

ORDINANCE NO. 813

AN ORDINANCE
TO AMEND SECTIONS 42-36 AND 42-37 OF THE CITY OF FORT ATKINSON MUNICIPAL CODE
RELATING TO THE HISTORIC PRESERVATION COMMISSION

NOW, THEREFORE, the City Council of the City of Fort Atkinson, Wisconsin, do ordain as follows:

Section 1. Section 42-36 of the City of Fort Atkinson Municipal Code is hereby amended to read as follows:

"Sec. 42-36. – Created; composition.

- (a) An historic preservation commission is created, consisting of five members appointed by the president of the council. The membership shall consist of five at-large members of which at least two members shall be associated with the historical society. Each member shall have, to the highest extent practicable, a known interest in historic preservation. This five-member commission will hold hearings, review requests and make recommendations to the Plan Commission. The Plan Commission shall make final determinations per the Zoning Ordinance.
- (b) At least three (3) members of the historic preservation commission shall be residents of the City of Fort Atkinson. Up to two (2) members of the commission may reside up to twenty (20) miles outside of the City, provided that each member works within the City limits; owns property within the City in a historic district; or owns property that has been designated a local landmark.
- (c) Members will be appointed for three-year staggered terms, replacing no more than two members every year with the potential for reappointment for two additional three-year terms.

(Code 1969, §24.03)"

Section 2. Section 42-37 of the City of Fort Atkinson Municipal Code is hereby amended to read as follows:

"Sec. 42-37. Powers and duties.

- (a) *Designation.* The commission shall have the power, subject to section 42-3, to designate historic structures and historic sites and to recommend designation of historic districts within the city limits. Such designations shall be made based on section 42-3.
 - (1) No owner or person in charge of a locally-designated historic structure, historic site or structure within a locally-designated historic district shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any

improvement upon such designated property or cause or permit any such work to be performed upon such property or demolish such property unless a certificate of appropriateness has been granted by the commission. Also, unless such certificate has been granted by the commission, the building inspector shall not issue a permit for any such work.

- (2) Upon the filing of any application for a certificate of appropriateness with the commission, the commission shall approve the application unless:
 - a. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which the work is to be done.
 - b. In the case of the construction of a new improvement upon an historic site, or within an historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district.
 - c. In the case of any property located in an historic district, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for the district.
 - d. 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 the city and state.
 - e. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner that is self created or is the result of any failure to maintain the property in good repair.
 - (3) 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, it shall issue the certificate of appropriateness. The commission shall make this decision within 45 days of the filing of the application, or the certificate shall be deemed to have been issued.
 - (4) 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 certificate of appropriateness required for the proposed work.
 - (5) Ordinary maintenance and repairs may be undertaken without a certificate of appropriateness provided the work involves repairs to existing features of an 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.
- (b) *Properties within the Downtown Historic Mixed Use (DHMU) Zoning District.* For properties and structures located within the DHMU Zoning District, the property owner or applicant

wishing to make any changes to the exterior of the structure, including simply replacing the same materials or paint colors, must submit an application to the Plan Commission for a Special Area Design Review, in accordance with Section 15.10.43 of the City's Zoning Ordinance. That application and any supplemental materials shall be forwarded to the Historic Preservation Commission for review and recommendation to the Plan Commission before action. Parcels located within the DHMU Zoning District with structures built within the last fifty (50) years from the date of application are exempted from this subsection but are still subject to all applicable regulations in the Zoning Ordinance.

- (c) *Appeals.* Should the commission fail to issue a certificate of appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the council within 30 days. In addition, if the commission fails to issue a certificate of appropriateness, the commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a certificate of appropriateness within the guidelines of this chapter. Approval by the council requires a three-fourths majority vote.
- (d) *Recognition of historic structures, sites and districts.* At such time as an historic structure, site or district has been properly designated, the commission, in cooperation with the property owner, may cause to be prepared and erected on such property at city expense a suitable plaque declaring that such property is an historic structure, site or district.
- (e) *Physical improvements to property.* Neither the commission nor the council may compel property owners to make improvements to their property in the historic district against their wishes.

(Code 1969, §24.05)"


Section 2. This ordinance shall take effect upon passage, posting, or publication as provided by law.

Enacted by the City Council of the City of Fort Atkinson, Jefferson County, Wisconsin, this 17 day of Feb., 2022.

CITY OF FORT ATKINSON


Christopher Scherer, President

ATTEST:


Michelle Ebbert, City Clerk/Treasurer/Finance Director

