



City of Appleton

100 North Appleton Street
Appleton, WI 54911-4799
www.appleton.org

Meeting Agenda - Final Historic Preservation Commission

Tuesday, March 19, 2019

3:00 PM

Council Chambers, 6th Floor

1. Call meeting to order
2. Roll call of membership
3. Approval of minutes from previous meeting
[19-0379](#) HPC Minutes from 6-19-18
Attachments: [HPC Minutes 6-19-18.pdf](#)
4. **Public Hearings/Apearances**
5. **Action Items**
6. **Information Items**

[19-0383](#) 2018 Annual Activity Report of the Historic Preservation Commission
Attachments: [2018 HPR-Wisconsin-CLG-Annual-Update-Form.pdf](#)

[19-0380](#) Recent Legislative Initiatives Affecting Local Historic Preservation Commissions
Attachments: [MemoFromWIHistoricalSociety_2-21-19.pdf](#)
[2015WIAct176LocalRegulationofHistoricProperty_SeePg2.pdf](#)
[2017WIAct317HistoricPreservation_SeePgs6+7.pdf](#)
[2018 LegislationChanges.pdf](#)
[HPC_StateStatutoryChangesHowTheyAffectYou.pdf](#)

[19-0381](#) Update on Historic Building Inventory Project

[19-0384](#) Update on Downtown Historic Buildings Bookmarks
Attachments: [Downtown Historic Bldgs Bookmarks.pdf](#)

7. Adjournment

Notice is hereby given that a quorum of the Common Council may be present during this meeting, although no Council action will be taken.

Any questions about items on this meeting are to be directed to Principal Planner Don Harp in the Community and Economic Development Department at 920-832-6468.

Reasonable Accommodations for Persons with Disabilities will be made upon Request and if Feasible.



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Meeting Minutes - Final Historic Preservation Commission

Tuesday, June 19, 2018

3:00 PM

Council Chambers, 6th Floor

1. Call meeting to order

Meeting called to order at 3:01 p.m.

2. Roll call of membership

Present: 4 - Duba, 2nd Alternate Peterson, Alderperson Raasch and 1st Alternate Filen

Excused: 1 - Peregrine

Absent: 1 - Werth

3. Approval of minutes from previous meeting

[18-0923](#)

HPC Minutes from 5-15-18

Attachments: [HPC Minutes 5-15-18.pdf](#)

Alderperson Raasch moved, seconded by 1st Alternate Filen, that the Minutes be approved. Roll Call. Motion carried by the following vote:

Aye: 3 - Duba, Alderperson Raasch and 1st Alternate Filen

Excused: 1 - Peregrine

Absent: 1 - Werth

Abstained: 1 - 2nd Alternate Peterson

4. Public Hearings/Appearances

5. Action Items

[18-0720](#)

Organizational Matters:

1. Elect Chair
2. Elect Vice-Chair
3. Set Meeting Date and Time
4. Designate a Contact Person

Principal Planner Don Harp will remain as the Contact Person, and the Commission will tentatively leave the meeting time at 3:00 p.m. on the Tuesday preceding the 2nd Council meeting of the month, with the alternate meeting time of 4:00 p.m. to be researched by staff to determine if it will work with other committees and according to Council rules. Raasch was elected as Chair and Filen as Vice Chair.

1st Alternate Filen moved, seconded by Duba, that Rachel Raasch be the Chair. Alderperson Raasch moved, seconded by Duba, that Kayla Filen be the Vice Chair. Roll Call. Motion carried by the following vote:

Aye: 3 - Duba, Alderperson Raasch and 1st Alternate Filen

Excused: 1 - Peregrine

Absent: 1 - Werth

Abstained: 1 - 2nd Alternate Peterson

6. Information Items

[18-0924](#)

Historic Building Survey Demonstration

This Presentation was presented and discussed. The Commission determined the present day picture of the property should be the initial photo with the historical photos to follow with the full report.

[18-0925](#)

Update on Downtown Historic Buildings Bookmarks

Attachments: [Downtown Historic Bldgs Bookmarks.pdf](#)

This Presentation was presented and discussed. The bookmarks are in the process of being printed and will be ready soon for the Commission to circulate.

7. Adjournment

Alderperson Raasch moved, seconded by 1st Alternate Filen, that the meeting be adjourned at 3:38 p.m. Roll Call. Motion carried by the following vote:

Aye: 3 - Duba, Alderperson Raasch and 1st Alternate Filen

Excused: 1 - Peregrine

Absent: 1 - Werth

Abstained: 1 - 2nd Alternate Peterson



WISCONSIN
HISTORICAL
SOCIETY

Wisconsin's
Certified Local Government
Annual Update Form

(to be completed by the CLG)

CLG: _____ Year certified: _____

Period of Review: _____

- | I. CLG Administration | Yes | No |
|--|-----|-------|
| a. The local ordinance is enforced: | | |
| b. A qualified commission of members has been appointed: | | |
| c. Copies of commission minutes are sent to the SHPO: | | |
| d. Number of times the commission has met during the past 12 months: | | _____ |
| e. Number of reviews of building and demolition permits conducted during the past 12 months: | | _____ |
| f. Number of decisions appealed in the past year: | | _____ |
| g. Number of project denials: | | _____ |
| h. Average amount of time to close-out a Certificate of Appropriateness: | | _____ |

Comments:

- | II. National Register Nomination Review | Yes | No |
|--|-----|----|
| a. Reviews and comments sent to SHPO within 60 day comment period: | | |

Comments:

- | III. Local Survey and Inventory System | |
|---|-------|
| a. Number of properties added to the state survey during the past year: | _____ |
| b. Number of local landmarks designated (total): | _____ |
| c. Number of local landmarks added in the past year: | _____ |
| d. How many parcels in the community contain locally landmarked properties? | _____ |
| e. Total number of parcels in the community: | _____ |

Comments:

IV. Public Participation	Yes	No
a. The public is involved in the local preservation process, including the process of nominating properties to the National Register:	<input type="checkbox"/>	<input type="checkbox"/>
b. Commission minutes are accessible to the public:	<input type="checkbox"/>	<input type="checkbox"/>
c. Open meetings are conducted:	<input type="checkbox"/>	<input type="checkbox"/>
d. Property owners of proposed designations notified for public hearing:	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

V. Education and Training Activities	
a. Number of historic preservation or CLG workshops or seminars attended in the past year by CLG staff or commissioners:	_____
b. Educational activities or projects sponsored by local government during the past 12 months:	_____

Comments:

VI. Please note any concerns or successes over the past year:

List of current commission members and their email addresses:

Link to all parts of ordinance relating to landmark designation and review process:

Potential training topics for commission members:

Completed by: _____ Date: _____

For agency use only:

SHPO: _____ Date: _____

Ordinance meets state standards: Yes: ☐ No: ☐

Comments:



DATE: February 21, 2019

TO: Wisconsin Local Historic Preservation/Landmark Commissions

FROM: State Historic Preservation Office

RE: Interpretation of Recently Enacted Commission Review Legislation

State Statutes grant units of government the authority to enact ordinances to regulate historic places for the purpose of preserving these properties' significant characteristics. To do so, units of government may pass ordinances creating landmark commissions to designate historic places. Subject to these provisions, commissions may designate and regulate historic landmarks and all property within landmark historic districts to preserve the character of both individual historic landmarks as well as the character of each district.

Effective April 2018 new language related to commission review of historic properties was added to State Statutes:

In the repair or replacement of a property that is designated as a historic landmark or included within a historic district or neighborhood conservation district under this section, the [unit of government] shall allow an owner to use materials that are similar in design, color, scale, architectural appearance, and other visual qualities.

This language was drawn from the Secretary of the Interior's Standards for Rehabilitation, and gives very specific guidance to commissions that only apply to repairs and replacements.

Questions have arisen about whether this language requires commissions to approve all new materials. In our interpretation, this new language does not change the role of the commission, but rather empowers it to determine if a material or product is an appropriate replacement. All other powers of commissions under their local ordinances remain.

During the commission's COA review process, the commission should first determine if repair or replacement is a component of the application. If no, proceed according to established process. If yes, the commission, using its expertise, should determine if the repair or replacement materials are sufficiently "similar" to original materials. The commission, not the owner, makes this determination. If the commission rules that the material is not similar, it has the authority to deny a certificate of appropriateness. In the commission's decision documentation, it should clearly state that it reviewed this question and give factual reasons why the material is or is not similar in design, color, scale, architectural appearance, and other visual qualities.

This legislation does not give an owner unilateral approval for any material or project they propose. Ultimately it is the commission's responsibility to review each project application objectively against their ordinance and to provide a professional opinion of appropriateness.



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 176
[2015 Assembly Bill 568]

**Regulation of Rental Property by
Local Governments, Landlord
Tenant Law, Trespass, and
Miscellaneous Changes**

2015 Wisconsin Act 176 makes various changes related to local regulations affecting rental property, landlord tenant law, trespass law, and other topics, including all of the following.

TERMINATION OF TENANCY

The Act allows a property owner to terminate a tenancy without providing the tenant an opportunity to cure the breach, if a member of the tenant's household or one of their guests engages in criminal activity under specified circumstances, and if particular conditions are met with respect to notice provided to the tenant.

The Act also eliminates a provision under prior law that required a property owner to provide notice of termination of a year-to-year tenancy to a tenant for certain types of breaches before the tenant remedies the breach.

LOCAL REGULATION OF RENTAL PROPERTY

The Act prohibits the enactment or enforcement of a requirement imposed by a local government that does any of the following:

- Requires that a rental property or rental unit be inspected except upon a complaint by any person, as part of a program of regularly scheduled inspections conducted in compliance with municipal inspection warrant requirements, or as required under state or federal law.
- Charges a fee for conducting an inspection of a residential rental property unless the amount of the fee is uniform for residential rental inspections and the fee is charged

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

at the time that the inspection is actually performed. The Act also specifies that a fee for a subsequent reinspection of a residential rental property may not be more than twice the fee charged for an initial reinspection.

- Requires that a rental property or rental unit be certified, registered, or licensed, except that an ordinance may require that a rental unit owner provide to the local government his or her name, a contact person, and an address and telephone number at which the contact person may be contacted.
- Except as provided in the previous provision, requires a residential rental property owner to register or obtain a certification or license related to owning or managing the residential rental property, unless the requirement applies uniformly to all residential rental property owners, including owners of owner-occupied rental property.
- Imposes an occupancy or transfer of tenancy fee on a rental unit.

LOCAL REGULATION OF HISTORIC PROPERTY

The Act requires a local unit of government to hold a public hearing before designating a historic landmark or establishing a new historic district and to notify any affected owner of the proposed designation or establishment. The Act also allows a property owner affected by a decision of a landmarks commission to appeal the decision to the governing body of the local unit of government, and allows that governing body to overturn the landmarks commission's decision by a simple majority vote.

LOCAL TIME OF SALE REGULATION

The Act expands existing restrictions on local regulations associated with the time of sale of property to also prohibit local regulations with respect to taking title to or occupancy of property.

TRESPASS LAW

The Act provides that a "criminal trespass to a dwelling" occurs if a person intentionally enters or remains in the dwelling of another without the consent of some person lawfully upon the premises or, if no person is lawfully upon the premises, without the consent of the owner of the property that includes the dwelling, under circumstances tending to create or provoke a breach of the peace. The Act also clarifies that this prohibition applies to a home or residence regardless of whether someone is currently living there. Under the Act, law enforcement agencies are required to establish policies that require officers to remove trespassers from dwellings.

The Act also allows a property owner to dispose of any personal property left by a former trespasser if the return of the property is not requested by the trespasser during the seven days after its discovery by the property owner.

LOCAL AUTOMATIC SPRINKLER ORDINANCES

The Act repeals an exception in prior law that allowed cities, villages, and towns to continue to enforce preexisting automatic sprinkler ordinances that were more restrictive than required under the state multifamily dwelling code.

TOWING CHARGES

The Act allows a towing service to collect towing and storage charges related to vehicles towed from private property if it makes a good faith effort to comply with the statutory requirement to notify law enforcement. This provision does not apply to towing services operating in a first class city.

MISCELLANEOUS

The Act clarifies that a municipal utility's decision related to customer deferred payment agreements is not subject to review by the Public Service Commission and specifies that a defendant that is a limited liability company (LLC) satisfies a municipal court requirement to appear in person if an LLC member, agent, or authorized employee appears.

Effective date: March 2, 2016

Prepared by: Larry Konopacki, Principal Attorney

April 7, 2016

LAK:mcm;jal



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2017 Wisconsin Act 317
[2017 Assembly Bill 771]

**Rental Housing, Landlord-Tenant
Law, Court Records, and Local
Government Authority**

2017 Wisconsin Act 317 makes various changes, described below, to state law relating to rental housing, landlord-tenant law, court records, and local government authority.

INSPECTION OF RENTAL PROPERTY

As affected by 2015 Wisconsin Act 176, **state law** generally prohibits cities, villages, towns, and counties from enacting ordinances that require a rental property or rental unit to be inspected. However, prior law provides certain exceptions to that general prohibition. Specifically, a city, village, town, or county may have required an inspection in any of the following circumstances:

- The inspection is conducted upon a complaint by any person.
- The inspection is conducted as part of a program of regularly scheduled inspections conducted in compliance with special inspection warrant procedures, as applicable.
- The inspection is required under state or federal law.

Prior law required fees charged for the inspection of residential rental property to be uniform and charged at the time the inspection is actually performed.

The Act removes the general authority to conduct inspections as part of a “program of regularly scheduled inspections.” However, the Act authorizes a city, village, town, or county to establish a rental property inspection program in designated districts in which there is evidence of blight, high rates of building code complaints or violations, deteriorating property values, or increases in single-family home conversions to rental units. No inspection of a unit may be conducted under the program if the occupant of that unit does not consent to allow access, unless the inspection is under a special inspection warrant.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

Under such a rental property inspection, if no "habitability violation" is discovered during an inspection, or if such a violation is corrected within a period designated by the municipality (but generally not less than 30 days), then the city, village, town, or county may not inspect the same property again for at least five years. The Act defines "habitability violation" to mean any of the following conditions:

- The rental property or rental unit lacks hot or cold running water.
- Heating facilities serving the rental property or rental unit are not in safe operating condition or are not capable of maintaining a temperature, in all living areas of the property or unit, of at least 67 degrees Fahrenheit during all seasons of the year in which the property or unit may be occupied.
- The rental property or rental unit is not served by electricity, or the electrical wiring, outlets, fixtures, or other components of the electrical system are not in safe operating condition.
- Any structural or other conditions in the rental property or rental unit that constitute a substantial hazard to the health or safety of the tenant, or create an unreasonable risk of personal injury as a result of any reasonably foreseeable use of the property or unit other than negligent use or abuse of the property or unit by the tenant.
- The rental property or rental unit is not served by plumbing facilities in good operating condition.
- The rental property or rental unit is not served by sewage disposal facilities in good operating condition.
- The rental property or rental unit lacks working smoke detectors or carbon monoxide detectors.
- The rental property or rental unit is infested with rodents or insects.
- The rental property or rental unit contains excessive mold.

A city, village, town, or county may designate a period of less than 30 days to correct a violation if the violation exposes a tenant to imminent danger. A city, village, town, or county must also extend the designated period upon a showing of good cause. If a habitability violation is discovered and is not corrected within the designated period, then the municipality may conduct annual inspections of the property. However, if no habitability violation is discovered during two consecutive annual inspections, then the city, village, town, or county may not perform a program inspection of the property for at least five years.

A city, village, town, or county is prohibited from inspecting rental property that is less than eight years old as part of that inspection program.

In addition, the Act generally limits the amount of a fee charged under the inspection program described above to \$75 for an inspection of a vacant unit or an inspection of exterior or common areas, \$90 for any other initial inspection, and \$150 for a second or subsequent inspection with an allowance for a 2% annual increase to those amounts. However, the Act

prohibits a city, village, town, or county from imposing any fee in any of the following circumstances:

- An owner voluntarily allows access for an inspection of exterior and common areas, and no habitability violation is discovered during the inspection, or, if a violation is discovered, the violation is corrected within a designated period.
- No habitability violation is discovered during the inspection, or, if a violation is discovered, for a reinspection that occurs after the violation is corrected within the designated period.
- The inspection does not occur because an occupant does not allow access to the property.

For inspections conducted pursuant to a special inspection warrant, the Act limits the amount of the fee to \$150, subject to an allowance for a 2% annual increase, except that if no habitability violation is discovered, then no fee may be charged. If a habitability violation is discovered and not corrected within a designated period, then the fee may not exceed \$300.

Finally, the Act also requires cities, villages, towns, and counties to maintain records regarding inspections performed upon a complaint from an employee or official. The records must include the name of the person making the complaint, the nature of the complaint, and any inspection conducted upon the complaint.

PREEMPTION OF CERTAIN LOCAL REGULATIONS RELATING TO RENTAL PROPERTY

The Act preempts cities, villages, towns, and counties from taking any of the following actions:

- Requiring that a residential rental property owner register or obtain a certification or license related to owning or managing the residential rental property.
- Charging a fee for registration of a rental property, except for a one-time registration fee that reflects the actual costs of operating a registration program and does not exceed \$10 per building, and a fee for the registration of a change of ownership or management of a building or change of contact information that reflects the actual and direct costs of registration and does not exceed \$10 per building.¹
- Enacting or enforcing an ordinance, or otherwise imposing a requirement that includes "aesthetic considerations," defined to mean considerations relating to color, texture, and design that do not relate to health or safety, for purposes of inspection criteria for the interior of certain residential structures.

¹ However, the Act authorizes first-class cities to impose registration fees that are not subject to the \$10 limitation.

LANDLORD-TENANT LAW

The Act makes several changes relating to landlord-tenant law, including changes relating to: (1) notices terminating tenancies; (2) defense to eviction action; and (3) stay of eviction proceedings.

Notices Terminating Tenancies for Failure to Pay Rent

State law requires a landlord to provide a notice to a tenant before terminating a tenancy for failure to pay rent.

The Act specifies that the amount of past due rent stated in a notice to terminate a lease may include both past due rent and late fees. The Act also provides that a statement of the amount due is valid unless either of the following situations applies:

- The landlord's statement of the amount due is intentionally incorrect.
- The tenant paid or tendered payment of the amount the tenant believes to be due.

Defense to Eviction Action

Under **state law**, a court may not dismiss an eviction action because the landlord accepts past due rent or any other payment from a tenant after serving notice of default or after commencing the action. Prior law does not prohibit the dismissal of an eviction action based on a landlord's or tenant's waiver of a violation or breach of a rental agreement.

Under **the Act**, a landlord or tenant's previous waiver of a violation or breach of any term of a rental agreement does not constitute a defense to an action of eviction or a claim for damages.

Stay of Eviction Proceedings Pending an Application for Emergency Assistance

Generally, under **prior law**, a court must temporarily stay eviction proceedings if a tenant applies for the emergency assistance program, which provides limited assistance to qualifying families in cases of fire, flood, natural disaster, homelessness or impending homelessness, or energy crisis. The stay remains in effect until the tenant's eligibility for the program is determined, and, if the person is eligible, until the person receives the assistance.

Emergency assistance payments are one-time payments; an eligible person may receive assistance through the program no more than once in any 12-month period. Eligibility determinations and payments are typically administered by W-2 ("Wisconsin Works") agencies, which are entities that contract with the Department of Children and Families (DCF) to administer W-2 benefits in a given county. Administrative rules require program eligibility decisions (and any resulting payments) to be made within five working days of a person's application for the program. [s. DCF 120.08 (1), Wis. Adm. Code.]

Under **the Act**, a court may not grant a stay based on an emergency assistance application after a writ of restitution has been issued. In addition, the Act provides that such a stay may not remain in effect for more than 10 working days.

Other Changes

The Act makes the following other changes relating to landlord-tenant law:

- Increases by \$5 the amount that a landlord may charge a prospective tenant for a consumer credit report.
- Specifies that a landlord may charge a prospective tenant who is not a Wisconsin resident up to \$25 for conducting a background check.
- Specifies that "reasonable costs" charged by a landlord for remediation, repair, or redecoration include materials, labor, and time.
- Authorizes a landlord and tenant to agree in a rental agreement that the landlord may provide certain documents electronically.

PROVISION OF UTILITY SERVICE TO RENTAL UNITS

State law sets forth certain procedures governing a property owner's responsibility for service to a rental dwelling unit.

The Act retains those provisions but provides certain additional requirements in the event that a tenant's utility payments are in arrears or service is to be disconnected. Specifically, if requested by the owner of a rental dwelling unit and authorized by the tenant residing in the unit, the Act requires a public utility to notify the owner in the same manner as the tenant of any pending disconnection of service to the unit that is due to nonpayment of past due charges, and may provide information about the status of the disconnection to the owner by telephone.

In addition, the Act prohibits a public utility from requiring the owner of a rental dwelling unit to provide proof of eviction or other evidence that a tenant has vacated a rental unit as a condition for providing or resuming service to the unit, if the service is placed and maintained solely in the owner's name.

Finally, the Act makes a certain process for enforcing utility bill arrears by placing liens on property unavailable to a municipal utility that does not comply with a requirement under state law to send bills for water or electric service to a tenant in the tenant's own name.

AMOUNT OF LEVY LIMIT REDUCTION FOR COVERED SERVICES

Under prior law, if a city, village, town, or county receives revenues designated to pay for a covered service² that was funded in 2013 by the political subdivision's levy, the political subdivision must reduce its levy limit in the current year by an amount equal to the estimated amount of fee revenue collected, or payments in lieu of taxes received, for providing the covered service, less any previous reductions made under this provision.

² "Covered service" means garbage collection, fire protection, snow plowing, street sweeping, or storm water management. [s. 66.0602 (2m) (b) 1., Stats.]

The Act limits the amount by which a city, village, town, or county must reduce its levy to the amount expended in 2013 for providing the covered service.

REQUIREMENTS FOR CERTAIN MUNICIPAL FEES

State law requires fees imposed by cities, villages, towns, and counties to bear a reasonable relationship to the service for which the fee is imposed. State law generally does not require notification before a fee may be imposed.

The Act prohibits a city, village, town, or county from imposing a fee or charge relating to noxious weeds, electronic waste, or other building or property maintenance standards, unless the city, village, town, or county first provides a notification of that charge by specified means. The Act also prohibits a city, village, town, or county from establishing any sewerage service charge that is not related to providing sewerage service.

AVAILABILITY OF CERTAIN COURT RECORDS

State law authorizes the Director of State Courts to implement an automated information system – referred to as the Consolidated Court Automation Program (CCAP) case management system – for circuit court records. The statutes do not address the timeline regarding the availability of information through that system. Generally, under Wisconsin Supreme Court rules, civil court records are maintained for 20 years. [SCR 72.01.]

The Act prohibits the Director of State Courts from removing case management information from CCAP's Internet access site for a civil case that is not a closed, confidential, or sealed case for the following time periods:

- If a writ of restitution has been granted in an eviction action, a period of at least 10 years.
- If an eviction action has been dismissed and no money judgment has been docketed, a period of at least two years.

REFUND OF CERTAIN FEES AFTER A MUNICIPAL ORDER IS WITHDRAWN OR OVERTURNED

State law provides a process by which a person whose rights, duties, or privileges are adversely affected by a determination of a municipality may request a review of the relevant municipal decision.

The Act requires a municipal authority to refund any fee paid as a condition of appealing an order that is withdrawn or overturned under that review process.

HISTORIC PRESERVATION

Generally, **state law** authorizes cities, villages, towns, and counties, as part of the exercise of their zoning and police power authority, to regulate places, structures, and objects with a special character, historic interest, aesthetic interest or other significant value, for the purpose of preserving the place, structure, or object and its significant characteristics.

The Act requires cities, villages, towns, and counties to allow owners of property that is designated as a historic landmark or included within a historic district or neighborhood conservation district, when repairing or replacing such property, to use materials that are similar in design, color, scale, architectural appearance, and other visual qualities.

ORDERS UNDER ELIMINATED ENERGY ASSISTANCE PROGRAM

The 2017 Biennial Budget Act eliminated a rental unit energy efficiency program.

The Act specifies that stipulations, waivers, and Department of Safety and Professional Services (DSPS) orders under the rental unit energy efficiency program that was eliminated in the 2017-19 Biennial Budget Act are void and unenforceable. The Act also prohibits DSPS from taking any enforcement action with respect to the eliminated program.

EMOTIONAL SUPPORT ANIMALS

The federal Fair Housing Act (FHA) generally prohibits housing discrimination based on having an assistance animal that provides emotional support. Guidance issued by the U.S. Department of Housing and Urban Development (HUD) on April 25, 2013 generally requires a housing provider to provide an exception to a “no pets” policy for a person with a disability who has a disability-related need for an assistance animal. However, the 2013 HUD guidance allows a housing provider to ask individuals seeking an exception for an emotional support animal to provide documentation from a physician, social worker, or other mental health professional. In addition, the HUD guidance allows a housing provider to deny a request for an exception if allowing the animal would impose an undue financial and administrative burden or would fundamentally alter the nature of the provider’s services. A housing provider may also deny a request based on certain safety or property-related concerns specific to the animal in question.

Prior state law does not address the open housing law’s application to emotional support animals. Prior law states that, “[i]f an individual’s vision, hearing or mobility is impaired, it is discrimination for a person to refuse to rent or sell housing to the individual, cause the eviction of the individual from housing, require extra compensation from an individual as a condition of continued residence in housing or engage in the harassment of the individual because he or she keeps an animal that is specially trained to lead or assist the individual with impaired vision, hearing or mobility,” if certain conditions apply. [s. 106.50 (2r) (bm) 1., Stats.] Thus, prior state law does not generally appear to require housing providers to make exceptions for emotional support animals, as is required in some circumstances under the FHA.

The Act expands the scope of the state’s open housing law to prohibit discrimination against individuals with disability-related needs for emotional support animals and replaces provisions of prior law relating to specially trained animals to conform with HUD guidance. Specifically, the Act defines “emotional support animal” to mean an animal that provides emotional support, well-being, comfort, or companionship for an individual, but that is not trained to perform tasks for the benefit of an individual with a disability. With respect to emotional support animals, the Act adopts an approach similar to the approach set forth under the 2013 HUD guidance, including authorizing a housing provider to request documentation of

a disability-related need for an emotional support animal from a physician, psychologist, social worker, or other health professional, and incorporating certain other limitations. However, it specifies that the health professional must be licensed in Wisconsin and acting within the scope of his or her license.

With respect to animals that are specially trained to do work or perform tasks for an individual, the Act generally adopts the approach in the 2013 HUD guidance. With respect to documentation for specially trained animals, the Act requires "reliable documentation" rather than documentation from a health professional licensed in Wisconsin.

Effective date: 2017 Wisconsin Act 317 took effect on April 18, 2018, with the exception of the provisions relating to the rental unit energy assistance program, which will apply retroactively as of January 1, 2018.

Prepared by: Scott Grosz, Principal Attorney

April 23, 2018

SG:mcm;ksm



2018 Legislation Changes

Jen Davel

Senior Preservation Architect



- 60.64 (2m) In the repair or replacement of a property that is designated as a historic landmark or included within a historic district or neighborhood conservation district under this section, ***the town board shall allow an owner to use materials that are similar in design, color, scale, architectural appearance, and other visual qualities.***



How Does This Apply to Project Reviews?

Common projects:

Siding

Roofs

Windows

Doors

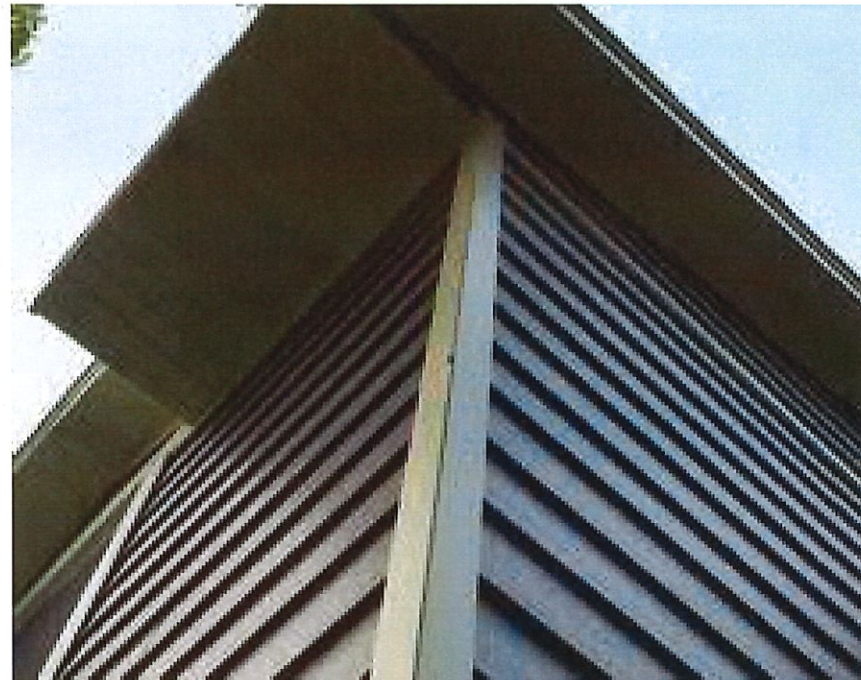
Porches

** The best match will always be the original. Whenever possible – repair before replace.*





...materials that are similar in design, color, scale, architectural appearance, and other visual qualities



...materials that are similar in design, color, scale, architectural appearance, and other visual qualities



Profile

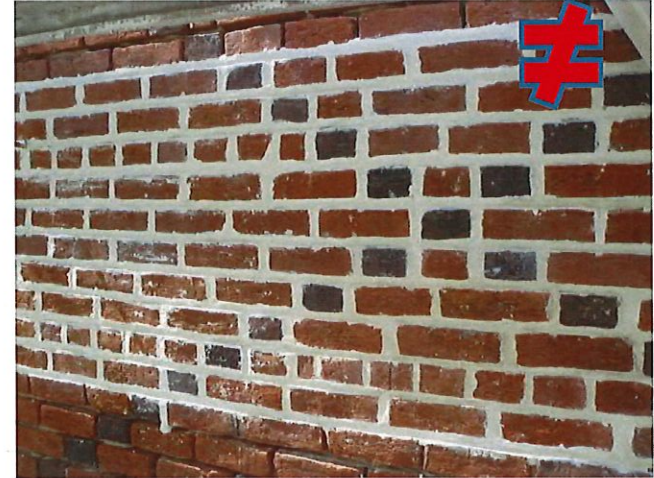
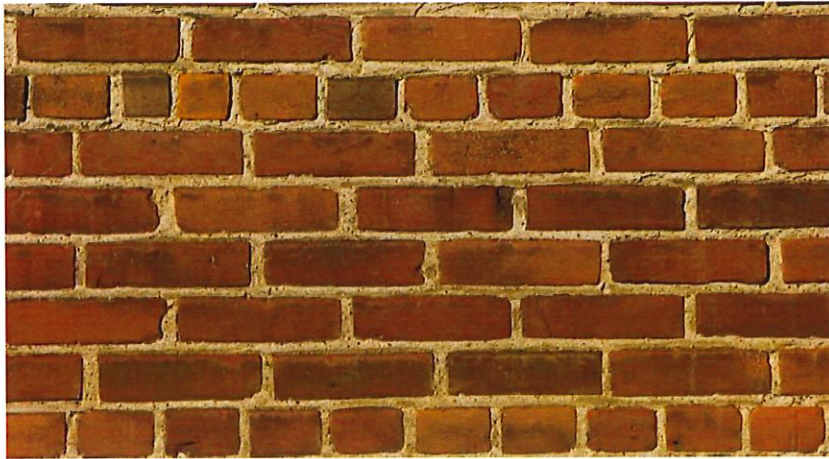
Texture

Board exposure

Board depth



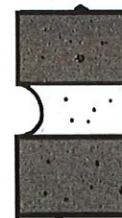
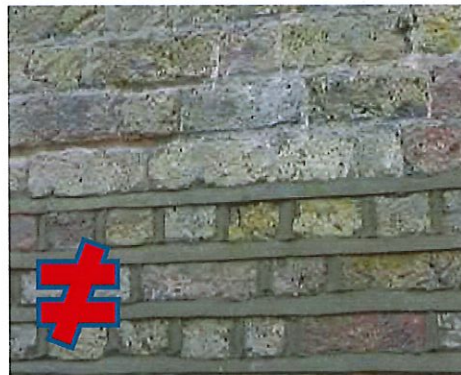
...materials that are similar in design, color, scale, architectural appearance, and other visual qualities



Color

Strike

Strength



Concave



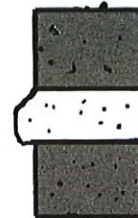
Vee



Flush



Raked



Extruded



Beaded



Struck



Weathered

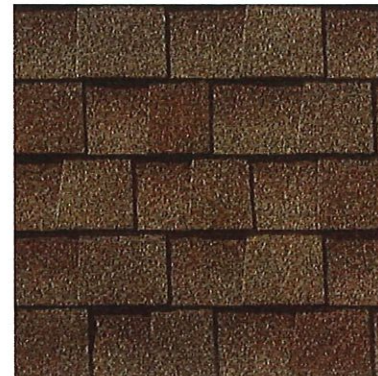
...materials that are similar in design, color, scale, architectural appearance, and other visual qualities



Wood



3-Tab



Architectural

Shingle shape

Color



Architectural



Architectural

...materials that are similar in design, color, scale, architectural appearance, and other visual qualities

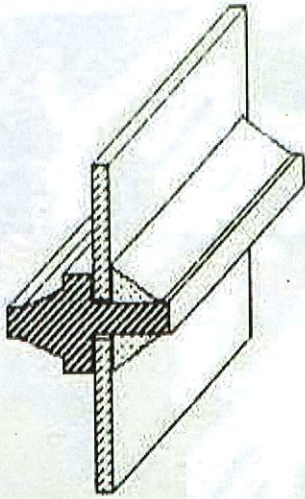


Shingle shape

Dimension

Exposure





ORIGINAL
MUNTIN



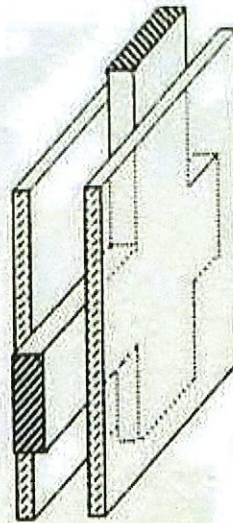
...materials that are similar in design, color, scale, architectural appearance, and other visual qualities

Dimension

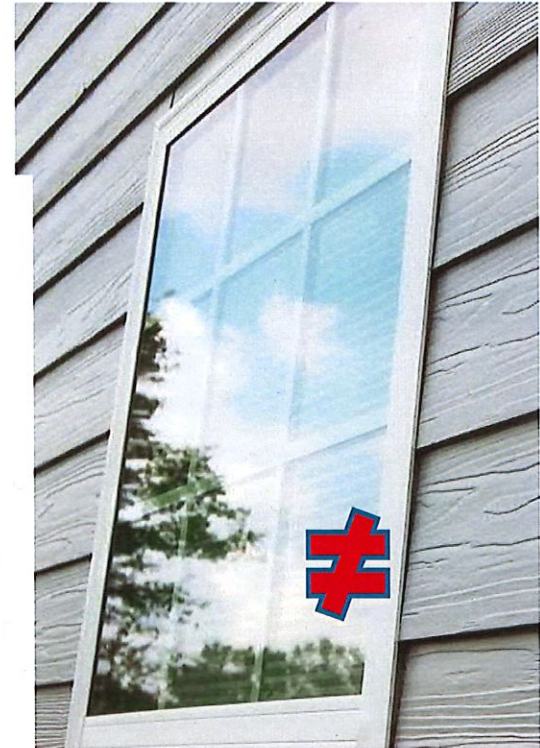
Shadow lines

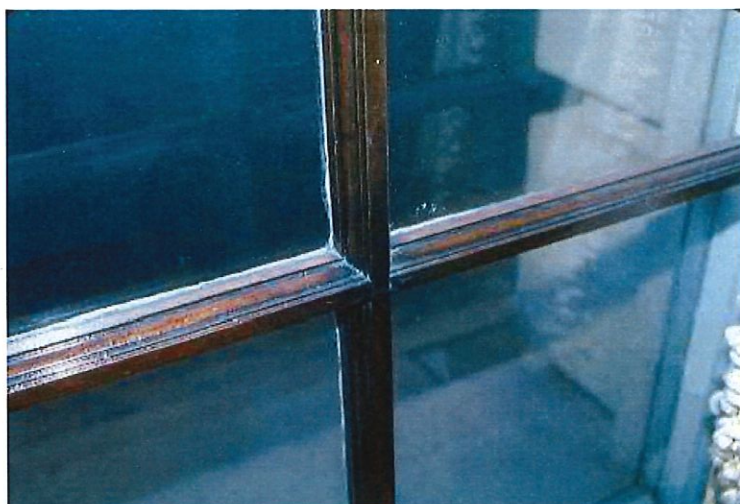
Off-set

Glass

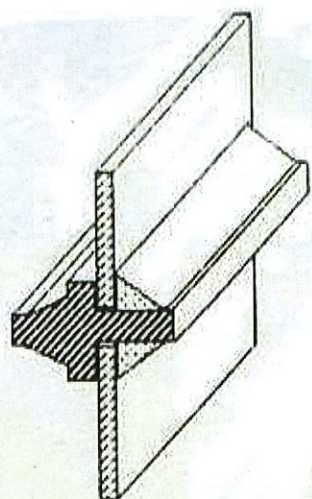


SANDWICH
MUNTIN

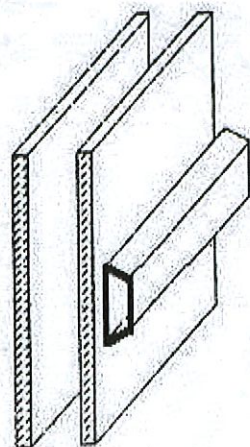




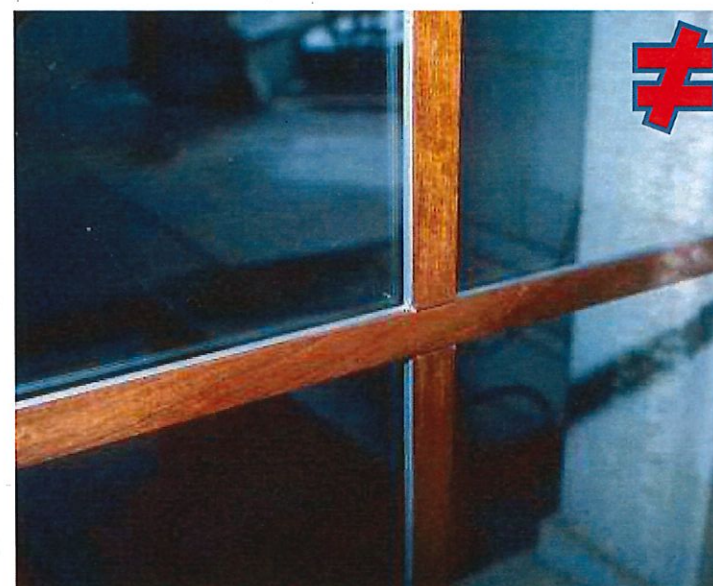
...materials that are similar in design, color, scale, architectural appearance, and other visual qualities



ORIGINAL
MUNTIN



APPLIED
MUNTIN



...materials that are similar in design, color, scale, architectural appearance, and other visual qualities



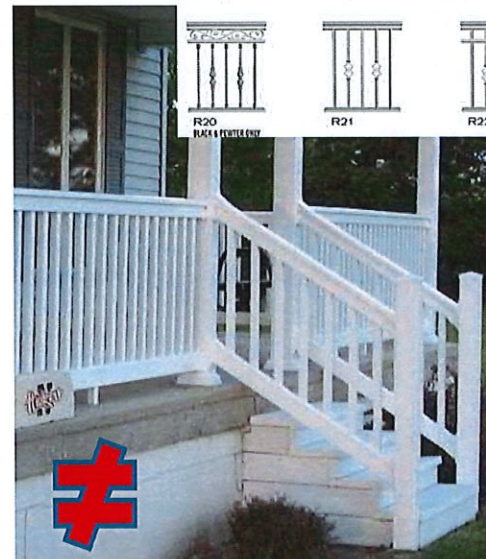
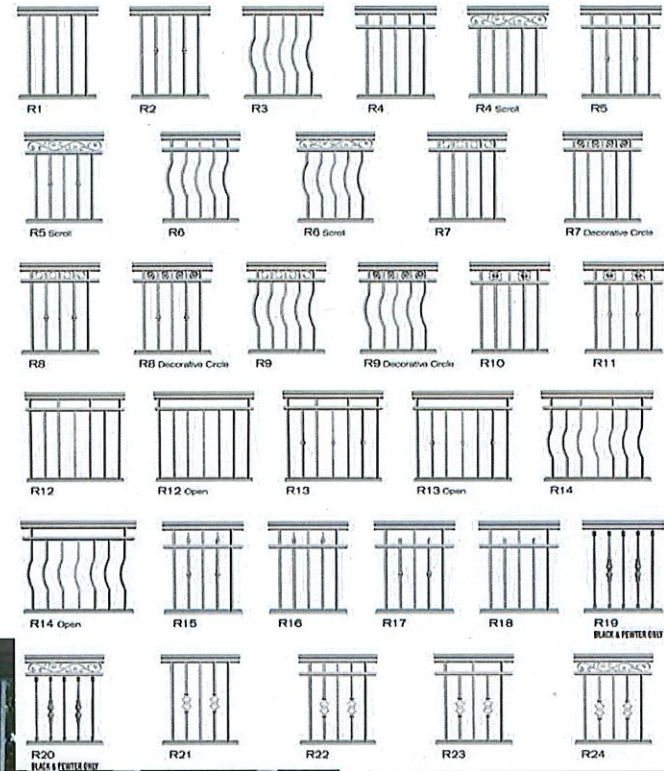
Design

Texture

Finish



...materials that are similar in design, color, scale, architectural appearance, and other visual qualities



Design

Texture

Finish

...materials that are similar in design, color, scale, architectural appearance, and other visual qualities



Design

Texture

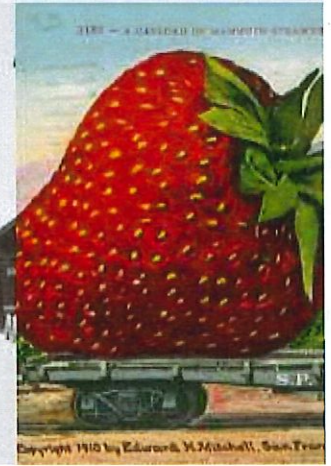
Finish

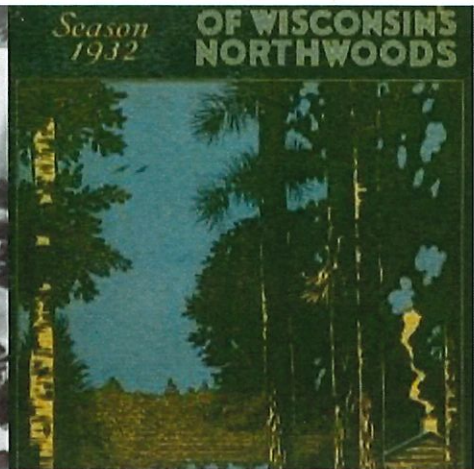
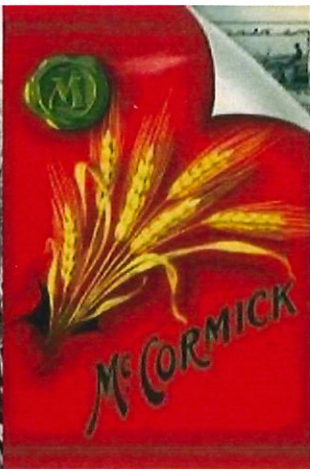


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THANK YOU

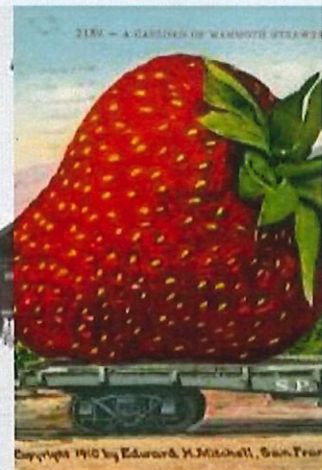
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Historic Preservation Commissions: State Statutory Changes How They Affect You



Local Units of Government are Subject to State Control

- Local Units have Broad Authority/Powers to Regulate Themselves
- State May Impose Limitations When Issue is “Statewide”
- When the Issue Serves to Establish Uniformity

Elements of An Ideal Ordinance

- State a Public Purpose
- Establish a Local Preservation Commission
- Provide a Process for Designating Historic Districts and Landmarks
- Articulate Standards for Design Criteria that Guide Commission Design Review
- Establish a Mechanism for Enforcing Design Review
- Allow for Public Comment
- Establish an Appeal Mechanism

Two Recent Legislative Initiatives Affecting Local Historic Preservation Commissions

- 2015 Wisconsin Act 176
- 2017 Wisconsin Act 317

2015 Wisconsin Act 176

- Public Hearing for Creation of Landmark District
- Owner Notice of Landmark Nomination
- Owner Notice of Hearing
- Owner Appeal Process for Commission Decisions to LUG Governing Body

Designating a Landmark

“Before the county [City or Town] designates a historic landmark or establishes a historic district, the county shall hold a public hearing. If the county proposes to designate a place, structure, or object as a historic landmark or establish a historic district that includes a place, structure, or object, the county shall, by 1st class mail, notify the owner of the place, structure, or object of the determination and of the time and place of the public hearing on the determination.”

Designating a Landmark

- Schedule Hearing
- Notify Landowner
 - What is the Landmark
 - When is the Hearing
 - Where is the Hearing
- Ensure Sufficient Time to Comment and/or Attend

Landowner Appeal

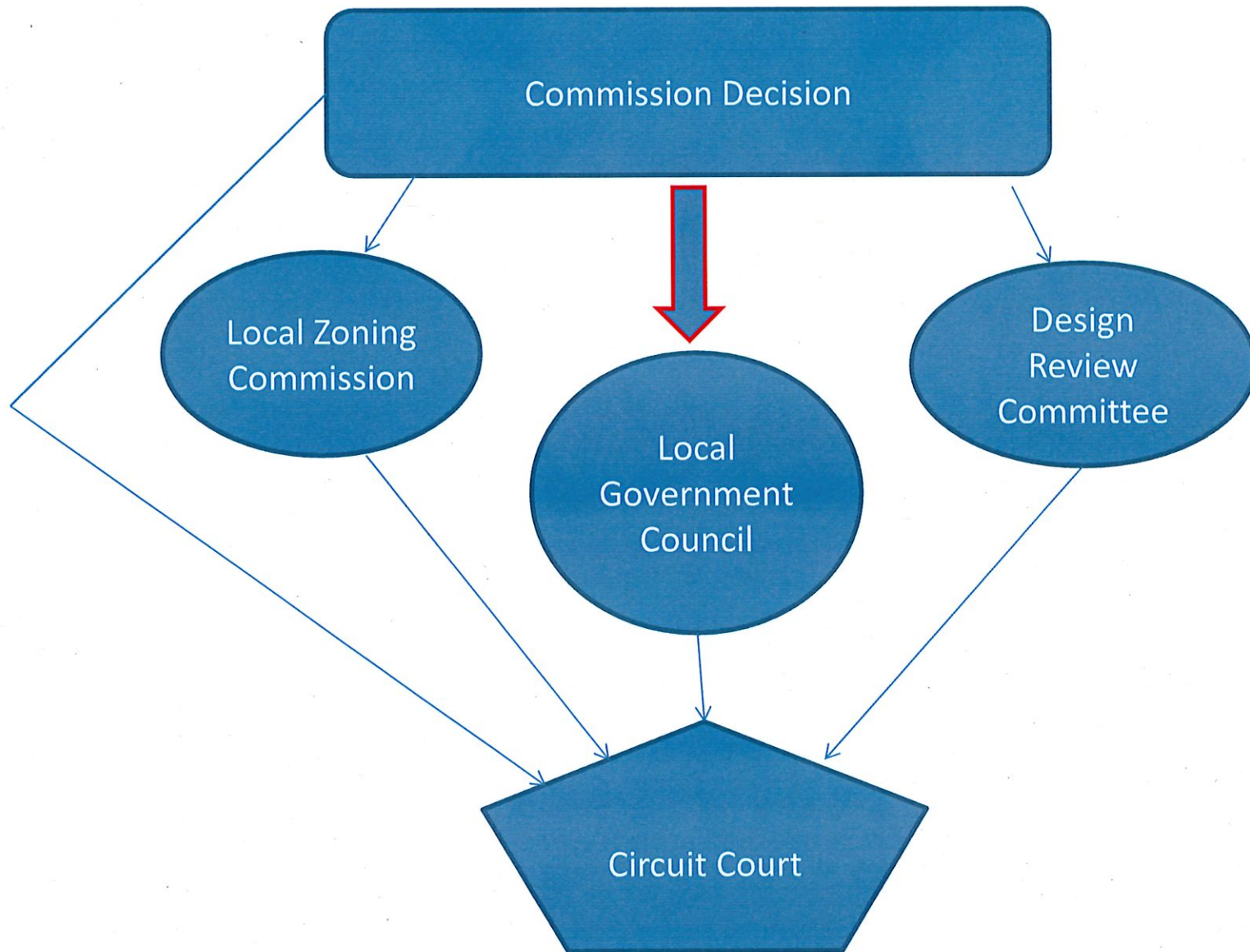
“An owner of property that is affected by a decision of a county landmarks commission may appeal the decision to the board. The board may overturn a decision of the commission by a majority vote of the board.”

Landowner Appeal

- Appeal Directly to Local Unit of Government Council
 - Any Decision of Commission Affecting a Landowner
 - Landmark Nomination Decision
 - Certificate of Appropriateness: Denial or Project Modification
 - Penalty for Violating Commission Provisions or Decisions
 - Grant Funding Denial
- Council May Overturn with Simple Majority Vote

Elements of An Ideal Ordinance

- State a Public Purpose
- Establish a Local Preservation Commission
- Provide a Process for Designating Historic Districts and Landmarks
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- Establish a Mechanism for Enforcing Design Review
- Allow for Public Comment
- Establish an Appeal Mechanism



When is this Law Effective?

The renumbering and amendment of sections 59.69 (4m), 60.64, and 62.23 (7) (em) of the statutes and the creation of sections 59.69 (4m) (b) and (c), 60.64 (2) and (3), and 62.23 (7) (em) 2. and 3. of the statutes **first apply to a decision of a landmarks commission** made on the effective date of this subsection **and a designation of a historic landmark or an establishment of a historic district** on the effective date of this subsection.

- Effective Date is: **March 2, 2016**

2017 Wisconsin Act 317

“In the repair or replacement of a property that is designated as a historic landmark or included within a historic district or neighborhood conservation district under this section, the county [or City or Town] shall allow an owner to use materials that are similar in design, color, scale, architectural appearance, and other visual qualities.”

2017 Wisconsin Act 317

New Standard for Repair and Replacement of Landmark Property:

- **Unit of Government Shall Permit Materials**
- **Similar in design, color, scale, architectural appearance, and other visual qualities**



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Mormon Tabernacle, Provo Utah

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Reconstructed Mormon Tabernacle, Provo Utah

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When is this Law Effective?

This act takes effect on the day after publication.

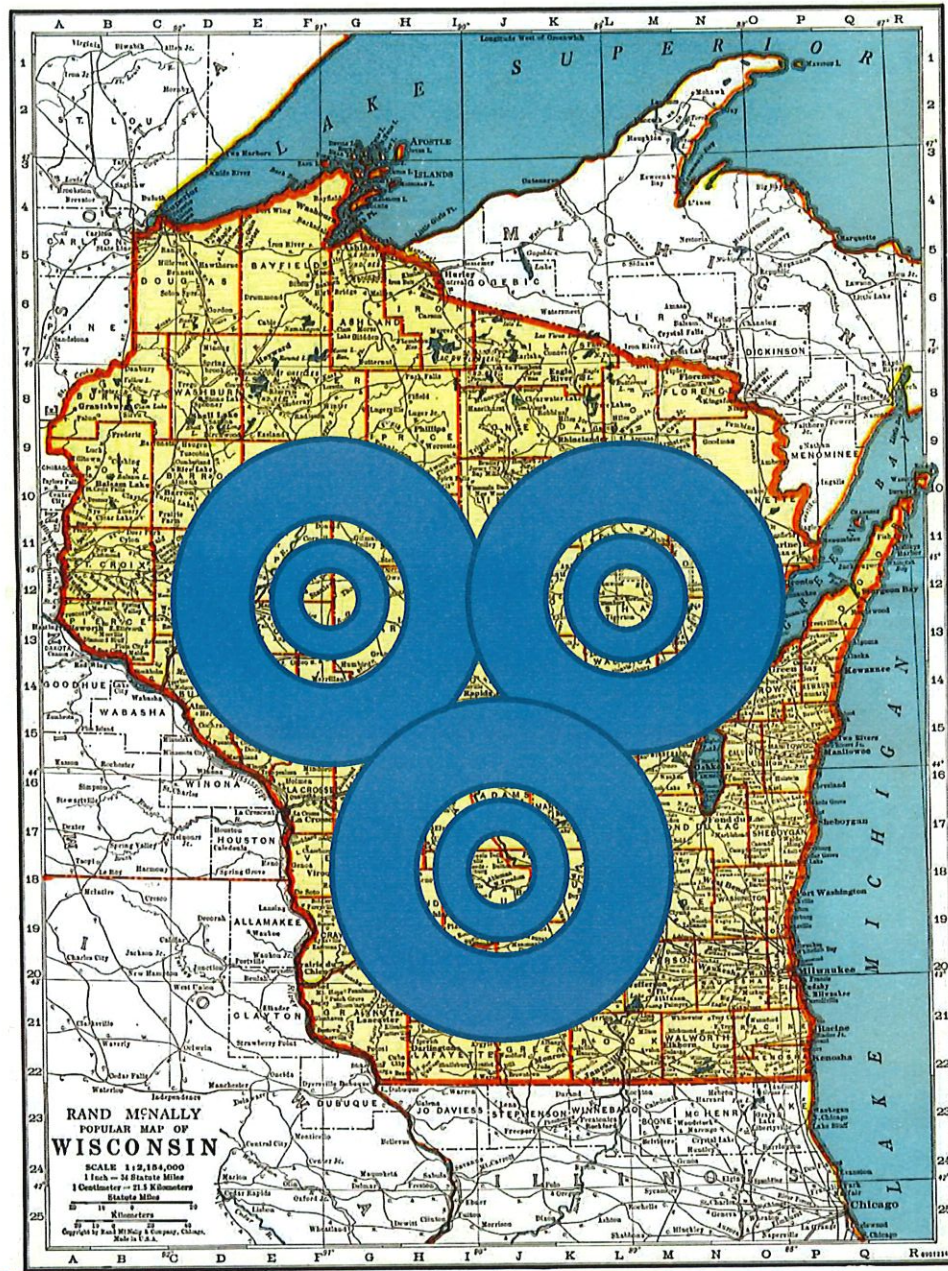
Effective date is: April 18, 2018

What Does All of This Mean for You?

- Must Modify Your Ordinance
- Decide on Language Suitable for your Ordinance
- Work with Corporation Counsel or Local Unit of Government Council or Board
- Produce Accessible Guidelines for Landowners
- Be Transparent in All You Do!!

What's Ahead

- Preservation Opponents Will be Back
- Legislature Will Review Local Units of Government for Compliance, to Assess Opponents Concerns
- Legislature Could Again Draft New Legislation to “Address those Concerns”



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Local Landmark Commissions Under Scrutiny

- Landmark Designation Processes
- Application of Review and COA Standards
- Appeals and Appellate Outcomes
- Landowner Satisfaction
- Transparency of Commission Decision-making

State Historic Preservation Office

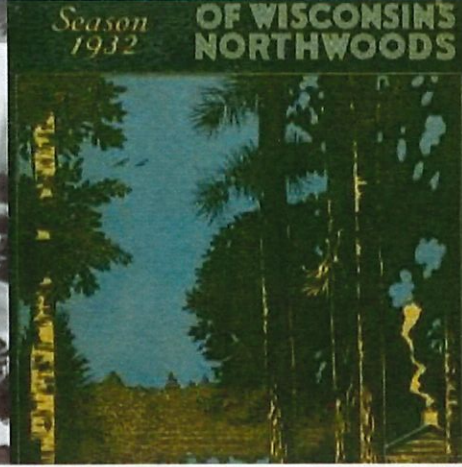
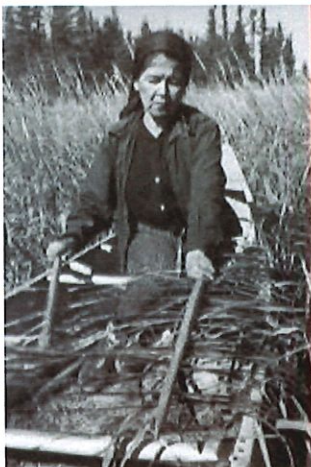
Assistance and Support:

- New and Updated Web Materials for Commissions
- Drafting Model Ordinance Satisfying Statutes
- HP Staff Meetings with and Trainings for Commissions
- Conferences with Commission Tracks
 - Annual Conference in Elkhart Lake in October 2018
- More Webinars and Other Public Presentations

Major Preservation Commission Study Project

Funded by a Jeffris Grant

- Study Local Preservation Commissions: Decision-making Outcomes, Landowner Satisfaction, Case Studies
- Next Four Months – Contact SHPO Jim Draeger to Participate if You have a Project to Share
- Outcomes of Study will Generate Targeted Training
- Preservation Commission Training may Include Travel Stipends for Attendees
- Listserv for Commission Member Communication



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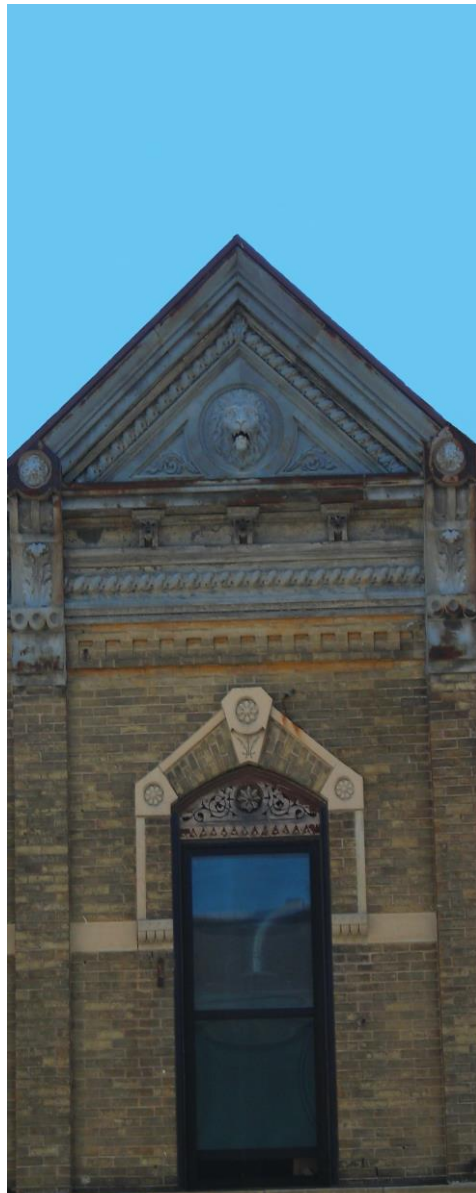
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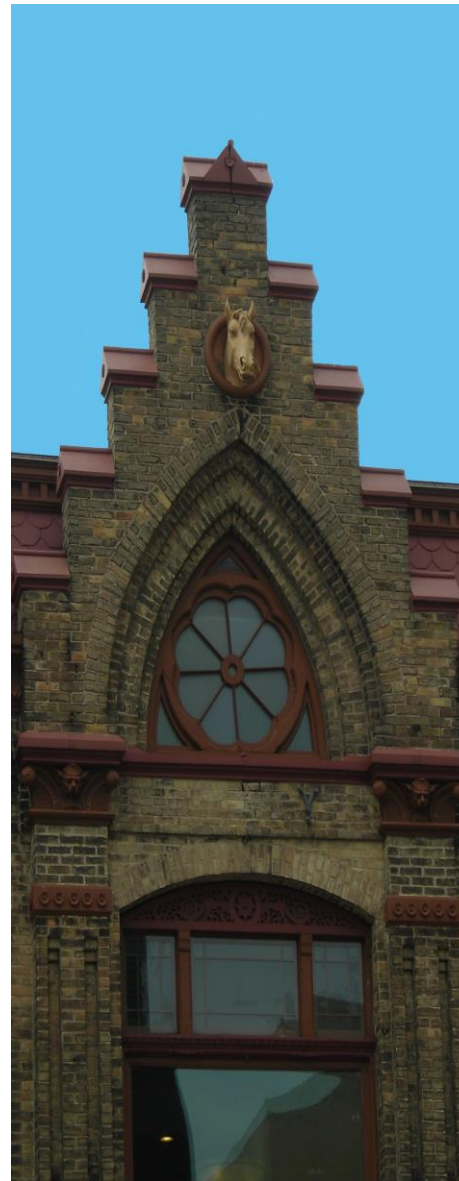
100 East College Avenue

*Appleton Historic Preservation
Commission
Bookmark Series
"Downtown Historic Buildings"*



203-205 West College Avenue

*Appleton Historic Preservation
Commission
Bookmark Series
"Downtown Historic Buildings"*



207 West College Avenue

*Appleton Historic Preservation
Commission
Bookmark Series
"Downtown Historic Buildings"*

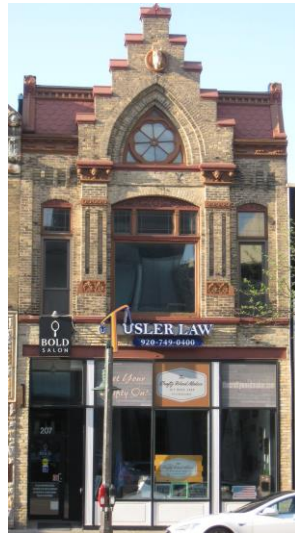


211 West College Avenue

*Appleton Historic Preservation
Commission
Bookmark Series
"Downtown Historic Buildings"*

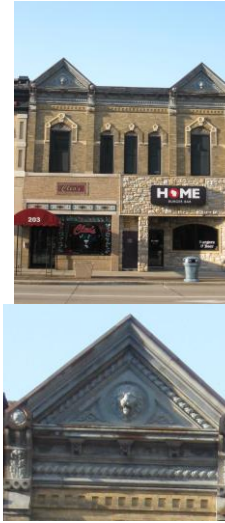


C.R. Meyer & Sons, Contractors designed the building. Arresting in the sophistication of its design, Gibson's Art Deco Auto Exchange is the best-preserved example of the period in Appleton. Ironically, the site was occupied by a barn, well, and chicken coop until the land was sold to Alenor Gibson for construction of a car dealership in 1928. Completed in 1931, some fifty years after neighboring buildings, the symmetrical two-story design with its stepped roofline was well-integrated into the existing block. The Carrara glass façade with chrome-trimmed windows and mannered ornament compares well with the best designs of the era.



WI A & H Inventory
#39056

Originally the home of Gerhardt Kamps and Thomas Kamps' harness shop. Gerhardt Kamps eventually bought out his brother and ran the business by himself. He was considered one of the finest leather crafters in the area. The building was designed especially for his harness shop. There was a lot to the east where horses were kept, both for his shop and the Farmers' Hotel. The facade has a carved stone horse head at the top symbolizing that he worked with horses. The building was designed by Charles Hove who was also the architect of Temple Zion, the Place Block, and the Volksfreund Building.



WI A & H Inventory
203 & 205 #39054

The Bliss Building was the home of the Appleton Post. While it is often thought that the building was owned by the Post, it was not. They only rented the upper floor. It was built with them in mind, however, as the two lion heads on the façade represent the roar of truth. The Appleton Post was Appleton's third newspaper. The original name of the newspaper was the Appleton Motor. It was founded by George Miller and Alexander Reid to counter the Democratic paper, the Crescent. It ceased to exist when it merged with the Crescent in 1920 to become the Post-Crescent.



Source: Appleton, Wis., Illustrated 1892

WI A & H Inventory #39087

This structure was built in 1856 by C.G. Adkins for a general store and office space. It was the first three story building in the city and is one of the oldest standing buildings in Appleton. To preserve the building, the Avenue Mall was built around it.

Style: Italianate

Builder: J. W. Woodward

Notable Features:

Unusual limestone construction on 1st level of West Wall. Probably River Bed Limestone exterior with Quoins, square window heads on 2nd level, arched on 3rd.

Built by Woodward for general store and offices. Later run by his daughter and her husband Byron Douglas who was the first local dentist.