

Chapter 1212: Historic Preservation

1212.01 PURPOSE (REVISED 1210.01)

City Council hereby declares as a matter of public policy that the protection, enhancement, and perpetuation of Landmarks and Historic Districts is necessary to promote the economic, cultural, educational and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as the City of Middletown has many significant historic, architectural, and cultural resources which reflects its heritage, this act is intended to:

- (a) Protect and enhance the Historic Landmarks and Historic Districts which represent distinctive elements of Middletown's historic, architectural, and cultural heritage;
- (b) Foster civic pride in the accomplishments of the community in the past;
- (c) Stabilize and improve property values of designated landmarks and districts;
- (d) Protect and enhance Middletown's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- (e) Insure the harmonious, orderly, and efficient growth and development of Middletown; and
- (f) Provide a review process for the continued preservation and protection of Middletown's historic resources.

1212.02 DESIGNATION OF A HISTORIC LANDMARK OR HISTORIC DISTRICT (REVISED 1210.05 AND 1210.06)

- (a) In considering any area, place, structure, work of art or similar object in the City as a historic site or historic district, the Historic Commission shall apply the following criteria:
 - (1) The structure or site or area's character, value, or significance as part of the development of the City, the State, or the United States;
 - (2) Its location as a site or area of a significant historic event;
 - (3) Its identification with a person who significantly contributed to the development of the City;
 - (4) Its embodiment of distinguishing characteristics of an architectural style or type;
 - (5) Its exemplification of the cultural, economic, social or political heritage of the City;
 - (6) Its relationship to other distinctive areas or structures designated for preservation;
 - (7) Its unique location or singular physical characteristic representing an established and familiar feature of the City; and
 - (8) Its inclusion of prehistoric and/or historic archaeological sites or other important representations of previous cultures.

(b) Designation Procedure

The Historic Commission shall have the authority to propose designations of any area, place, structure, work of art, or similar object in the City as a historic site or historic district. The following shall be the procedure for the formal designation of such places or areas.

(1) Step 1 – Development Code Administrator Recommendation Required

- A.** The Historic Commission shall advise the Development Code Administrator of the proposed designation and secure from the Development Code Administrator a recommendation with respect to the relationship of the proposed designation to the Master Plan of the City and any applicable Historic Preservation Plan.
- B.** The Development Code Administrator shall give an opinion as to the effect of the proposed designation upon the surrounding neighborhood and an opinion and recommendation as to any other planning consideration which may be relevant to the proposed designation, together with a recommendation of approval, rejection, or modification of the proposed designation.
- C.** Such recommendation shall be submitted in written form by the Historic Commission, along with its recommendation concerning the proposed designation.
- D.** The Historic Commission shall make a decision whether to proceed with the designation review based on the recommendation of the Development Code Administrator

(2) Step 2 – Notification

- A.** If the Historic Commission decides to proceed with designation, the Development Code Administrator shall notify the owner of all properties under consideration for designation. Whenever possible, the Historic Commission shall secure the owner's written consent for submittal of the proposed designation, together with its recommendation of findings of fact.
- B.** In the event that such owner refuses or declines to give his or her written consent to the proposed designation, the Historic Commission shall schedule a public hearing on the proposed designation.
- C.** Written notice shall be sent to all owners or any people having a legal interest of record in properties being proposed for designation. Such notice shall be in accordance with Section [1226.02\(i\)](#).
- D.** The City shall also publish a notice of such hearing in accordance with Section [1226.02\(i\)](#).

(3) Step 3 – Historic Commission Public Hearing

- A.** The Historic Commission shall conduct the public hearing as provided and shall provide an opportunity for all interested parties to express their opinions.

- B. The Commission shall determine if any or all of the criteria listed in Section [1212.02](#) have been met.
- C. The Commission shall then make a decision regarding the proposed designation, in writing, within 30 days after the initial hearing date and shall notify the owner or any person having a legal interest in such property, as well as other interested parties who request a copy.
- D. The Historic Commission shall state in its recommendation findings of fact that constitute the basis for its decision and shall transmit such recommendation concerning the proposed designation to the Middletown City Council.

(4) Step 4 – Consideration by City Council

- A. The City Council shall give due consideration to the findings and recommendations of the Historic Commission, input provided by the persons participating in the public hearing before the Historic Commission, in addition to the recommendation of the Development Code Administrator, in making its determination with respect to the proposed designation of any areas, places, structures, works of art or similar objects as historic sites or historic districts.
- B. The City Council may, at its discretion, hold public hearings on any such proposed designation, whether such designation is proposed with the consent of the owner or after public hearings before the Historic Commission. The City Council may then designate by ordinance areas, places, structures, works of art, or similar objects as historic sites or historic districts.

(5) Step 5 – Notification of Designation

Within 14 days, the Historic Commission shall notify the Chief Building Official of the official designation. The Commission shall also send, by certified mail, a certified copy of the designation ordinance to the owner and any person having a legal interest in any properties involved in the designation.

(6) Step 6 – Record of Designation

The Historic Commission shall direct the Law Director to cause a record of such designation to be filed with the applicable county recorder.

1212.03 MINIMUM MAINTENANCE STANDARDS (REVISED 1210.10)

(a) Maintenance Required

Nothing in this chapter shall be construed to prevent the ordinary repair and maintenance of any exterior architectural feature of a historic landmark or historic district property which does not involve a change in design, material, color, or outward appearance. No owner or person with an interest in real property designated as a historic landmark or property within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historic Commission, produce a detrimental effect upon the character of the historic landmark or historic district as a whole, or the life or character of the property itself. Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports;
- (2) Deterioration of roofs or other horizontal members;
- (3) Deterioration of exterior chimneys;
- (4) Deterioration of exterior stucco, siding, trim, brick, stone or mortar, including chipping or peeling paint;
- (5) Ineffective waterproofing of exterior walls, roofs, roof drainage systems, foundations, including broken or damaged windows and doors;
- (6) The accumulation of rubbish and debris;
- (7) Any condition as to cause fire or explosion or to provide a ready source of fuel to augment the spread or intensity of fire or explosion arising from any cause;
- (8) Failure to adequately secure a building or structure to prevent vandalism or destruction of a property; and
- (9) Inadequate maintenance of yards and gardens as to detract from the aesthetic qualities of the area, site or structure and its adjacent surroundings.

(b) Inspection of and Notice to Repair

- (1) The Historic Commission shall have the authority to direct the Development Code Administrator, in conjunction with the Chief Building Official, to investigate and inspect, any building which, in its opinion, may be a substandard historic building in accordance with this section.
- (2) The Development Code Administrator and the Chief Building Official shall also have the authority to investigate and inspect, any building which, in its opinion, may be a substandard historic building in accordance with this section.
- (3) Any investigation and inspection shall take place within 30 days of an initial notification from the Historic Commission or identification by the Development Code Administrator or Chief Building Official.

- (4) After an inspection, the Development Code Administrator shall relay their findings to the Historic Commission. If after inspection it is found that such building is substandard, the Development Code Administrator shall give written notice to the Historic Commission and owner of record or person responsible for the property, or if unable to effect such notice by posting on the premises, stating in what respects the building is substandard, and setting forth the repairs, alterations or improvements to such building required to correct such substandard conditions or preserve the building, and a reasonable period of time in which the required work shall be done.
- (5) Such notices shall also inform the owner or person responsible that the Development Code Administrator's and Chief Building Official's findings will be subject to the review and hearing before the Historic Commission at a time and place set by the Historic Commission. The Historic Commission shall give written notice to the owner of record or person responsible thereof of the time, date and place of such hearing and give public notice of the same. Such hearing shall be held not more than 30 days after the issuance of the Development Code Administrator's notice.

1212.04 HEARING ON SUBSTANDARD BUILDINGS OR STRUCTURES (EXISTING 1210.11)

- (a) At the hearing referred to in paragraph (5) above, the Historic Commission shall review the findings and orders of the Development Code Administrator and Chief Building Official and shall determine whether such findings are true and correct within the meaning of this chapter. If the Historic Commission concurs with their findings that the affected structure is substandard, the Historic Commission shall further determine whether the Development Code Administrator's orders for corrections are reasonable and necessary to accomplish the purposes of this chapter.
- (b) The Historic Commission shall have the power in connection with such hearings to administer oaths and affirmations, examine witnesses and receive such evidence as may be presented on behalf of any party or interest. Based upon such evidence, the Historic Commission shall issue its own order affirming, reversing or modifying the order of the Development Code Administrator.

1212.05 EFFECT OF ORDER OF THE HISTORIC COMMISSION (EXISTING 1210.12)

An order of the Historic Commission shall bear the same consequence as if issued by the Development Code Administrator. The findings and orders of the Historic Commission shall be transmitted to the owner or person responsible for the affected building not later than 30 days following the date of the hearing and decision.

1212.06 REMEDIES OF THE HISTORIC COMMISSION'S DECISION (EXISTING 1210.13)

- (a) If the owner or person responsible for the affected property fails to comply with a final order to repair, alter, preserve or improve property, the Development Code Administrator and the Chief Building Official, by such means and with such assistance as may be available to them, are hereby authorized and directed to cause such property to be repaired, altered or improved, and the costs thereof shall be recovered by the City in a manner provided by law.
- (b) Regarding any property that is unoccupied or vacant, the Historic Commission, upon review may, where appropriate and necessary, order the following:
- (1) That service of water, gas or electricity be terminated;
 - (2) That all accumulations of flammable or combustible rubbish or debris be removed from the premises by the owner or person responsible for the building;
 - (3) That all windows, doors and other openings in such buildings be locked, barricaded or otherwise secured by the owner or person responsible for the building; materials and methods used for securing buildings and affecting the exterior appearance of the building shall require a certificate of appropriateness issued by the Historic Commission. Costs incurred by the City where the owner or person responsible for the building fails to comply with such orders shall be due to and collectible by the City.