

**CITY OF MCHENRY**  
**HISTORIC PRESERVATION ORDINANCE**  
(MC-98-709; MC-09-977)

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**ARTICLE I  
GENERAL PROVISIONS**

**1. PURPOSE AND INTENT**

- A. To identify, designate, protect, preserve and encourage the restoration, rehabilitation, and adaptation for continued use of those sites and structures which represent or reflect the prehistoric, historic, cultural, artistic, social, economic, ethnic or political heritage of the City, or which may be representative of an architectural or engineering type inherently valuable for the study of style, period, craftsmanship, method of construction identified to an individual builder or architect, or use of indigenous materials.
- B. To safeguard the City's historic, aesthetic and cultural heritage, as embodied and reflected in structures, landscape features, and areas as seen in such examples as houses, commercial buildings, schools, public buildings, mills, creameries, farms, downtown business districts, cemeteries, bridges, boat houses, iron fences and open spaces.
- C. To stabilize and improve the economic vitality and value of designated landmarks and preservation districts in particular and of the City in general.
- D. To educate the public, government officials, and commercial and industrial interests of historic preservation, which needs to be fostered continually through a preservation ordinance.
- E. To work with City staff, appointed Boards and Commissions, Aldermen and Landmark Commission to establish and maintain a historic preservation program.
- F. To coordinate the City of McHenry preservation ordinance with the County preservation ordinance.
- G. To foster civic pride in the technological accomplishments, beauty, and nobility of the past.
- H. To protect and enhance the City's attraction to tourists and visitors, and to support and provide stimulus to business and industry from an historic preservation perspective.
- I. To preserve and promote the use of preservation districts, landmarks and landscapes for the education, pleasure and welfare of the citizens of McHenry.

**2. DEFINITIONS**

- A. Alteration: Any act or process that changes one or more historic, architectural or physical features of an area, site, landscape, or structure, including, but not limited to the erection, construction, reconstruction, or removal of any structure; the expansion or significant modification of agricultural activities; surface mining

and the clearing, grading or other modification of an area, site or landscape that changes its current natural condition.

- B. Architectural Significance: Embodying the distinctive characteristics of a type, period, style or method of construction or use of indigenous materials, or representing the work of a builder, designer, architect, or craftsman who has contributed to the development of the City, County, State, or the Nation.
- C. Archaeological Significance: Importance as an area, site, or landscape that has yielded or is likely to yield information concerning past patterns of human settlement, or artifacts or information concerning previous cultures in Illinois or previous periods of the present culture. Areas, sites or landscapes of archaeological significance may include, but are not limited to, aboriginal mounds, forts, earthworks, burial grounds, historic or prehistoric ruins, locations of villages, mine excavations or tailings.
- D. Certificate of Appropriateness: A certificate issued by the City authorizing an alteration, construction, demolition, or removal affecting a nominated or designated landmark or property within a nominated or designated preservation district.
- E. Certificate of Economic Hardship: A certificate issued by the City authorizing an alteration, construction, demolition, or removal affecting a nominated or designated landmark or property within a nominated or designated preservation district, even though a Certificate of Appropriateness has been denied or may be denied.
- F. Commission: The City of McHenry Landmark Commission.
- G. Construction: An addition to a structure, or the erection of a new structure.
- H. Demolition: Any act or process which destroys a structure in part or in whole.
- I. Demolition by Neglect: Neglect in the maintenance of any structure resulting in the deterioration of that structure to the extent that it creates a hazardous or unsafe condition.
- J. Design Criteria: Standards of appropriate activity that will preserve the historic, architectural, scenic or aesthetic character of a landmark or preservation district.
- K. Exterior Architectural Significance: The architectural character and general composition of the exterior of a structure, including, but not limited to the kind, color, and texture of the building material and the type, design and character of all windows, doors, light fixtures, signs and appurtenant elements.
- L. Historic Significance: Character, interest, or value as part of the development, heritage, or culture as the location of an important local, county, state or national event, or through identification with a person or persons who made important contributions to the development of the City, County, State, or the Nation.

- M. Landmark: A property or structure designated as a landmark by ordinance of the City, pursuant to procedures prescribed herein, which is worthy of rehabilitation, restoration, or preservation because of its historic, scenic or architectural significance.
- N. Landscape: A natural feature or group of natural features including, but not limited to, valleys, rivers, lakes, swamps, forests, woods, hills, combination of natural features, structures, objects, cultivated fields, or orchards in a predominantly rural setting.
- O. Object: Any tangible thing, including, but not limited to any items of personal property, wagons, boats, and locally manufactured products that may be easily moved or removed.
- P. Owner of Record: The person, corporation or other legal entity in whose name the property appears on the records of the McHenry County Recorder of Deeds, or those who paid property taxes for the most recent year according to the records of the McHenry County Collector.
- Q. Preservation District: An area designated as a preservation district by ordinance of the City, pursuant to procedures prescribed herein, and which may contain one or more landmarks within definable geographic boundaries, and which may have within its boundaries other areas, sites, landscapes or structures which, while not of such historic or architectural or scenic significance to be designated as landmarks, nevertheless, contribute to the overall visual characteristics of the landmarks located within the district.
- R. Removal: Any relocation of a structure or object within the site or to another site.
- S. Repair: Any change to a structure that is not construction, alteration, demolition, or removal and is necessary for continuing normal maintenance and upkeep.
- T. Scenic Significance: Importance as a result of appearance or character that remains relatively unchanged from and embodies the essential appearance related to a culture from an earlier historic or prehistoric period, as a result of a unique location, appearance or familiar vista or visual feature, or as a geological or natural feature associated with the development heritage or culture of the City, County, State, or the Nation.
- U. Site: The traditional, documented or legendary location of an event, occurrence, action or structure significant in the life or lives of a person, persons, group, or tribe, including but not limited to cemeteries, burial grounds, campsites, settlements, estates, gardens, groves, river crossings, routes, trails, caves, quarries, mines, or significant plant life.
- V. Structure: Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but not limited to houses, barns, smokehouses, signs, billboards, backstops for tennis courts, bridges, fences, pergolas, gazebos, boat houses, radio and television antennae, solar collectors, microwave antennae (including supporting towers), roads, ruins, or

remnants (including foundations), swimming pools or walkways.

- W. Survey: The systematic gathering of information on the architectural, historic, scenic, and archaeological significance of sites, structures, areas, or landscapes through visual assessment in the field and historical research for the purpose of identifying landmarks or districts worthy of preservation.

### **3. INTERPRETATION**

- A. No provision herein shall supersede the powers of other legislative or regulatory bodies or relieve any property owner from complying with the requirements of any other statute, code or ordinance of the City of McHenry, and any permit or license required thereunder shall be required in addition to any Certificate of Appropriateness or Certificate of Economic Hardship which may be required.
- B. The use of property and structures that have been designated under this ordinance shall be governed by the City of McHenry Zoning Ordinance.
- C. If any particular section of this ordinance is declared unconstitutional or void, only that particular section shall be affected, and all other sections of this ordinance shall remain in full force.
- D. Reserved (MC-03-830)
- E. None of the provisions of this ordinance shall be construed to prevent any measures of construction, alteration or demolition necessary to correct or abate the unsafe or dangerous condition of any structure or part thereof, where such condition has been declared unsafe or dangerous by the City of McHenry, the McHenry County Health Department, or the Fire Protection District, provided, however, that only such work as is reasonably necessary to correct the unsafe or dangerous condition may be performed.

**ARTICLE II**  
**THE CITY OF MCHENRY LANDMARK COMMISSION**

**1. ORGANIZATION**

- A. APPOINTMENT: The Mayor shall, with the advice and consent of the City Council, appoint members to the City of McHenry Landmark Commission.
- B. COMPOSITION: The Landmark Commission shall consist of twelve (12) members, including one (1) student representative.
  - i) TERMS: The regular term shall be one (1) year for the student representative and three (3) years for other members. Terms of the initial members shall be staggered so that four (4) serve for three (3) years, four (4) serve for two (2) years, and three (3) serve for one (1) year.
  - ii) OFFICERS: The Mayor shall annually appoint one member to serve as chairman, and one member to serve as Vice-Chairman, who will serve as acting Chairman in the Chairman's absence. The Commission shall elect all other officers by majority vote.
  - iii) VACANCIES: Vacancies shall be filled by the Mayor with the advice and consent of the City Council. Any Commission member may be removed by the City Council for cause.
  - iv) MEETINGS: Meetings of the Commission shall be held on the first Tuesday of every month, except in those months when no business is pending, and shall be held at such times and places within the City as established by the Commission. All meetings of the Commission shall be open to the public. The Commission shall keep minutes of its proceedings. The minutes shall show the vote, or absence or abstention, of each member upon every official action, and shall be a public record open for inspection and maintained by the City Clerk. All meetings shall comply with the Open Meetings Act.
  - v) QUORUM: Any seven (7) members of the Commission shall constitute a quorum for the purposes of transacting any business at any meeting of said Commission. (MC-03-830)

**2. POWERS AND AUTHORITIES**

- A. To conduct an ongoing survey of the City to identify structures, areas, sites, and landscapes that are of historic, archeological, architectural, or scenic significance, and are therefore potential landmarks or preservation districts.

- B. To hold public hearings and recommend to the City Council designation of landmarks or preservation districts.
- C. To compile information concerning and prepare descriptions of landmarks or preservation districts identified and recommended for designation and the characteristics that meet the criteria for designation.
- D. To prepare, keep current, and publish a map or maps showing the location and exact boundaries of proposed and designated landmarks and preservation districts, and the locations and boundaries of designated County, State or Federal landmarks or preservation districts.
- E. To keep a register of all designated landmarks and preservation districts.
- F. To establish an appropriate system of markers or plaques for all designated landmarks and preservation districts, and for streets, roads, trails, and highways leading from one landmark or preservation district to another, and to recommend that the City confer recognition upon the owners of landmarks or property within preservation districts by means of certificates, plaques or markers.
- G. To recommend to City Council the nomination of landmarks and preservation districts to any State or Federal registers of historic places.
- H. To advise and assist owners of landmarks and property within preservation districts on physical and financial aspects of preservation, renovation, rehabilitation and reuse, and on procedures for inclusion on any State or Federal register of historic places.
- I. To inform and educate the citizens of the City concerning the historic, archeological, architectural, or scenic heritage of the City by publishing appropriate maps, newsletters, brochures, and pamphlets, and by holding programs and seminars.
- J. To develop specific criteria and guidelines for the proper alteration, construction, demolition, or removal of landmarks, or of property within preservation districts.
- K. To hold public hearings and to review applications for construction, alteration, removal, or demolition affecting nominated or designated landmarks or property within preservation districts, and issue or deny or recommend approval or denial of a Certificate of Appropriateness, or of a Certificate of Economic Hardship that would allow the performance of work for which a Certificate of Appropriateness has been denied for such actions.
- L. To accept and administer on behalf of the City, upon designation by the City Council, such gifts, grants and money as may be appropriate for the purposes of this ordinance.
- M. Reserved (MC-09-977)

- N. To seek help from citizen, neighborhood, or area advisory committees, as required from time to time.
- O. To testify before all appointed Boards and Commissions on any matter affecting nominated or designated landmarks or preservation districts;
- P. Reserved (MC-09-977)
- Q. To periodically review the Zoning Ordinance and building codes and recommend to the City Council any amendments appropriate for the protection and continued use of landmarks or property within preservation districts.
- R. To advise or testify on behalf of the City for Federal and State projects requiring cultural impact surveys.
- S. Reserved (MC-09-977)
- T. To undertake any other action or activity necessary or appropriate to the implementation of the purposes of this ordinance.
- U. To submit an annual report of its activities to the City Council.

### **3. SURVEYS AND RESEARCH**

The Commission shall undertake an ongoing survey and research effort to identify districts, sites, structures and objects that have historical, cultural, community, architectural, archaeological or aesthetic significance, interest, or value. As part of the survey, the Commission shall review and evaluate any prior surveys and studies by any unit of government or private organizations and compile appropriate descriptions, facts, and photographs.

The Commission shall systematically identify potential landmarks and preservation districts associated with a particular person, event or historical period, or of a particular architectural style or school or building material, or of a particular architect, engineer, builder or craftsman, and adopt procedures to assure systematic survey and nomination of all potential landmarks and preservation districts within the City.

### **4. PRESERVATION PLAN**

- A. The Commission shall, through the aforesaid surveys and research, become thoroughly familiarized with districts, sites, structures, and objects within the City that may be eligible for designation as historic landmarks or preservation districts, and prepare a Historic Landmark and District Preservation Plan.
- B. The Historic Landmark and District Preservation Plan shall be presented to the City Council for consideration and recommendation for inclusion in the Comprehensive Plan.

**ARTICLE III  
DESIGNATION OF LANDMARKS and PRESERVATION DISTRICTS**

**1. NOMINATION**

The Commission or any person may nominate landmarks or preservation districts for designation by the City Council, provided however, only the Mayor and City Council shall be permitted to nominate a landmark or preservation district if the owner of a single proposed landmark, or 25% or more of the owners in a proposed preservation district, object to the nomination.

Nomination forms shall be filed with the City Clerk, and shall include the following:

- A. The name and address of the owner of record of the nominated landmark or of all properties in a nominated preservation district;
- B. The legal description and common street address(s) of the nominated landmark or preservation district;
- C. A map delineating the boundaries and location of the nominated landmark or preservation district;
- D. A statement indicating whether the owner of record of a single nominated landmark or each of the owners of record within a nominated preservation district consents to the landmark designation; all reasonable efforts shall be made to secure the written consent of the owner(s) before filing the nomination;
- E. A written statement, with photographs, describing the property and setting forth the reasons in support of the nomination;
- F. In nominating an area for designation as a preservation district, a list enumerating all properties and improvements in the area previously nominated or designated as a landmark by the City, or listed on any State or Federal registers of historic places.

**2. CRITERIA FOR DESIGNATION**

The Commission may recommend to the City Council the designation of landmarks and preservation districts, upon written proof of notification of the owner of record of a single nominated landmark or each of the owners of record within a nominated preservation district, after a thorough investigation results in a determination that a property, structure or district so recommended is at least fifty (50) years old and meets one (1) or more of the following criteria:

- A. It has character, interest, or value which is part of the development, heritage or cultural characteristics of the City, County, State, or the Nation;

- B. Its location is the site of a significant local, County, State or National event;
- C. It is identified with a person or persons who significantly contributed to the development of the City, County, State, or the Nation;
- D. It embodies distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction or use of indigenous materials;
- E. It is identified with the work of a master builder, designer, architect or landscape architect whose individual work has influenced the development of the City, County, State, or the Nation;
- F. It embodies elements of design, detailing, materials or craftsmanship that render it architecturally significant;
- G. It embodies design elements that make it structurally or architecturally innovative;
- H. It has a unique location or singular physical characteristic that make it an established or familiar visual feature;
- I. It has character which is a particularly fine or unique example of a utilitarian structure, including, but not limited to, farmhouses, gas stations or other commercial structures with a high level of integrity or architectural significance;
- J. It establishes a sense of time and place unique to the City of McHenry;
- K. It is suitable for preservation or restoration because of its integrity of location, design, materials and workmanship;
- L. It is included in the National Register of Historic Places or the Illinois Register of Historic Places;
- M. It has yielded, or may be likely to yield, information important to pre-history or other areas of archaeological significance;
- N. It is an exceptional example of a historic or vernacular style or one of few remaining in the City of McHenry.

### **3. INITIAL REPORT**

Within thirty (30) days from receipt of a complete nomination, the Commission shall cause to be written an initial report stating whether the nominated landmark or preservation district meets the criteria for designation herein. The report shall be available to the public in the office of the City Clerk, and shall contain the following information:

- A. An explanation of the significance or lack of significance of the nominated

landmark or preservation district as it relates to the criteria for designation;

- B. A description of the integrity or lack of integrity of the nominated landmark or preservation district;
- C. The relationship of the nominated landmark or preservation district to the ongoing effort of the Commission to identify and nominate all potential areas and structures that meet the criteria for designation;
- D. In the case of a nominated landmark or preservation district found to meet the criteria for designation, the report shall contain:
  - i) A description of the significant exterior architectural features of the nominated landmark that should be protected;
  - ii) A description of the types of construction, alterations, or demolitions that should be reviewed for appropriateness pursuant to this ordinance.

#### **4. PUBLIC HEARING ON NOMINATION**

Within thirty (30) days from completion of the initial report and recommendation, the Commission shall schedule a public hearing on the nomination.

Oral or written testimony shall be taken at the public hearing. The Commission may solicit expert testimony or present its own evidence regarding the historic, archaeological or scenic significance of a proposed landmark or of any property within a proposed preservation district relative to compliance with the criteria for designation. The owner of any nominated landmark or of any property within a nominated preservation district shall be allowed reasonable opportunity to present evidence and to cross-examine expert witnesses. The hearing shall be closed upon completion of testimony.

#### **5. NOTICE FOR PUBLIC HEARING ON NOMINATION**

- A. Notice of the date, time, place and purpose of the public hearing, the street address and legal description of the nominated landmark or the boundaries of a nominated preservation district, and a copy of the completed nomination form shall be sent by certified mail to the owner of record of a single nominated landmark or each of the owners of record within a nominated preservation district not more than thirty (30) nor less than fifteen (15) days prior to the scheduled date of the hearing.
- B. Notice of the date, time, place and purpose of the public hearing, and the street address and legal description of the nominated landmark or the boundaries of a nominated preservation district shall be sent by regular mail to the owners of record of each parcel of real estate abutting or across a street or alley from the

nominated landmark or preservation district not more than thirty (30) nor less than fifteen (15) days prior to the scheduled date of the hearing.

- C. Notice of the date, time, place and purpose of the public hearing, and the street address and legal description of the nominated landmark or the boundaries of a nominated preservation district shall be published in a newspaper of general circulation in the City not more than thirty (30) nor less than fifteen (15) days prior to the scheduled date of the hearing.

## **6. RECOMMENDATION OF COMMISSION**

Within thirty (30) days following the close of the public hearing, the Commission shall make its determination and recommendation upon the evidence whether the proposed landmark or preservation district meets the criteria for designation. The recommendation to the City Council shall be passed by a formal vote of the Commission. This recommendation shall be accompanied by a report stating the findings of the Commission concerning the historic, archaeological or scenic significance of the proposed landmark or preservation district.

## **7. DESIGNATION**

The City Council shall consider the nomination upon receipt of the report and recommendation of the Commission. The City Council may schedule a public hearing concerning the nomination and shall provide notice in the same manner as provided in Section 5 of this article. The City Council, after reviewing the report and recommendation, shall take one of the following steps within sixty (60) days from receipt of the recommendation of the Commission:

- A. Designate the landmark or preservation district by ordinance;
- B. Refer the report and recommendation back to the Commission with suggestions for revisions, stating its reasons for such action; or
- C. Deny the landmark designation. If the City Council denies the landmark designation, no nomination for landmark designation of the same site, structure or district shall be made within ninety (90) days of the date of the final denial. (MC-03-830)

## **8. NOTICE OF DESIGNATION**

Notice of the action of the City Council shall be sent by regular mail to the owner of record of the landmark or all owners of record of property within the preservation district, and to the owners of record of each parcel of real estate abutting or across a street or alley from the designated landmark or preservation district. The City will also notify the McHenry County Recorder of Deeds by forwarding a copy of the designation ordinance to be recorded.

**9. PUBLICATION OF MAP**

A map showing the location of all designated landmarks and preservation districts shall be published and amended upon each designation. Copies of the maps shall be available to the public at the office of the City Clerk.

**10. MARKING BY ATTACHMENT OF A PLAQUE**

Each designated landmark or preservation district may be marked, with the owner's consent, by an appropriate plaque carrying a brief description and account of the historical significance of the property.

**11. AMENDMENT OR RESCISSION OF DESIGNATION**

The City Council, with or without a recommendation from the Commission, may amend or rescind designation by the same procedure and according to the same standards and considerations set forth for designation.

**ARTICLE IV  
ALTERATION, CONSTRUCTION, DEMOLITION AND MAINTENANCE**

**1. SCOPE**

No exterior construction, alteration, demolition or removal is permitted on property and structures nominated or designated under this ordinance as landmarks or preservation districts, except as shall be approved by a Certificate of Appropriateness or Certificate of Economic Hardship.

**2. CERTIFICATE OF APPROPRIATENESS**

- A. Application. Every application submitted to the City for a building permit affecting property or structures nominated or designated under this ordinance as landmarks or preservation districts shall be forwarded to the Commission following the receipt of said application.

Application for review of construction, alteration, demolition or removals not requiring a building permit, but for which a Certificate of Appropriateness is required, shall be made on a form available at the City, and shall be forwarded to the Commission following the receipt of said application.

- B. Required Information. The following information shall be required for all applications for a Certificates of Appropriateness:

- i) Street address;
- ii) Legal description;
- iii) Brief description of the present improvements situated on the property;
- iv) A detailed description of the construction, alteration, demolition, or removal proposed, together with any architectural drawings or sketches, or a sufficient description to enable anyone to determine the final appearance of the real estate, including landscaping;
- v) Owner's name;
- vi) Reserved. (MC-03-830)
- vii) Reserved (MC-03-830);
- viii) An application fee established by the City Council to cover the cost of the review process.

- C. The Commission shall consider the completed application at its next regular meeting. The Commission shall act promptly and in a reasonable manner in its judgment of plans for construction, alteration, removal or demolition of structures in preservation districts that have little historic value and that are not shown on priority lists, except where such construction, alteration or demolition would seriously impair the historic or architectural value of surrounding structures or the surrounding area.
  
- D. Design Criteria. The Commission shall consider the following factors in reviewing applications for Certificates of Appropriateness:
  - i) HEIGHT: compatible with the style and character of the landmark and with the surrounding structures within a preservation district;
  - ii) PROPORTIONS OF WINDOWS AND DOORS: compatible with the architectural style and character of the landmark and with the surrounding structures within a preservation district;
  - iii) RELATIONSHIP OF BUILDING MASSES AND SPACES: compatible within a preservation district to open space between it and adjoining structures;
  - iv) ROOF SHAPE: compatible with the architectural style and character of the landmark and surrounding structures in a preservation district;
  - v) LANDSCAPING: compatible with the architectural style and character of the landmark and with the surrounding structures within a preservation district;
  - vi) SCALE: compatible with architectural style and character of the landmark and with the surrounding structures within a preservation district;
  - vii) DIRECTIONAL EXPRESSION: compatible with the dominant horizontal or vertical expression of surrounding structures and facades;
  - viii) ARCHITECTURAL DETAILS: treated to make a landmark compatible with its original architectural style or character.
  
- E. Standards for Review. The Commission, in considering the appropriateness of any alteration, demolition, construction, or removal shall be guided by the following general standards in addition to any design guidelines in the ordinance designating the landmark or preservation district:

- i) Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the structure, or site and its environment, or to use a property for it's originally intended purpose;
- ii) The distinguishing original qualities or character of a structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible;
- iii) All structures and sites shall be recognized as products of their time. Alterations which have no historical basis and which seek to create an earlier appearance shall be discouraged;
- iv) Changes that may have taken place in the course of time are evidence of the history and development of a structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected;
- v) Distinctive stylistic features or examples of skilled craftsmanship that characterize a structure or site shall be treated with sensitivity;
- vi) Deteriorated architectural features shall be repaired rather than replaced wherever possible. If replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other structures;
- vii) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken;
- viii) Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project;
- ix) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment;

- x)       Wherever possible, new additions or alterations to structures shall be done so that the essential form and integrity of the structure would be unimpaired if such additions or alterations were to be removed in the future.
  
- F.       Determination by Commission. The Commission shall provide City Council with a recommendation of the approval or denial of the Certificate of Appropriateness supported by written findings.
  
- G.       Denial of Certificate of Appropriateness. A recommendation of ~~A~~ denial of a Certificate of Appropriateness shall be accompanied by a statement of the reasons for the denial. The Commission shall make recommendations to the City concerning changes, if any, in the proposed action that would cause the Commission to reconsider its denial. The applicant may submit an amended application or reapply for a building permit that takes into consideration the recommendations of the Commission.
  
- H.       Failure of Commission to Review Application in a Timely Manner. Failure of the Commission to make a recommendation to City Council regarding the final determination on an application for a Certificate of Appropriateness within ninety (90) days from receipt of a completed application shall constitute approval and no other evidence shall be needed.
  
- I.       Demolitions. Upon receipt of an application for a Certificate of Appropriateness for demolition, the Commission shall make a recommendation to City Council regarding its determination, supported by written findings, whether one or more of the following criteria are met:
  - i)       The structure is of such interest or quality that it would reasonably meet national, state or local criteria for designation as a historic or architectural landmark on its own credentials;
  
  - ii)      The structure is of such unusual or uncommon design, texture, or materials that it could not be reproduced, or be reproduced only with great difficulty and expense;
  
  - iii)     Retention of the structure would aid substantially in preserving and protecting another structure that meets the above criteria.

- J. Compliance. A Certificate of Appropriateness will become void if there is any change in the scope of work of the approved application subsequent to the issuance of the certificate; if twelve (12) months have elapsed after the issuance of the certificate and no building permit has been issued; or if twenty-four (24) months have lapsed after issuance of the last building permit and the project has not been completed.
- K. Appeals. Any appeal of a denial of Certificate of Appropriateness shall be made to the City Council. The City Council, after reviewing the recommendation and written findings of the Commission, shall affirm the recommendation or approve the Certificate of Appropriateness within sixty (60) days from receipt of the appeal.

### **3. CERTIFICATE OF ECONOMIC HARDSHIP**

- A. The City shall issue a Certificate of Economic Hardship only after a determination that the failure to issue a Certificate of Appropriateness has denied, or will deny the owner of a landmark or of a property within a preservation district all reasonable use of, or return on, the property.
- B. The City shall require the following information, evidence, or expert testimony to make a determination on an application for a Certificate of Economic Hardship:
  - i) An estimate of the cost of the proposed construction, alteration, demolition or removal, and an estimate of any additional cost that would be incurred to comply with the recommendations of the City for changes necessary for the issuance of a Certificate of Appropriateness;
  - ii) A report from an engineer or architect licensed in the State of Illinois with experience in rehabilitation as to the structural soundness of any structures on the property for rehabilitation;
  - iii) The estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition or removal; after any changes recommended by the City; and, in the case of a proposed demolition, after renovation of the property for continued use;
  - iv) An estimate of any decrease in the fair market value of the property as a result of denial of the Certificate of Appropriateness and any decrease in the pre-tax return to the owner or other investors in the property as a result of the denial of the Certificate of Appropriateness;
  - v) In the case of a proposed demolition, an estimate from a licensed architect, developer, real estate consultant, appraiser or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;

- vi) The amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer, and any consideration by the owner as to profitable adaptive uses for the property;
- vii) If the property is income-producing, the annual gross income from the property for the previous two (2) years; itemized operating and maintenance expenses for the previous two (2) years; and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;
- viii) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two (2) years, and all appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property;
- ix) Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two (2) years;
- x) The Assessed value of the property according to the two (2) most recent quadrennial assessments;
- xi) The real estate taxes paid or owed for the previous two (2) years;
- xii) Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture or other;
- xiii) Any other information, including the income tax bracket of the owner, applicant or principal investors in the property considered necessary by the City to make a determination as to whether the property does yield or may yield a reasonable return to owners.

C. Determination of Economic Hardship. Within one-hundred and twenty (120) days from receipt of a completed application for a Certificate of Economic Hardship, the City shall provide notice of the approval or denial of the Certificate of Economic Hardship supported by written findings

In cases of denial of a Certificate of Economic Hardship, the City may offer the owner of the property reasonable financing, tax or other incentives sufficient to allow a reasonable use of, or return on, the property; or that the City offer to purchase the property at a reasonable price or institute eminent domain proceedings

- D. Any appeal of a denial of a Certificate of Economic Hardship shall be made to the City Council. The City Council, after reviewing the determination and written findings of the Commission, shall affirm the determination or approve the Certificate of Economic Hardship within sixty (60) days from receipt of the appeal.

## **ARTICLE V ADMINISTRATION**

### **1. ENFORCEMENT**

The City may petition the Circuit Court of McHenry County to restrain and/or enjoin any construction, removal, alteration or demolition in violation of this act and may request the removal in whole or part of any exterior architectural feature existing in violation of this ordinance which may be necessary or desirable to redress any alteration or demolition in said violation.

### **2. PENALTIES**

Any person found to be in violation of any provision of this ordinance shall be guilty of a separate offense for each day or portion thereof during which such violation is committed, continued or permitted, and each offense may be punishable by a fine of not less than fifty dollars (\$50.00), nor more than seven hundred fifty dollars (\$750.00), and the City's reasonable Attorneys' fees.

- A. Any person, firm or corporation who alters, repairs, relocates or demolishes by neglect any landmark or any structure within a preservation district without complying with the provisions of this ordinance shall be required to restore the structure and its site to its appearance prior to the violation. This civil remedy shall be in addition to and not in lieu of any penalty contained in this section.
- B. In the case of an unauthorized demolition of a landmark or a property within a preservation district, the City may choose not to issue a building permit for the subject property for a period of five (5) years after the date of the demolition.

### **3. EQUITABLE RELIEF**

In addition to other remedies by law, the City may institute any appropriate action or proceeding to prevent, restrain, abate or correct a violation of this ordinance including, but not limited to, requiring the restoration of property and improvements to its appearance prior to the violation.