This Ordinance prepared by Carol Failor, Deputy City Clerk, 715 Mulberry Street, Waterloo, Iowa.

ORDINANCE NO. 5057

AN ORDINANCE AMENDING THE 2007 CODE OF ORDINANCES OF THE CITY OF WATERLOO, IOWA, BY REPEALING CHAPTER 9, HISTORIC PRESERVATION COMMISSION, OF TITLE 2, BOARDS AND COMMISSIONS, AND REPEALING CHAPTER 8, HISTORIC PRESERVATION, OF TITLE 9, BUILDING REGULATIONS; AND ENACTING IN LIEU THEREOF A NEW CHAPTER 9, HISTORIC PRESERVATION COMMISSION, OF TITLE 2, BOARDS AND COMMISSIONS, AND A NEW CHAPTER 8, HISTORIC PRESERVATION, OF TITLE 9, BUILDING REGULATIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WATERLOO, IOWA:

That Chapter 9, Historic Preservation Commission, of Title 2, Boards and Commissions, and Chapter 8, Historic Preservation, of Title 9, Building Regulations, all in the 2007 Code of Ordinances of the City of Waterloo, Iowa, are hereby repealed in their entirety; and that a new Chapter 9, Historic Preservation Commission, of Title 2, Boards and Commissions, and Chapter 8, Historic Preservation, of Title 9, Building Regulations, in the current Code of Ordinances of the City of Waterloo, Iowa, are hereby enacted in lieu thereof as follows:

TITLE 2
CHAPTER 9
HISTORIC PRESERVATION COMMISSION

2-9-1: COMMISSION CREATED:

There is hereby created and established, as provided in Iowa Code § 303.34, a historic preservation commission to carry out the purposes and to exercise the powers and duties as set forth in Title 9, Chapter 8, of this code.

TITLE 9
CHAPTER 8
HISTORIC PRESERVATION

9-8-1: PURPOSE AND INTENT:

The purpose of this chapter is to:

(a) Protect, enhance, and perpetuate those buildings, sites, and districts that represent or reflect special elements of the city's cultural, social, economic, and architectural history;
(b) Safeguard the city's historic, aesthetic, and cultural
    heritage as embodied and reflected in such buildings,
sites, and districts;

(c) Strengthen the city's economy by encouraging the
    stabilization, improvement, preservation, or
    rehabilitation of designated properties, districts or
    sites;

(d) Protect and enhance the city's historic, cultural, and
    architectural heritage for tourists and visitors and
    thereby support and stimulate business and industry.

(e) Promote the use of historic buildings, sites and
    districts for the education, pleasure, and general
    welfare of the people of the city;

(f) Promote attention to sound design principles in areas
    of new development and redevelopment, and raise the
    level of community understanding and expectation for
    quality in the built environment; and

(g) Integrate historic preservation with the city's
    comprehensive land use plan.

9-3-2: DEFINITIONS:

For purposes of this chapter, the following definitions
shall apply unless the context clearly indicates otherwise:

Alteration. Any act or process that changes the exterior
architectural or environmental features of a building,
structure, object, site, or area, including but not limited to
the addition to, erection, excavation, construction,
reconstruction, restoration, rehabilitation, removal, or
demolition of any building, structure, object, or site, or part
thereof.

Area. A specific geographic division of the City of Waterloo.

Building. Any structure built for the support, shelter, or
enclosure of persons, animals, or property of any kind.

Certificate of appropriateness. A document issued by the
commission that evidences its approval, or approval with
modification, of plans for an alteration that (a) will require a
regulated permit or, regardless of whether a regulated permit is
required, will affect landscaping or a door, window, or screen
for a door or window, and (b) will cause a material change in
appearance or the removal of a historic landmark or of a
building, structure, object, or site within a historic district.

Certificate of economic hardship. A document issued by the
commission that evidences its determination that an alteration
(a) requires a regulated permit or, regardless of whether a
regulated permit is required, will affect landscaping or a door,
window, or screen for a door or window, (b) will cause a
material change in appearance, or the removal or demolition, of a historic landmark or a building, structure, object or site within a historic district or preservation district, (c) has resulted or would result in denial of an application for a certificate of appropriateness, and (d) if not allowed to proceed, would result in the owner being deprived of any reasonable economic return on the property.

Certificate of no material effect. A document issued by the commission that evidences a determination that plans for an activity that requires a regulated permit or, regardless of whether a regulated permit is required, will affect landscaping or a door, window, or screen for a door or window, (a) is not an alteration, construction, removal, demolition, or excavation, as such terms may be defined by this chapter, and (b) does not cause a material change in the appearance or exterior features of a historic landmark or of a building, structure, object, or site within a historic district or preservation district.

Change in appearance. A change that will affect either the exterior architectural or environmental features of a historic landmark or of any building, structure, object, site, landscape feature, or work of art within a historic district or preservation district, including those located on publicly owned property or in street or highway right-of-way and as to which the change is not required by applicable law for reasons of public health or safety. By way of illustration only, the following may constitute a change in appearance that is material:

(a) A reconstruction or alteration of the size, shape, or façade of a historic landmark, including replacement or relocation of any doors or windows or removal or alteration of any architectural features, details, or elements.

(b) Demolition or relocation of a historic landmark.

(c) Commencement of excavation for construction purposes.

(d) A change in the location of advertising visible from the public right-of-way.

(e) The erection, alteration, restoration, or removal of any building or other structure within a historic landmark, historic district or preservation district, including walls, fences, steps, pavements, or other appurtenant features.

City Council. The City Council of the City of Waterloo, Iowa.

Commission. The Waterloo Historic Preservation Commission, as established by this chapter and by Chapter 2, Title 9, of this Code of Ordinances.

Construction. Any act or process that adds an addition, including but not limited to additional height, to an existing
structure or erected a new principal or accessory structure on a site. "Construction" includes the placing of construction materials in a permanent position and fastening them in a permanent manner.

Demolition. The act or process or pulling down, destroying, removing, or razing a structure or commencing the work of total or substantial destruction.

Design standards and guidelines. A standard of acceptable activity that will preserve or rehabilitate the prehistoric, historic, architectural, archeological, or cultural character of a historic landmark, a historic district, a preservation district, or a building, structure, object, or site in a historic district or preservation district. Guidelines shall include design standards and/or guidelines adopted by resolution of the city council, design standards and/or guidelines specified in the ordinance or amendment designating a historic landmark, historic district or preservation district, the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties, the Secretary of the Interior's Standards for Preservation and Guidelines for Preserving Historic Buildings, the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and any subsequent revisions of said standards and guidelines by the Secretary of the Interior.

Excavation. The digging out or removal of earth or soil.

Exterior architectural features. The architectural style and the general design and arrangement of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, style, and arrangement of all windows, doors, light fixtures, signs, and other appurtenant fixtures, features, details, or elements relative to the foregoing.

Exterior environmental features. All those aspects of the landscape or the development of a site that affect the historical character of the property.

Historic district. A significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically by plan or physical development. This area must contain contiguous pieces of property under diverse ownership, which meets one or more of the historic significance criteria and has been officially designated as a historic district by ordinance pursuant to the procedures set forth in this chapter. A historic district differs from a preservation district in that (a) the regulation of this chapter with respect to a historic district applies to all exterior architectural or environmental features and is not limited to those features that are visible only from public rights-of-way, and (b) the preservation standards applicable to a historic district are intended to be more rigorous, and are intended to be interpreted with a more broad view of whether a proposed alteration is material in its
effect, than is true with preservation standards applicable to a preservation district.

*Historic landmark.* A building, structure, object, or site that meets one or more of the historic significance criteria and has been designated as a historic landmark by ordinance pursuant to the procedures set forth in this chapter.

*Historic significance criteria.* Analytical factors used in determining if a building, structure, object, site, or district is historically significant. The criteria apply to the quality of significance in American history, architecture, archaeology, engineering, and culture that is present in buildings, structures, sites, or districts that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

(a) That are associated with events that have made significant contributions to the broad patterns of our history; or

(b) That are associated with the lives of significant persons in the past; or

(c) That embody the distinctive characteristics of a type, period, or method of construction, that represent the work of a master, that possess high artistic value, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(d) That have yielded, or may be likely to yield, information important in history or prehistory.

*Integrity.* The original, unaltered, or historically altered appearance of a structure, site, or area when taken as a whole.

*Landscaping.* Any activity that modifies the visible features of a site, apart from principal and accessory buildings, including but not limited to trees, shrubs, and woody vines, landforms, terrain shape and elevation, non-vegetative ground cover and overgrowths, bodies or courses of water, structures, fences, and objects. Vegetation other than trees, shrubs and woody vines does not constitute "landscaping" for purposes of this chapter.

*Local designation.* The process set forth in Section 9-8-6 of this Chapter by which historic landmarks, historic districts and preservation districts are identified and designated.

*National Register of Historic Places.* A listing maintained by the U.S. Department of the Interior, National Park Service, of buildings, structures, objects, sites, and districts determined to be significant in American history, architecture, archaeology, engineering, and culture. Listing of a building, structure, object, site, or district on the National Register of Historic Places is distinct from local designation as defined in this Chapter.
Object. As distinguished from buildings and structures, those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be movable by nature or design, an object is associated with a specific setting or environment.

Owner. The person or legal entity listed in the public records as owner for purposes of taxation, and shall be construed to include an owner of record.

Preservation. The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses on the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of a preservation treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-related work to make properties functional is appropriate within a preservation project.

Preservation district. A significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically by plan or physical development. This area must contain contiguous pieces of property under diverse ownership, which meets one or more of the historic significance criteria and has been officially designated as a preservation district by ordinance pursuant to the procedures set forth in this chapter.

A preservation district differs from a historic district in that (a) the regulation of this chapter with respect to a preservation district is limited to exterior architectural or environmental features that are visible from public rights-of-way, not including alleys, and (b) the preservation standards applicable to a preservation district are intended to be less rigorous, and are intended to be interpreted with a more narrow view of whether a proposed alteration is material in its effect, than is true with preservation standards applicable to a historic district.

Property inventory. A file of information about buildings, structures, sites, and districts in the City of Waterloo, including but not limited to completed Iowa Site Inventory forms, National Register of Historic Places Nominations, Reports of Survey and Evaluation projects and Contexts developed for the city, officially designated City of Waterloo Landmark and Historic District Nominations, and other germane information.

Reasonable economic return. A fair and equitable stream of income or appreciation in value, as compared to properties of similar location, use, or structures, under generally prevailing economic conditions in the City of Waterloo.

Regulated permit. An official document or certificate issued by the building official, city engineer, or other city official pursuant to provisions of the building code or other ordinance
or regulation that authorizes the performance of a specified activity.

Rehabilitation. The act or process of making possible a compatible use for a property through repairs, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural value.

Removal. Any relocation of a building, structure, or object on its site or to another site.

Repair. Any act or process that (a) does not require a building permit, (b) is not construction, removal, excavation, or demolition, and (c) does not involve a material change in appearance as a result of any alteration of or to landscaping or a door, window, or screen for a door or window.

SHPO. The State Historic Preservation Office of the State Historical Society of Iowa, a division of the Iowa Department of Cultural Affairs.

Site. The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure.

Structure. Anything constructed or erected that requires permanent or temporary location on or in the ground, including but not limited to buildings and appurtenant structures, such as landscape features and sidewalks; lamp posts and street lights; fountains; advertising signs and billboards; telecommunications antennas; dishes and towers; swimming pools and solar collectors. A structure also includes any improvements on publicly owned property.

9-8-3: COMMISSION COMPOSITION AND MEMBERSHIP:

A. Appointments:

1. The commission shall consist of an odd number of members, no fewer than five (5) in number; all of whom are residents or owners of real property within the City of Waterloo. The specific number of members shall be as determined in the commission’s bylaws. All of said members shall be appointed by the mayor and approved by the city council.

2. Each historic district and preservation district shall be represented by at least one member appointed from among persons owning property in the district. Other members shall be chosen at large. Each member shall possess a demonstrated special interest, experience or education in the preservation of historic resources, history, architecture or archaeology. The commission’s members shall include, as available, licensed
architects or professionals in the fields of history, architectural history, planning or archaeology.

3. No more than one (1) member of the city's planning, programming and zoning commission shall serve on the commission.

B. Terms:

1. The term for each member shall be three (3) years. No member of the commission shall serve more than two (2) consecutive terms, but a member may be reappointed to one or more additional terms upon extraordinary circumstances and/or unavailability of applicants. The appointment of members shall be staggered, with no fewer than two (2) being appointed in any given year.

2. Vacancies occurring in the commission, other than by expiration of term of office, shall be filled only for the unexpired term.

3. Each member shall serve until the appointment of a successor.

C. Compensation: Members shall serve without compensation.

D. Organization:

1. The commission shall elect from its membership a chair and vice chair whose terms of office shall be one year. The chair and vice chair may serve for more than one term, but no member shall serve as chair for more than two (2) consecutive years.

2. The chair shall preside over meetings and shall have the right to vote in the event of a tie only. The vice chair shall, in cases of absence or disability of the chair, perform the duties of the chair. A simple majority vote of members at any meeting at which a quorum is present shall be sufficient to pass a motion.

3. Staff to the commission shall serve as secretary. The secretary shall record each meeting, take minutes and keep a record of all applications, resolutions, proceedings, and actions of the commission.

E. Other Operating Procedures:

1. Annually, the commission shall prepare a report to the city council summarizing the activities of the commission in the past year and shall present it to the city council. The report should state the status of preservation in the city and recommend any improvements the commission deems necessary.
2. Members of the commission shall participate in training programs from time to time. These may include special commission study sessions, which shall not be regularly scheduled meetings, and other training programs provided in the state or nation. At a minimum, all members shall attend one training session annually.

9-8-4: MEETINGS:

A. A quorum shall consist of a simple majority of all members of the commission.

B. The commission shall hold at least one public meeting each month, unless there is no business to transact, at such times as the commission shall establish in its bylaws.

C. The commission shall transact business at regular meetings, or at special meetings held only when the chair or three (3) members declare a need exists. One (1) day written or oral notice to the members of the time, place, and reason(s) for said meeting must be given. Further notice to the public shall be posted at least twenty-four (24) hours in advance of the meeting.

D. All regular and special meetings of the commission shall be open to the public, and any person shall be entitled to appear and be heard on a matter before the commission reaches its decision.

E. Except as otherwise set forth in this chapter, written notice to the general public of any meeting or hearing shall be posted at least twenty-four (24) hours in advance of the meeting or hearing. Except as otherwise set forth in this chapter, written notice to an applicant or other specific person required by this chapter shall be mailed by first-class mail no less than four (4) days in advance of the meeting or hearing to the recipient's last known address or the address as it appears in the records of the county auditor. Failure to send notice by mail to any person entitled to notice shall not invalidate any proceedings that occur at the meeting or hearing for which notice is given if the address of such person is not known or does not appear in the county auditor's records.

F. Members of the commission shall attend at least two-thirds (2/3) of all regular and special scheduled meetings within any twelve (12) month period. If any member attends fewer meetings, it may constitute grounds for the commission to recommend to the city council that the member be replaced. Attendance of all members shall be entered in the minutes.

G. No commission member shall participate in the discussion or vote on any matter that has the appearance of a current or anticipated, direct or indirect, financial or material effect on his or her property, income, or business interests or on the property, income, or business interests...
of any person related to a member by blood or marriage within the third degree of consanguinity. The commission member shall be responsible for notifying the chair and secretary of a possible conflict of interest prior to the commission taking any action on the matter.

9-8-5: COMMISSION POWERS AND DUTIES:

The commission shall have the following duties and may exercise the following powers:

A. Shall adopt its own bylaws or procedural regulations consistent with state and federal guidelines.

B. Shall maintain a system for and conduct an ongoing identification and evaluation of historically, archaeologically, culturally, and architecturally significant buildings, structures, objects, sites and districts and shall establish and oversee a property inventory that complies with the property inventory of the State of Iowa and is available for public inspection and use.

C. May research and recommend to the city council the adoption of ordinances designating buildings, structures, sites, objects, or areas as historic landmarks.

D. May research and recommend to the city council the adoption of ordinances designating areas as historic districts or preservation districts.

E. Shall keep a register of all buildings, structures, objects, sites, and districts that have been designated as historic landmarks or historic districts. The register shall include all information required for each designation.

F. May determine an appropriate system of markers for designated historic landmarks, historic districts and preservation districts.

G. In addition to funds regularly budgeted to the commission each year, may request from the city council funds for the operation of programs that meet the purposes and intent of this chapter. The commission may also apply for grants or seek other funding for these operations.

H. Shall from time to time establish written design standards and/or guidelines, subject to approval by the city council, which approval shall be by resolution.

I. Shall review and make decisions on any applications for certificates of no material effect, certificates of appropriateness, or certificates of economic hardship, and shall require presentation of such plans, drawings, elevations, and other information as may be necessary to make such decisions.
J. Shall review actions or activities that are subject to city regulation and that affect proposed or designated buildings, structures, objects, and sites, or buildings, structures, objects and sites within historic districts or preservation districts, including, but not limited to zoning amendments, proposed plats, applications for special use permits, and applications for zoning variances, and after review, submit a recommendation to the appropriate city board or commission.

K. Shall make a recommendation to the State Historic Preservation Officer for the listing of a historic district or historic landmark in the National Register of Historic Places and shall conduct a public hearing thereon.

L. May promote public interest in the purposes described in this chapter by carrying on a public education program, which can include:

1. Assisting and encouraging any organization or individual that desires to protect, enhance or preserve the use of structures, sites and areas of historic and/or cultural significance;

2. Encouraging and assisting in the establishment of educational and cultural programs, tours and events to advance the purpose described in this chapter;

3. Encouraging and assisting in the use of incentive programs, historic preservation techniques, and historic preservation resources that aid property owners and residents in the preservation of their historic and/or culturally significant structures or districts;

4. Making recommendations to the city council and city commissions and boards on preservation issues when appropriate.

M. May, subject to approval of the city council:

1. Acquire by purchase, bequest, or donation total or lesser ownership or possessory interests in historic properties, including properties adjacent to or associated with historic properties;

2. Preserve, restore, maintain, and operate historic properties under the ownership or control of the commission;

3. Lease, sell, and otherwise transfer or dispose of historic properties, including properties subject to rights of public access or other covenants, in a manner that will preserve such properties;

4. Cooperate with the federal, state, and local governments in pursuance of the objectives of historic
preservation, and enter contracts with federal, state, or local governments or other organizations to carry out the purposes and intent of this chapter;

5. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation.

N. May exercise any other power or undertake any other duty authorized by the city council.

9-8-6: IDENTIFICATION AND DESIGNATION OF HISTORIC LANDMARKS, HISTORIC DISTRICTS AND PRESERVATION DISTRICTS:

A. Nomination.

1. Historic Landmarks: The nomination of historic landmarks shall be made by the property owner, the commission, or any other person or organization.

2. Historic Districts: The nomination of historic districts shall be made by an owner of record of property within a proposed historic district, the commission, or any other person or organization. The nomination shall be supported by the written consent of no less than twenty-five percent (25%) of the record owners of properties in the proposed historic district.

3. Preservation Districts: The nomination of preservation districts shall be made by an owner of record of property within a proposed preservation district, the commission, or any other person or organization. The nomination shall be supported by the written consent of no less than twenty-five percent (25%) of the record owners of properties in the proposed historic district.

B. Content of Landmark Nominations. All nominations shall be made on forms supplied by the commission. Nominations must be complete when submitted to the commission. An incomplete nomination will be returned to the applicant. A landmark nomination must contain the following:

1. A completed Iowa Site Inventory form with all attachments or a National Register of Historic Places nomination form for a property listed on the National Register;

2. Photographic documentation of the property at the time of nomination;

3. A scale map showing the location of the property within the city at the time of nomination;
4. A scale map of the property showing the proposed boundaries, extent buildings, structures, objects, and sites within the property at the time of nomination;

5. Statements and documentation that the property meets one or more of the historic significance criteria.

C. Content of District Nominations. All nominations for historic districts and preservation districts shall be made on forms supplied by the commission. Nominations must be complete when submitted to the commission. An incomplete nomination will be returned to the applicant. A district nomination must contain the following:

1. Completed Iowa site inventory forms with all attachments for all buildings, structures, objects, and sites within the proposed district or, for a historic district only, a National Register of Historic Places nomination form for a historic district listed on the National Register;

2. Photographic documentation of all properties in the proposed district at the time of nomination;

3. A scale map showing the location of the proposed district within the city at the time of nomination;

4. A scale map of the proposed district showing the proposed boundaries, extent buildings, structures, objects, and sites within the district at the time of nomination;

5. A list of names and addresses of owners of record of all properties within the district; and

6. Statements and documentation that the proposed district meets one or more of the historic significance criteria.

D. Procedure.

1. All nominations shall be available for public review at City Hall.

2. Notice of Public Hearing. Written notice of a public hearing before the commission on a nomination shall be sent by regular mail not less than four (4) nor more than twenty (20) days prior to the hearing, addressed to the person making the nomination and to each owner of record of the nominated historic landmark or to each owner of record of property within a nominated historic district or preservation district. Written notice shall also be posted at least twenty-four (24) hours prior to the public hearing. Failure to send notice by mail to any property owner entitled to notice shall not invalidate any proceedings in connection with the proposed designation if the
address of such person is not known or does not appear in the county auditor’s records. Written notice shall specify the date, time, place, and purpose of the public hearing and shall include a visual depiction of the area included within any proposed district.

3. Public Hearing Before Commission. Within sixty (60) days after receipt of a completed nomination in proper form, the commission shall hold a public hearing. Oral or written testimony concerning the significance of the nominated historic landmark, historic district or preservation district shall be taken from any interested person. The commission may request expert testimony, consider staff reports, present its own evidence, and conduct such other investigation as it deems necessary regarding compliance of the nominated historic landmark, historic district or preservation district with the review criteria set forth in this section. The owner of any nominated historic landmark or of any property within a nominated historic district or preservation district shall be allowed a reasonable opportunity to present evidence and to cross-examine expert witnesses.

4. Determination by Commission. Within thirty (30) days after the close of the public hearing, the commission shall make a determination upon the evidence as to whether the nominated historic landmark, historic district or preservation district meets one or more of the historic significance criteria. If the nominated landmark or district meets one or more of the criteria, the commission will recommend designation. If the nominated landmark or district does not meet the criteria, the commission will not recommend designation. The commission’s determination shall be made in an open meeting by resolution of the commission and shall be reduced to the form of a written report that states the findings of fact constituting the basis of the determination. The commission’s recommendation of designation and its supporting report shall be filed with the planning, programming, and zoning commission. The commission shall also transmit to the planning, programming, and zoning commission a proposed ordinance or amendment establishing such historic landmark, historic district or preservation district and describing its location and boundaries by address and legal description.

5. Review by SHPO. A proposed ordinance or amendment of designation of a historic landmark, historic district or preservation district shall be submitted to SHPO for review and comment within three (3) days of the commission’s transmittal of same to the planning, programming and zoning commission. The city shall make any SHPO recommendations available to the public for viewing during normal working hours at a city government place of public access.
6. Action by Planning, Programming and Zoning Commission. Within sixty (60) days of receipt of the commission’s recommendation, report, and proposed ordinance or amendment, the planning, programming and zoning commission shall report to the city council with respect to the relation of such nomination to the general development plan, zoning ordinance, proposed public improvements, and any plans for the renewal of the area involved. A written copy of this report shall be submitted to the historic preservation commission. Upon submission of the report of the planning, programming and zoning commission, or upon expiration of the sixty (60) day period, whichever occurs first, the matter shall be transmitted to the city council. If the planning, programming and zoning commission alters the area of the proposed district as approved by the historic preservation commission, the planning, programming and zoning commission must submit a description of the altered proposed area to SHPO and the historic preservation commission for further review and recommendations concerning the altered proposed district.

7. Removal from Consideration. At any time before the city council adopts an ordinance or amendment to establish a proposed historic district or preservation district, the proposal shall be withdrawn from further consideration if a petition objecting to such proposal is filed with the city clerk containing the signatures of at least fifty percent (50%) of the owners of property within the proposed new district or, in the case of an existing district that is proposed to be enlarged, at least fifty percent (50%) of the owners of property within the existing district and the area proposed to be added thereto.

8. Action by City Council.

a. Upon receiving the recommendation of SHPO and upon either the receipt of the recommendation of the planning, programming, and zoning commission or the lapse of the 60-day period referred to in paragraph 7 above, the city council shall conduct a public hearing on the ordinance or amendment establishing the proposed historic landmark, historic district or preservation district.

b. After public hearing, the city council may approve or disapprove the ordinance or amendment or return the nomination to the historic preservation commission for modification. A modified nomination shall require compliance with the same procedure for designation as set forth above, with the following exceptions:

1. Unless substantial modifications are proposed, the public hearing before the
historic preservation commission may be waived by said commission. For purposes of this paragraph, a “substantial modification” to a proposed historic district or preservation district is one that would add or remove an area of land that is at least ten percent (10%) of the area originally proposed for inclusion in such district, or that would, in the reasonable judgment of the commission, alter the purpose or integrity of such district, and a “substantial modification” to a proposed historic landmark is one that would, in the reasonable judgment of the commission, alter the purpose or integrity of such landmark.

2. Only the property owners affected by the city council’s proposed modification shall be notified by mail of the proposed modification prior to action by the historic preservation commission.

c. City Council approval of the ordinance or amendment shall constitute designation of the historic landmark, historic district or preservation district. The designation will be forwarded to the city clerk for recording, and the designation and nomination will be filed in the city’s property inventory.

E. Amendment or Rescission of Designation. Any designation made pursuant to this chapter may be amended or rescinded in the same manner as the original designation was made. An amendment of designation of a historic landmark, a historic district or a preservation district may occur if one or more buildings, structures, objects or sites are added. A rescission of designation may occur if the historic landmark, historic district or preservation district no longer meets the historic significance criteria due to subsequent discovery of information relating to the historic significance or due to destruction of the historic property by act of God or other unintentional cause.

F. Extension of Time. Whenever any provision of this chapter requires any governmental body, within a prescribed period of time, to make a determination or to perform any act in relation to a nomination, the applicant and the commission may extend such period by mutual written consent of the involved parties, which consent shall be kept on file with the official record of the proceedings.

9-8-7: ALTERATION OF HISTORIC LANDMARKS, HISTORIC DISTRICTS AND PRESERVATION DISTRICTS:

A. Any proposed alteration or activity that will affect a historic landmark or a building, structure, object, or site within a historic district or preservation district, and
for which a regulated permit or site plan approval is required, or which affects any landscaping, door, window, or screen, regardless of whether a regulated permit is required, shall be reviewed by the commission. Notwithstanding the foregoing, nothing in this chapter shall be construed to prevent ordinary maintenance or repair of any historic landmark or structure or site within a historic district or preservation district where such maintenance or repair does not involve a material change in appearance that necessitates issuance of a regulated permit or site plan approval or that does not involve a material change in appearance as a result of any alteration of or to landscaping or a door, window, or screen.

B. The commission shall also review any proposed demolition for which a regulated permit is required if the proposed demolition affects a building, structure, object, or site that has not been locally designated as a historic landmark but (i) is then under review pursuant to a filed nomination for designation. (ii) has been listed on the National Register of Historic Places, (iii) for which a National Register of Historic Places nomination is on file with the commission, or (iv) has been determined as eligible for listing on the National Register of Historic Places by SHPO.

C. No regulated permit or site plan approval with respect to a historic landmark or a building, structure, object, or site within a historic district may be issued prior to review by the commission and filing of a certificate of no material effect, a certificate of appropriateness, or a certificate of economic hardship. Upon review, the commission shall have authority to deny any application or to grant any of such certificates.

D. In cases where a historic landmark or a building, structure, object, or site within a historic district or preservation district may be located in an area subject to review by a separate board, commission or other body in the City of Waterloo, the commission shall, in connection with making its final decision, hear and consider the recommendations of such board, commission, or body.

9-8-8: PROCEDURE FOR REVIEW; ISSUANCE OF CERTIFICATES OF NO MATERIAL EFFECT, APPROPRIATENESS, AND ECONOMIC HARDSHIP:

A. Application for a Regulated Permit. Application for a regulated permit shall be made to the appropriate city official. The application shall state whether the proposed alteration or activity is to be done to a historic landmark or to a building, structure, object, or site in a historic district or preservation district. The appropriate city official shall verify the determination and notify the applicant if an application for a certificate of appropriateness is required. An application for certificate of appropriateness shall be on a form prescribed by the city, shall be completed, and shall
include all supporting drawings, sketches, photographs, and/or other information the city determines is necessary for considering the application, including but not limited to the following:

1. Site plan or improvement plan, with proposed building elevations (drawn to scale).

2. Photographs of existing and historic building conditions.

3. Product literature and specifications.

4. Samples of proposed materials and colors.

Upon filing of an application for a certificate of appropriateness, the appropriate city official shall promptly transmit the application and all supporting materials to the commission. The commission will not consider an incomplete application.

B. Alterations Not Requiring a Regulated Permit. If any proposed alteration or activity that will affect a historic landmark or building, structure, object, or site within a historic district or preservation district does not require a regulated permit but does affect landscaping or any door, window, or screen for a door or window, then an application for a certificate of appropriateness shall be filed with the city's planning, programming and zoning office, which shall transmit the application to the commission.

C. Certificate of No Material Effect. A certificate of no material effect may be issued if an application for a certificate of appropriateness demonstrates compliance with design standards and guidelines, provided that the proposed work or activity will not result in a material change in appearance or, with respect to preservation districts only, will result in an alteration that is not visible from the public right-of-way. The commission may, in its bylaws, delegate to one or more commission officers, a committee of the commission, or to an appropriately qualified city employee the responsibility for determining whether the application qualifies for a certificate of no material effect. If the application so qualifies, the recommendation of the designated persons or committee shall be placed on a consent agenda for action at the next regularly scheduled commission meeting. The applicant shall be notified of the time, date, and place of said meeting. A certificate of no material effect shall be issued within three (3) days of the meeting at which the application is approved, and the commission shall notify the city official from whom the applicant sought a regulated permit. If an application does not demonstrate eligibility for issuance of a certificate of no material effect, then the commission shall review the application as an application for a certificate of appropriateness, and the applicant shall be
notified of the time, date, and place of the meeting at which the application will be considered.

D. Certificate of Appropriateness.

1. Review criteria. A certificate of appropriateness may be issued if (a) an application demonstrates compliance with design standards and guidelines and (b) the proposed work or activity in creating, changing, destroying, or affecting the exterior features of the building, structure, object, or site upon which the work is to be done will not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of either the property itself or of the neighboring properties in a historic district or preservation district.

2. Hearing. The commission shall hold a public hearing on an application for a certificate of appropriateness within thirty (30) days after the completed application was filed, unless the applicant consents to a later hearing date. The applicant shall be notified of the time, date, and place of the hearing. If a historic landmark or a building, structure, object, or site within a historic district or preservation district is located in an area subject to an independent body of review, such as Main Street Waterloo, the commission will hear the recommendations, if any, of said independent body of review and will consider the recommendations when making its final decision.

3. Action on application. The commission may approve the application as submitted, deny it as submitted, or approve it with conditions. The commission may propose appropriate revisions to the application, which, if adopted, would cause the commission to reconsider its denial. If the application is approved, a certificate of appropriateness shall be issued within three (3) days of the commission’s decision. If the commission denies the application, it shall adopt written findings and conclusions within thirty (30) days of the hearing date and shall notify the applicant in writing of its denial. Within three (3) days of its decision, the commission shall notify the city official from whom the applicant sought a regulated permit, and in the event an application is approved subject to conditions, the conditions shall be noted on the permit. The applicant may modify the proposed project and shall have the right to resubmit a modified proposal at any time, but if an application is denied, a subsequent application for the same proposed alteration or activity may not be submitted within ninety (90) days of the date of denial.

E. Certificate of Economic Hardship. Following denial of an application for a certificate of appropriateness, an
applicant may apply for a certificate of economic hardship on a form prescribed by the city.

1. Basis for Issuance. A certificate of economic hardship may be issued if (a) an application for a certificate of appropriateness has been denied and (b) the commission determines after hearing that disapproval of the proposed alteration or activity would deprive the property owner of all reasonable economic return from the property. In considering whether the property owner would be deprived of all reasonable economic return from the property, the commission shall deny the certificate of economic hardship where the inability to realize any reasonable economic return from the property has been created by the property owner’s conduct, including but not limited to neglect of maintenance or absence of bona fide attempts to earn a reasonable economic return from the property. The determination of economic hardship shall be made solely with reference to the property, independent of the type of ownership or the financial status or means of the owner.

2. Standards for Determination. The applicant shall provide any information that the commission deems necessary for making a determination as to whether the property yields or may yield a reasonable economic return, which information may include but is not limited to the following:

a. The amount paid for the property, the date of purchase, and the identity of the seller and description of the seller’s relationship to the applicant.

b. Any appraisals of the property made within the previous two (2) years for purposes of selling, purchasing or financing.

c. The property’s assessed value according to the two (2) most recent assessments.

d. The amount of real estate taxes for the previous two (2) years and proof that they have been paid.

e. The annual gross income from the property for the previous two (2) years, itemized expenses for operation and maintenance, and cash flow before and after debt service. This information need not be provided for any single-family, owner-occupied property.

f. Any state or federal income tax returns on or relating to the property for the previous two (2) years.
g. The remaining balance on any financing secured by the property and other debt service, if any, for the previous two (2) years.

h. Any listing of the property for sale or rent within the previous two (2) years, including price asked and offers received.

i. Estimated cost of proposed work or activity and an estimate of any additional cost that would be incurred in complying with the commission's recommendation for conditions necessary for issuance of a certificate of appropriateness.

j. The property's estimated market value in its current condition, after completion of the proposed alteration or activity, after any changes proposed by the commission, and, in the case of demolition, after renovation of the property for continued use.

k. A report from a licensed professional architect or engineer with demonstrated experience in historic property rehabilitation as to the structural soundness of any structure and its suitability for rehabilitation.

l. A showing of the applicant's efforts at ongoing maintenance and repair.

m. Proof of the applicant's efforts to obtain financing, tax incentives, grants, or other funding sufficient to allow the applicant to realize a reasonable economic or return from the property.

3. Hearing. The commission shall hold a public hearing on an application for a certificate of economic hardship within sixty (60) days after the completed application was filed, unless the applicant consents to a later hearing date. The applicant shall be notified of the time, date, and place of the hearing. The commission shall receive and review evidence and hear testimony from the applicant or witnesses. The commission may solicit expert testimony or require that the applicant submit additional information.

4. Action on Application. Within thirty (30) days after closure of the hearing, the commission shall complete its evaluation of economic hardship, applying the standards set forth in paragraph 2 of this section 5-8-8(E), and shall adopt written findings and conclusions. The commission shall either approve the issuance of a certificate of economic hardship or deny it. The commission shall notify the applicant in writing of its decision and shall concurrently notify the city official from whom the applicant sought a
regulated permit. If the application is approved, a certificate of economic hardship shall be issued within three (3) days of the commission's decision.

F. Demolition.

1. Form of Request. A request to demolish a historic landmark or a building, structure, object or site in a historic district or preservation district or a structure identified in section 9-8-7(B) shall be submitted as an application for a certificate of economic hardship, subject to all requirements and procedures set forth in this section 9-8-8.

2. Preservation Plan. After an application is filed, the commission and the applicant shall work together in good faith to develop a plan to preserve or rehabilitate the property. If a mutually agreeable plan is developed, it shall be reduced to writing, signed by the applicant, and approved by the commission. Upon approval of a preservation plan, the commission shall issue a certificate of appropriateness that incorporates the plan by reference, and a copy of the plan shall be appended to the certificate. If a preservation plan is not developed within sixty (60) days after the application is filed, the commission shall either deny the application or shall table the application for an additional period of six (6) months. At the end of the six-month period, the commission shall approve the application and issue a certificate of economic hardship if it is satisfied that the applicant has made continuing, bona fide, and reasonable efforts to locate a purchaser to preserve, rehabilitate or restore the property, and that such efforts have been unsuccessful. Notwithstanding the failure to develop a preservation plan, and at any time before conclusion of the six-month period, the commission may approve the application and issue a certificate of economic hardship if the commission is satisfied that there is no reasonable likelihood that the applicant or some other person is willing to preserve, rehabilitate or restore the property or to purchase the property for such purpose.

3. Property Acquired by Eminent Domain. If the property proposed to be demolished is a property that was acquired by eminent domain, after consideration of all the circumstances the commission may at any time waive the requirements of this section 9-8-8 and issue a consent to demolish, which shall have the effect of a certificate of economic hardship.

4. Bond Required. The applicant shall post a bond in an amount set by the commission or the city council, as appropriate, to ensure complete removal of debris left by the demolition process and to compensate for any
damage done to adjacent properties. The bond shall be posted before the approved certificate is issued. The commission may waive this requirement with respect to any property owned by a federal, state, or local governmental body.

5. Documentation. In connection with approval of any certificate of economic hardship under this section 9-8-9(F), the commission may require as a condition to issuance of a certificate the allowance of a reasonable period in which to make a photographic, video or other suitable record of the property before it is demolished.

G. Future Effect. The commission’s approval of a particular type of alteration, work, or activity, whether as a result of issuance of a certificate of no material effect, a certificate of appropriateness, or otherwise, shall not establish a binding precedent for future commission action, but it may be an additional factor to be considered in subsequent reviews involving the same or a similar type of alteration, work, or activity.

H. Time Limitation. Each certificate of no material effect, certificate of appropriateness, or certificate of economic hardship shall expire and become null and void if the alteration for which the certificate was issued is not initiated within one (1) year of its issuance.

9-8-9: APPEALS FROM COMMISSION ACTION:

A. Appeal to City Council. An aggrieved party may appeal the commission’s final action to the city council by filing a written notice of appeal with the city clerk within thirty (30) days after the date of notice of the commission’s action. The notice of appeal shall identify the applicant, the date of the commission’s action, and the ground of the appeal. The city council shall consider only the record of the action before the commission, and no new matter may be considered. The city council may affirm or reverse the commission’s action, or may refer the matter back to the commission for such further action as may be appropriate. The city clerk shall give written notice of the city council’s decision within seven (7) days of same to the appellant and the commission.

B. Appeal to District Court. An appellant who is not satisfied by the decision of the city council may file an appeal in the district court for Black Hawk County within sixty (60) days of the city council’s decision.

C. Standard of Review. In any appeal, the city council or the district court, as the case may be, shall consider whether the commission exercised its powers and followed the guidelines established by law and by this chapter and whether the commission’s action was patently arbitrary and capricious.
9-8-10: REMEDY OF DANGEROUS CONDITIONS:

A. Except for emergencies as determined by the building official pursuant to city ordinance, city enforcement agencies and departments shall give the commission at least thirty (30) days' notice of any proposed order for remediating conditions determined to be dangerous to life, health, or property that may affect the exterior features of any historic landmark or any building, structure, object, or site in a historic district or preservation district.

B. The commission shall have the power to require that alterations not adversely affect the exterior features of a building or structure in cases where the danger to life, health, or property may be abated without detracting from its exterior features. In such cases, it shall be the responsibility of the commission and the city enforcement agency or department to cooperate with the property owner in an attempt to achieve a preservation plan whereby the dangerous conditions will be corrected with minimal adverse impact on exterior features. Such plan shall be approved by the commission and shall be signed by the chair of the commission, the property owner, and the head of the city enforcement agency or department.

C. If a preservation plan acceptable to the commission, the property owner, and the city enforcement agency or department cannot be reached within thirty (30) days or a period of time acceptable to the city enforcement agency or department, the agency or department shall proceed to issue and enforce its proposed order.

9-8-11: COMPLIANCE WITH CERTIFICATE:

A. After a certificate has been issued and a regulated permit, if required, is granted to the applicant, the building official or other local authority shall from time to time inspect the work authorized and shall take such action as is necessary to enforce compliance with the certificate. Commission members may from time to time inspect the authorized work, from the public right-of-way, and shall advise the building official or other local authority as necessary to enforce compliance with the certificate.

B. If it is found that such work is not being carried out in accordance with the certificate, the building official shall issue a stop work order.

C. Any change in appearance at variance with that authorized by the certificate shall be deemed a violation of these regulations.

9-8-12: FDES:

Upon submission of an application for a certificate of appropriateness or a certificate of economic hardship, or upon
the filing of an appeal to the city council from final
commission action, the applicant shall pay a fee in an amount
determined from time to time by resolution of the city council.
Filing fees received for applications and appeals shall be
deposited in a dedicated fund for historic preservation
activities and used solely for such purposes.

9-8-13: VIOLATIONS AND PENALTIES:

A. It shall be unlawful for any person to disobey, omit,
neglect, or refuse to comply with any provision of this
chapter. Upon conviction, such person shall be guilty of a
municipal infraction. Each day that a violation is
permitted to exist constitutes a separate offense.

B. The remedies provided for in this section shall be
cumulative and not exclusive and shall be in addition to
any other remedies provided by law.

9-8-14: COMPLIANCE WITH EXISTING ZONING REGULATIONS:

Any new structure in a historic district or preservation
district shall conform to all setback requirements of the zone
in which it is to be built or moved. If a historic landmark or
a structure in a historic district or preservation district has
lost fifty percent (50%) or more of its assessed value due to
fire, explosion, act of God, or other natural disasters, it may
be placed upon its original foundation or the site of the
original foundation, and it shall be reconstructed as near as
possible to the original exterior design. If the original
foundation or site thereof is found to be noncompliant with the
zoning ordinance in effect at the time, reconstruction shall
require approval by the board of adjustment prior to beginning
construction.

INTRODUCED: July 11, 2011
PASSED 1ST CONSIDERATION: July 11, 2011
PASSED 2ND CONSIDERATION: July 11, 2011
PASSED 3RD CONSIDERATION: July 11, 2011

PASSED AND ADOPTED by the City Council of the City of
Waterloo, Iowa, on the 11th day of July, 2011, and approved by
the Mayor on the 11th day of July, 2011.

Ernest G. Clark, Mayor

ATTEST:

Suzy Schaars, CMC
City Clerk
CERTIFICATE

I, Suzy Schares, City Clerk of the City of Waterloo, Iowa, do hereby certify that the preceding is a true and complete copy of Ordinance No. 5057, as passed and adopted by the Council of the City of Waterloo, Iowa, on the 11th day of July, 2011.

Witness my hand and seal of office this 11th day of July, 2011.

Suzy Schares, CMC
City Clerk