

Part 9. Chapter 39 of the City Code (Historic Preservation Ordinance) is proposed to be amended by adding the words shown in underline and by striking the words shown in strikethrough, as follows.

Code of Ordinances, City of Ellsworth

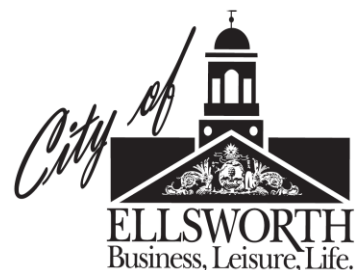
CHAPTER 39

HISTORIC PRESERVATION

A true copy, attest:

Suzanne McLean
City Clerk

HISTORICAL NOTE: ADOPTED JANUARY 15, 1979; AMENDED OCTOBER 15, 1984; REPEALED AND REPLACED (SECTION 12 ONLY) DECEMBER 20, 1993; AMENDED AUGUST 20, 2012; AMENDED (APPENDIX I ONLY) JUNE 20, 2016; AMENDED DECEMBER 16, 2024; AMENDED *** 2026.



CHAPTER 39

HISTORIC PRESERVATION

1. Intent and Purpose.

In addition to the general purposes of the City Code set forth in Chapter 1, Article 2, the purposes of this Chapter 39 are to preserve, protect, and enhance buildings and places or areas within the City which possess particular historic or architectural significance in order to promote the educational, cultural, and economic welfare of the residents and visitors to the City. To achieve these purposes, it is intended that this Chapter 39 be used to prevent inappropriate alterations and destruction of designated historic properties and that any new construction be completed in a manner which is compatible with the character of those properties.

2. Definitions.

- 2.1 **Historic District.** Any area which includes or encompasses such historic sites, historic landmarks, buildings, signs, appurtenances, structures or objects as may be designated in accordance with this Chapter 39 as appropriate for historical preservation.
- 2.2 **Historic Site.** Any parcel of land of special significance in the history of the City and its inhabitants, or upon which a historic event has occurred, and which has been designated as such in accordance with this Chapter 39. The term “historic site” shall also include any improved parcel, archeological site, cemetery or part thereof, on which is situated a historic landmark, and any abutting improved parcel, or part thereof, used as and constituting part of the premises on which the historic landmark is situated as may be designated in accordance with this Chapter 39.
- 2.3 **Historic Landmark.** Any improvement, building or structure of particular historic or architectural significance to the City relating to its heritage, cultural, social, economic or political history, or which exemplify historic personages or important events in local, state or national history as may be designated in accordance with this Chapter 39.
- 2.4 **Cultural Resources.** Any one or group of buildings, sites, landmarks or districts listed with significance as determined by this Chapter 39. Cultural resources may also be referred to as “historic properties.”
- 2.5 **Designation.** The identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government.
- 2.6 **Protection.** A local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to this subsection.
- 2.7 ¹**Archaeological Resources.** A bounded geographic location containing the physical evidence of previous human occupation including but not limited to structures, artifacts, graphics (paintings or drawings) and discarded material including plants or animals.

¹ Added 12/16/2024

3. Qualifications for Designation.

Cultural resources established in accordance with this Chapter 39 shall meet one or more of the following criteria. These criteria are generally based on the standards used for evaluating cultural resources for inclusion in the National Register of Historic Places.

- 3.1 Structures or sites at which events occur or have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, social, or sociological history of Ellsworth and the nation, including sites and buildings at which visitors may gain insight or see examples either of particular items or of larger patterns in the North American heritage.
- 3.2 Structures or sites importantly associated with persons significant to local, state, or national history.
- 3.3 Structures or structural remains and sites embodying examples of architectural types or specimens valuable for study of a period, style, or method of building construction, of community organization and living, or of landscaping; or a single notable structure or a single site representing the work of a master builder, master designer, architect, or landscape architect.
- 3.4 Structures contributing to the visual continuity of the historic district.
- 3.5 Those sites or areas on or eligible for listing on the National Register of Historic Places or National Historic Landmark.

4. Establishment of Designated Cultural Resources.

Historic districts, historic sites, or historic landmarks shall be established by amendment to Section 5 of this Chapter 39, in accordance with the requirements of Chapter 1, Section 504, and no property shall be included within a district without written notification to the property owner or owners, nor become an historic site or historic landmark without written consent of the property owner or owners. All such amendments shall be initiated by the Historic Preservation Commission or by the completion of an application for historic preservation designation directed to the Chair of the Historic Preservation Commission.

- 4.1 **Studies, Recommendations.** Before making its recommendation concerning the proposed establishment of a historic district, historic site or historic landmark, the Historic Preservation Commission may conduct studies and research on the proposal. The Historic Preservation Commission will make a report to the City Council on every request received. Drafts of the Historic Preservation Commission's report shall also be delivered to the MHPC for review and comment.
- 4.2 **Public Hearing, Final Report.** Before a final report is made to the City Council, the Historic Preservation Commission shall give notice of the proposed amendment and hold a public hearing on the proposed amendment in accordance with Chapter 1, Section 209 and Chapter 1, Section 504.3. Without limiting the requirements of Chapter 1, written notice of the proposal shall be given to the applicant, owners of all property abutting or to be included within the proposed designation, and all other persons found by the Historic Preservation Commission to have a special interest in the proposal. After the public hearing, the Historic Preservation Commission shall submit a final report with its recommendations to the City Council in accordance with Chapter 1, Section 504.3.
- 4.3 **Action By City Council.** After receipt of the Historic Preservation Commission's recommendation, as provided above, the City Council shall consider the proposed

amendment and may, in its discretion, adopt the proposed amendment in accordance with the City Charter and Chapter 1, Section 504 of the City Code.

4.4 **Designation, Notice to Affected Owners.** Within ten (10) days after the designation of any historic district, historic site, or historic landmark, the owner of each property so designated shall be given written notice of such designation by the City Clerk.

4.4 The Ellsworth Historic Preservation Commission shall maintain records of all cultural resources established by the City Council.

5. **Currently Designated Historic Sites, Districts and Landmarks.** The historic districts, historic sites, and historic landmarks designated by the City are set forth in the following appendices to Chapter 39:

5.1 Appendix 39-A - Historic buildings, historic sites and landmarks designated by the City.

5.2 Appendix 39-B – Historic Districts designated by the City.

6. **Historic Preservation Commission.**

6.1 **Establishment.** The Historic Preservation Commission is established for the purposes of administering this Chapter 39.

6.2 **Appointment, Qualifications.**

6.2.1 Members of the Historic Preservation Commission shall be appointed by the City Council.

6.2.2 The Historic Preservation Commission shall consist of five (5) members and two (2) alternates, who shall be residents or property owners of the City. Appointments shall be made on the basis of demonstrated interest, ability, experience and desire to promote historic preservation in the City within the meaning of Section 1 of this Chapter 39. Where such professionals are available in the community, qualifications will conform to the Secretary of the Interior Historic Preservation Professional Qualifications Standards. Information on Historic Preservation Commission members' credentials will be kept on file with the City Clerk and made available to the public.

6.2.3 In addition to the regular members of the Historic Preservation Commission, the City Council may, at the request of the Historic Preservation Commission, appoint other persons, not necessarily residents or property owners of the City, who shall serve on an advisory or consultant basis to assist the members of the Historic Preservation Commission in the performance of their functions.²

6.2.4 Any vacancies will be filled within 60 days.

6.3 **Term.** The Historic Preservation Commission members who are first appointed shall be designated to serve terms as follows; One for one (1) year, two for two (2) years, and two for three (3) years from the date of their appointment. Thereafter, members shall be appointed for terms of three (3) years, except in those instances in which the appointment is made to fill a vacancy in an unexpired term, in which case the appointment shall be for the remainder of the unexpired term. Alternates will be appointed by the City Council and will serve a one (1) year term. Alternates may be reappointed by the City Council. Members

² Added 12/16/2024

shall serve without compensation. Persons appointed to serve in an advisory or consulting capacity shall hold office at the pleasure of the City Council.

- 6.4 **Officers.** The Historic Preservation Commission shall elect annually a chair, vice chair, and secretary from its membership. A majority of the members appointed by the City Council shall constitute a quorum for the transaction of business.
- 6.5 Duties of the Historic Preservation Commission include administering this Chapter 39 and advising the City Manager and City Council on matters relating to the management of the City's cultural resources. In this advisory capacity, the duties of the Historic Preservation Commission shall include:
 - 6.5.1 Conducting, or causing to be conducted a continuing survey of cultural resources in the community according to guidelines established by the MHPC;
 - 6.5.2 Making recommendations for designation of local landmarks and historic districts to the City Council;
 - 6.5.3 Establishing and using written guidelines for the conservation of designated local landmarks and historic districts in decisions on requests for permits for alterations, demolition, or additions to listed landmarks and buildings within historic districts;
 - 6.5.4 Acting in an advisory role to other officials and departments of City government regarding the protection of the City's cultural resources;
 - 6.5.5 Acting as a liaison on behalf of the City to individuals and organizations concerned with historic preservation; and
 - 6.5.6 Working toward the continuing education of citizens of the City regarding historic preservation issues and concerns.
 - 6.5.7 Preparing an annual report of the activities of the Historic Preservation Commission, which must be submitted to the City Manager and to the MHPC.
 - 6.5.8 Complying with Chapter 40 (Code of Ethics/Conduct).
 - 6.5.9 Reviewing alterations, relocation, demolition, and other actions affecting designated historic properties under its jurisdiction.³
 - 6.5.10 Reviewing all new construction affecting designated historic properties or historic districts within its jurisdiction to determine if locally designated historic properties will be affected.⁴
 - 6.5.11 Reviewing all proposed National Register nominations for properties within its jurisdiction.⁵
 - 6.5.12 Proposing, from time to time, to the City Council amendments to this Chapter 39 consistent with the intent and purpose of this Chapter 39 and the rules of the MHPC.
- 6.6 The Historic Preservation Commission may, subject to appropriations by the City Council or other income, employ clerical and technical assistants or consultants, and may accept grants, money gifts, or gifts of service, and may hold or expand the same for all or any of

³ Added 12/14/2024

⁴ Added 12/14/2024

⁵ Added 12/14/2024

the purposes of historic preservation in the City of Ellsworth. The Commission shall advise and assist owners of designated structures of historic sites with plans and assistance in complying with the requirement of this Chapter 39 to the extent possible under the funding available to the Commission, in an effort to further the accomplishment of this Chapter 39. The Commission may erect a suitable sign or marker indicating the historical fact of any designated site or building, subject to the City Code, appropriations or other income available to the Commission.

7. Uses Permitted.

Uses permitted in historic districts, historic sites, or historic landmarks shall be those set forth in the UDO provisions for the zone in which such district, site, or landmark are located.

8. Certificate of Appropriateness.

In any designated historic district, and with respect to any historic site or historic landmark, no building permit shall be issued by the CEO for any construction, alteration, or demolition until a Certificate of Appropriateness has been approved by the Historic Preservation Commission in accordance with this Section 8.

8.1 **Certificate of Appropriateness.** A Certificate of Appropriateness approved by the Historic Preservation Commission shall be required before a building permit is issued for any of the following:

- 8.1.1 Material change in the exterior appearances of a historic landmark, site or any building in a historic district by addition, reconstruction or alteration, including removal of trim, elements, facing material, or parts of the structure; moving a structure; addition or removal of a sign; and improvements to walkways, driveways, or landscape features.
- 8.1.2 New construction of a principal or accessory building or structure visible from a public street where such building or structure will be located in a historic district.
- 8.1.3 Demolition of a historic landmark or of any building, structure or appurtenance in a historic district.
- 8.1.4 Moving of a historic landmark or any building in a historic district.

8.2 **Applications.** Application for a Certificate of Appropriateness shall be obtained from the CEO when requesting a building application, or when no building permit is required but when such activity must be approved by the Historic Preservation Commission. The Historic Preservation Commission may request additional materials including such items as photographs, architectural plans, and construction bids.

9. Application Procedure.

Applicants shall submit to the Historic Preservation Commission a completed application for Certificate of Appropriateness. In addition to the application submission requirements of Chapter 1, Section 208.2, the application shall include:

- 9.1 The location of the subject property.
- 9.2 The present use and zoning classification of the subject property.

- 9.3 A brief description of the construction, reconstruction, remodeling, alteration, maintenance, demolition or moving requiring the issuance of a Certificate of Appropriateness.
- 9.4 A drawing or drawings indicating the design, texture, color and location of any proposed alteration or new construction for which the Certificate is being applied. As used herein, drawings shall mean plans and exterior elevations drawn to scale, with sufficient detail to show as far as they relate to exterior appearances, the architectural design of the buildings, including materials, textures and colors, including samples of materials and colors.
- 9.5 Photographs of the building involved and of adjacent buildings.
- 9.6 A site plan indicating improvements affecting appearance such as walls, walks, terraces, plantings, accessory buildings, signs, lights, and other elements. The Historic Preservation Commission may waive the requirement for a site plan in accordance with Chapter 1, Section 206.4.
- 9.7 Evidence of notice given to abutting property owners in accordance with Chapter 1, Section 209.1.

10. Administrative procedures.

- 10.1 **Completeness Review.** The Historic Preservation Commission shall conduct a completeness review in accordance with Chapter 1, Section 208.3.
- 10.2 **Public Hearing.** At the request of the applicant or any other person receiving notice under Section 10.1 above, or where the Historic Preservation Commission deems it necessary, a public hearing on the application shall be conducted by the Historic Preservation Commission. Notice of the public hearing shall be given in accordance with Chapter 1, Section 209.
- 10.3 **Written Decision.** The Historic Preservation Commission must issue a written decision for each application for a Certificate of Appropriateness, in accordance with Chapter 1, Section 208.5 and the following:
 - 10.3.1 **Approval.** If the Historic Preservation Commission determines that the proposed construction, reconstruction, alteration, moving, or demolition is consistent with the standards of evaluation in Section 11, it shall approve a Certificate of Appropriateness and return it to the CEO.
 - 10.3.2 **Disapproval.** If the Historic Preservation Commission determines that a Certificate of Appropriateness is not consistent with the standards of evaluation in Section 11, it shall note in the official meeting minutes the reasons for such determination and furnish the applicant an attested copy of the reasons, and the recommendations, if any.

11. Standards of Evaluation.

The standards and requirements contained in this section, and the Secretary of the Interior Standards for the Treatment of Historic Properties, codified at 36 CFR Part 68 (1995), shall be used for review of applications for Certificates of Appropriateness and specifically as to procedures before demolition can take place.

- 11.1 **Reconstruction, Alterations and Maintenance.** A building or structure classified as a historic landmark, or any part thereof, or any appurtenance related to such structures, including but not limited to walls, fences, light fixtures, steps, paving and signs shall not be removed, reconstructed, altered or maintained, and no Certificate of Appropriateness

shall be issued for such actions, unless they will preserve or enhance its historical and architectural character.

11.2 Demolition or Removal. A historic landmark, or any appurtenance thereto, shall not be demolished or moved and a Certificate of Appropriateness shall not be approved until either

- (a) such building or structure has been identified by the Commission as incompatible with the historic district in which it is located,
- (b) the property owner can demonstrate that maintenance of the structure creates financial hardship, or
- (c), that the property was properly offered for sale, after notices as required had been posted, that there had been no bona fide offers made, and that no contract for sale had been executed with interested parties.

Proper notice shall include posting on the premises of the building or structure in a location clearly visible from the street, notice published in a newspaper of general local circulation at least three (3) times prior to demolition, the final notice of which shall not be less than fifteen (15) days prior to the date of the permit, and the first notice of which shall be published no more than fifteen (15) days after the application for permit is filed. The owner shall for the period of time set forth and at a price reasonably related to its face market value, make a bona fide offer to sell such building or structure and the land pertaining thereto to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto. Prior to making such offer to sell, the owner shall first file a statement with the Historic Preservation Commission, identify the property, the offering price and the date the offer to sell shall begin. The time period set forth in this section shall not commence until such statement has been filed. The purpose of this section is to further the purposes of this Chapter 39 by preserving historic buildings which are important to the education, culture, traditions, and the economic value of the City and to afford the City, interested persons, historic societies or organizations the opportunities to acquire or to arrange for the preservation of such buildings. The Commission may, at any time during such stay, approve a Certificate of Appropriateness in which event a permit shall be issued without further delay.

11.3 Construction of New Buildings and Structures in Historic Districts. The construction of a new building or structure within a historic district shall be generally of such design, form, proportion, mass, configuration, building material and location on a lot as will be compatible with other buildings in the historic district and with streets and open spaces to which it is visually related and in keeping with the area.

11.4 Visual Compatibility Factors. Within historic districts, new construction and existing buildings and structures and appurtenances thereof which are moved, reconstructed, materially altered, repaired or changed in color shall be visually related generally in terms of the following factors:

- 11.4.1 Height.** The height of proposed buildings shall be compatible with adjacent buildings.
- 11.4.2 Proportion of Buildings Front Façade.** The relationship of the width of the buildings to the height of the front elevation shall be visually compatible with buildings, structures and open spaces where it is visually related.

- 11.4.3 **Proportion of Opening with the Façade.** The relationship of the width of the windows to height of windows and doors in a building shall be visually compatible with those of windows and doors of buildings to which the building is visually related.
- 11.4.4 **Rhythm of Solids to Voids in Front Facades.** The relationship of solids to voids in the front façade of a building shall be visually compatible with that of the buildings to which it is visually related.
- 11.4.5 **Rhythm of Spacing of Buildings on Streets.** The relationship of the building to open space between it and adjoining buildings shall be visually compatible to those prevailing in the area to which it is visually related.
- 11.4.6 **Rhythm of Entrance and Porch Projection.** The relationship of entrance and porch projections to sidewalks shall be visually compatible with buildings to which it is visually related.
- 11.4.7 **Relationship of Materials, Textures, and Color.** The relationship of materials, textures and color of the façade of a building shall be visually compatible with that of the predominant materials used in the buildings to which it is visually related.
- 11.4.8 **Roof Shapes.** The roof shape of a building shall be visually compatible with that of buildings to which it is visually related.
- 11.4.9 **Scale of Buildings.** The size of the building, the building mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with those characteristics of buildings and spaces to which it is visually related.
- 11.4.10 **Directional Expression of Front Elevation.** A building shall be visually compatible with the building, squares, and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or non-directional character.

12. **Ordinary Maintenance.**

No ordinary maintenance or repair of any exterior feature in a historic district or of any historic building shall occur unless a Certificate of Appropriateness is first issued for that maintenance and repair. A Certificate of Appropriateness shall be issued if either:

- 12.1 The maintenance or repair does not involve a change in the design, material or outer appearance of the feature; or
- 12.2 The Building Inspector certifies in writing that the repair is required in the interest of public safety because of an unsafe or dangerous condition on the premises. Any modification under this subsection shall be permitted only upon a finding of the Commission that the proposed modification is the least disruptive manner of addressing public safety concerns.

13. **Enforcement.**

The CEO is responsible for enforcing the provisions of this Chapter 39 by inspecting premises, investigating complaints, issuing notices of violation, suspending or revoking permits or approvals, and participating in legal prosecution of violations as needed, in accordance with Chapter 1, Section 510 of the City Code.