historic or landmark structure or improvement is undergoing demolition by neglect, the Building Inspector shall give written notice of that belief to the owner of the historic or landmark structure or improvement. The Building Inspector shall give a copy of the notice to the Design and Preservation Commission.
 - (b) Public Hearing. Upon receiving a notice under Sec. 2.15(9)(a), the Design and Preservation Commission shall issue a hearing notice and hold a public hearing to determine whether the historic or landmark structure or improvement is undergoing demolition by neglect. The Commission shall hold the public hearing within ninety (90) days of receiving the notice under Sec. 2.15(9)(a).
 - (c) Design and Preservation Commission Finding. If, after a public hearing, the Design and Preservation Commission finds that a historic or landmark structure or improvement is undergoing demolition by neglect, it shall report its finding to the

Common Council, the Building Inspector and the Office of the City Attorney. A Design and Preservation Commission finding of demolition by neglect is prima facie evidence of demolition by neglect for purposes of any administrative or civil court action, and constitutes a determination that a public nuisance exists under Sec. 2.15(9)(b).

- (d) The owner, or their agent, may appeal the finding of a public nuisance to the Common Council within 30 days of the public hearing.
 - (e) Abatement by the City. If the Design and Preservation Commission finds under Sec. 2.15(9)(b) that a historic or landmark structure or improvement is undergoing demolition by neglect, the Building Inspector may proceed to repair the historic or landmark structure or improvement to abate the nuisance. The cost of the required repairs shall be paid by the property owner or shall be imposed as a special charge against the property and collected pursuant to the provisions of Wis. Stat. § 66.0627.
 - (f) Acquisition by City. If the Design and Preservation Commission finds under Sec. 2.15(9)(b) that a historic or landmark structure or improvement is undergoing demolition by neglect, the City Council may authorize the City to acquire the property under Wis. Stat. § 66.1111(2), if necessary, through the initiation of condemnation proceedings under Wis. Stat. § 32.06.
- (10) **CONDITIONS DANGEROUS TO LIFE, HEALTH, OR PROPERTY.** Nothing contained in this chapter shall prohibit the making of necessary construction, reconstruction, alteration, or demolition of any improvement on a historic or landmark structure or historic or landmark site or in a design and preservation district pursuant to order of any governmental agency or pursuant to any court judgment for the purpose of remedying emergency conditions determined to be dangerous to life, health, or property. In such case, no approval from the Commission shall be required.
- (11) **PENALTIES FOR VIOLATIONS.** Violations of the provisions in this ordinance shall be subject to a minimum forfeiture of two hundred fifty dollars (\$250) and a maximum forfeiture of five hundred dollars (\$500) for each separate violation. A second violation within thirty-six (36) months shall be subject to a minimum forfeiture of five hundred dollars (\$500) and maximum forfeiture of one thousand dollars (\$1,000) for each separate violation. A third violation within thirty-six (36) months shall be subject to a minimum forfeiture of one thousand dollars (\$1,000) and maximum forfeiture of two thousand dollars (\$2,000) for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate violation. All fines imposed under this ordinance shall be tripled if the Court makes an additional finding that the subject property is undergoing demolition by neglect as defined by this ordinance.
- (12) **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.

SECTION 2: This Ordinance shall be published as required by law after passage by the Common Council and shall take effect upon publication.

Passed and approved this 5th day of October, 2021.

David Hemmer, Mayor

ATTEST:

Chad Abram, City Administrator

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Certification

I, Tina Fuller, am the duly qualified and acting City Clerk of the City of Prairie du Chien, Crawford County, Wisconsin. I hereby certify that the aforementioned is a true and exact reproduction of the original ordinance or resolution adopted by the Common Council.

IN WITNESS WHEREOF, I have executed this Certificate in my official capacity on this ___ day of _____, 2021.

(SEAL)

Tina Fuller
City Clerk