

# TITLE 14 HISTORIC PRESERVATION

## CHAPTER 1 GENERAL PROVISIONS

### 14-1-1: PURPOSE:

The purpose of this Title is to promote historic and architectural preservation in the Village. The Village seeks to protect, enhance, and perpetuate those historical structures, buildings, sites, and areas valued by the Village and its residents that are significant to the Village's history, culture, and architecture. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

### 14-1-2: GOALS:

This Title is created in order to:

- A. Foster civic pride in the beauty and accomplishments of the past as represented in the Village's landmarks and historic districts;
- B. Preserve, promote, maintain and enhance the Village's historic resources and character as a community comprised principally of well-maintained single-family residential neighborhoods and small, thriving business areas oriented to serve the day-to-day needs of local residents;
- C. Protect and enhance the Village's attractiveness to residents, businesses, visitors, and prospective home buyers and businesses;
- D. Maintain and improve property values in the Village;
- E. Protect, preserve, and enhance the Village's aesthetic appearance and character;
- F. Encourage the designation of landmark and historic district status upon structures, buildings, sites, and areas on a local, State, and national level; and
- G. Educate the general public as to the significance of historic preservation. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

### 14-1-3: DEFINITIONS:

For the purpose of this Title, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

ADDITION: Any act or process that changes the exterior architectural appearance of a structure or building by adding to, joining with, or increasing the size or capacity of the structure or building.

**ALTERATION:** Any act or process, other than demolition, that changes the exterior architectural appearance of a landmark or any structure, building, or site in a designated historic district, including without limitation the erection, construction, reconstruction, addition, repair, rehabilitation, renovation, removal, restoration, or relocation of any structure or building. Repainting all or any portion of the exterior of a structure or building with paint of the same kind, color and texture is not an alteration for the purposes of this Title.

**AREA:** A specific geographic division of the Village.

**BUILDING:** A structure having a roof that is supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattels.

**CERTIFICATE OF APPROPRIATENESS:** A certificate issued by the Commission approving plans for the alteration, construction, removal, or demolition of a landmark or structure, building, or site within a designated historic district.

**COMMISSION:** The Hinsdale Historic Preservation Commission.

**COMMISSIONERS:** Members of the Commission.

**CONSTRUCTION:** The act of adding an addition to, reconstructing, or otherwise altering an existing structure or building, or the act of erecting a new principal or accessory structure or building on a lot or property.

**DEMOLITION:** Any act or process that destroys, in part or in whole, a landmark or a site within an historic district.

**DESIGN GUIDELINES:** The standards of appropriate activity that will preserve the historic and architectural character of a structure or area.

**EXTERIOR ARCHITECTURAL APPEARANCE:** The architectural character, general composition, and general arrangement of the exterior of a structure, building, or site, including without limitation, 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.

**HISTORIC DISTRICT:** An area designated as an historic district by ordinance of the Village Board that may contain, within definable geographic boundaries, one or more landmarks and which may have within its boundaries other structures, buildings, or sites that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.

**LANDMARK:** Any building, structure, or site designated as a landmark by ordinance of the Village Board, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration, and preservation because of its historic and/or architectural significance to the Village.

**OWNER OF RECORD:** The person, corporation, or other legal entity listed as the holder of legal title on the records of the Recorder of Deeds of the county with jurisdiction. If a site has more than one owner of record, and action by the owner of record is required by this Title,

there shall be a rebuttable presumption that action has been taken by the owner of record where the written consent of a majority of the owners of record for that site is submitted.

**REHABILITATION:** The process of returning a structure, building, or site to a state of utility through repair, construction, or alteration, that makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic and architectural values.

**RELOCATION:** The process of moving a structure or building on its site or to another site.

**REMOVAL:** See definition of Relocation.

**REPAIR:** Any change that does not require a building permit that is not construction, relocation, or alteration.

**RESTORATION:** The process of restoring, repairing, or reconstructing a property, through repair, construction, or alteration, to a former or original condition that enhances those portions and features of the property that are significant to its historic and architectural values.

**SITE:** A single lot or parcel of property. For the purpose of determining any action by an owner of record pursuant to this Title, site also includes a zoning lot, as that term is defined in the Hinsdale zoning code.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground or attached to something having a permanent location on or in the ground. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-1-4: PROCEDURES FOR NOTICE OF PUBLIC HEARINGS AND MEETINGS:**

- A. **Manager To Give Notice:** The village manager shall cause notice to be given of public hearings and public meetings set pursuant to this title in the form and manner and to the persons herein specified.
- B. **Content Of Notice:** All notices shall include the date, time, and place of such hearing or meeting, a description of the matter to be heard or considered, a legal description of the subject property, and the address or particular location of the subject property.
- C. **Persons Entitled To Notice:**
  - 1. **All Hearings And Meetings:** Notice of every hearing or meeting set pursuant to this title shall be given:
    - a. By mail or personal delivery to the applicant and, if a specific parcel is the subject of the application, to the owner of the subject property.
    - b. By mail to any newspaper or person that shall have filed a written request, accompanied by an annual fee as established from time to time by the village manager to cover postage and handling, for notice of all hearings or meetings held pursuant to this

code. Such written request shall automatically expire on December 31 of the year in which it is made unless a written request for renewal, accompanied by the annual fee, is submitted prior to such date.

c. By mail, personal delivery, or interdepartmental delivery to affected village boards, commissions, departments, officials and consultants.

Notice by mail as herein required shall be mailed no fewer than seven (7) days in advance of the hearing or meeting date by regular United States mail. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

2. Hearings On Applications: In addition to notice as required by subsection C1 of this section, notice of every hearing set pursuant to this title in connection with any application for historic district designation, withdrawal of landmark designation, or a certificate of appropriateness, shall be given in accordance with subsections C2a and C2b of this section. Notice of every hearing in connection with an application for landmark designation shall be given in accordance with subsection C2a of this section. (Ord. O2005-28, 7-19-2005)

a. By publication in a newspaper published in the village at least once no less than fifteen (15) days nor more than thirty (30) days in advance of the hearing date.

b. By certified mail, return receipt requested, or personal delivery to all owners of property within two hundred fifty feet (250') of the subject property; provided, further, that in the case of an application for historic district designation, notice shall be to all owners of record of property within the proposed district and to all owners of record of property within two hundred fifty feet (250') of the outside perimeter of the proposed district. Notice as required by this subsection shall be given by the applicant not less than fifteen (15) days nor more than thirty (30) days in advance of the hearing. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-1-5: PROCEDURES FOR CONDUCT OF HEARINGS:**

A. Rights Of All Persons: Any person may appear and testify at a public hearing conducted pursuant to this title, either in person or by a duly authorized agent or attorney, and may submit documentary evidence; provided, however, that the commission may exclude irrelevant, immaterial, or unduly repetitious evidence.

B. Rights Of Parties And Proximate Owners: Subject to the discretion of the commission, the applicant, any board, commission, department, or official of the village, and any property owner entitled to written notice pursuant to this section may be allowed any or all of the following rights:

1. To present witnesses on their behalf.
2. To cross examine all witnesses testifying in opposition to their position.
3. To examine and reproduce any documents produced at the hearing.
4. To a continuance, upon request, for the purpose of presenting evidence to rebut

evidence introduced by any other person.

- C. **Adjournment Of Hearing:** The commission may at any time, on its own motion or at the request of any person, adjourn the hearing for a reasonable time and to a fixed date, time, and place, for the purpose of giving further notice, taking further evidence, gathering further information, deliberating further, or for such other reason as the hearing body may find to be sufficient. The staff secretary of the commission shall notify in writing all commissioners, all parties to the hearing, and any other person designated on the vote of adjournment of the date, time, and place of the adjourned hearing.
- D. **Sworn Testimony:** All testimony at any hearing held pursuant to this Title shall be given under oath or affirmation.
- E. **Right To Submit Written Statements:** Any person may at any time prior to the commencement of a hearing hereunder, or during such hearing, or within such time as may be allowed by the Commission following such hearing, submit written statements in support of or in opposition to the application being heard.
- F. **Code And Rules To Govern:** All other matters pertaining to the conduct of hearings shall be governed by the provisions of this Code pertaining to, and the rules promulgated by, the Commission. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

## **CHAPTER 2 HISTORIC PRESERVATION COMMISSION**

### **14-2-1: CREATION:**

The Hinsdale Historic Preservation Commission shall be constituted as created pursuant to Section [2-12-1](#) of this Code. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

### **14-2-2: POWERS AND DUTIES:**

Subject to the laws of the State, this Code, and any other ordinances and resolutions of the Village, the Commission shall have the following powers and duties:

- A. To adopt its own procedural rules. In the absence of such rules, the Commission shall conduct its business, as nearly as practicable, in accordance with Robert's Rules of Order.
- B. To conduct a survey of structures, buildings, sites, and areas in the Village in order to identify those with historical and architectural significance.
- C. To keep a register of all buildings, structures, sites, and areas that have been designated as landmarks or historic districts, including all information required for each designation.
- D. To provide information to owners of landmarks and structures, buildings, or sites within historic districts, as well as to residents of the Village, regarding: 1) physical and financial aspects of preservation, renovation, rehabilitation, and reuse, including information about incentives that may be available therefor and possible designation under this Title, and 2) procedures for inclusion on the State or National Register of Historic Places.

- E. To inform and educate the residents of the Village concerning the historic and architectural heritage of the Village by: 1) publishing appropriate maps, newsletters, brochures, and pamphlets, and 2) holding programs and seminars.
- F. To hold public hearings, review applications, conduct advisory review conferences, and make recommendations regarding the designation and withdrawal of designation of landmarks and historic districts and the alteration or demolition of such landmarks and historic districts, and to issue decisions regarding the issuance of certificates of appropriateness and certificates of economic hardship for such actions.
- G. To develop, subject to review and approval by the Village Board, specific guidelines for the alteration, demolition, construction, or removal of landmarks or structures, buildings, or sites within historic districts.
- H. To recommend, when requested by the Village Board, whether the Village should accept and administer any property or full or partial interest in real property, including conservation rights as that term is used in 765 Illinois Compiled Statutes 120/1, which the Village may have or accept as a gift or otherwise.
- I. To request technical advice and assistance from Village staff members and to retain specialists or consultants when expressly authorized by the Village Board.
- J. To review, upon request of the Village Board, the Plan Commission or the Zoning Board of Appeals, applications for zoning or subdivision relief affecting historically and architecturally significant landmarks and structures, buildings, and sites within historic districts.
- K. To periodically review, when requested by the Village Board, the Hinsdale zoning code and to recommend to the Plan Commission or the Village Board any amendments appropriate for the protection and continued use of landmarks or structures, buildings, or sites within historic districts.
- L. To perform such other functions as directed by the Village Board, including without limitation regulatory, acquisitive, informational, and incentive-oriented functions. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

### **14-2-3: SURVEYS AND RESEARCH:**

When authorized by the Village Board, and within applicable budget or appropriations limitations, the Commission shall undertake an ongoing survey and research effort in the Village to identify neighborhoods, areas, sites, structures, and buildings that have historic, community, architectural, or aesthetic importance, 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 organization and compile appropriate descriptions, facts, and photographs. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

## **CHAPTER 3 LANDMARK AND HISTORIC DISTRICT DESIGNATION**

### **14-3-1: CRITERIA:**

The Commission shall consider the criteria provided in this Chapter in order to recommend a structure, building, or site for designation as a landmark, or an area for designation as an historic district.

A. General Considerations:

1. The structure, building, site, or area has significant character, interest, or value as part of the historic, aesthetic, or architectural characteristics of the Village, the State, or the United States.
2. The structure, building, site, or area is closely identified with a person or persons who significantly contributed to the development of the Village, the State, or the United States.
3. The structure, building, site, or area involves the notable efforts of, or is the only known example of work by, a master builder, designer, architect, architectural firm, or artist whose individual accomplishment has influenced the development of the Village, the State, or the United States.
4. The unique location or singular physical characteristics of the structure, building, site, or area make it an established or familiar visual feature.
5. The activities associated with a structure, building, site, or area make it a current or former focal point of reference in the Village.
6. The structure or building is of a type or is associated with a use once common but now rare, or is a particularly fine or unique example of a utilitarian structure and possesses a high level of integrity or architectural significance.
7. The structure, building, or site is in an area that has yielded or is likely to yield historically significant information, or even prehistoric data.

B. Architectural Significance:

1. The structure, building, site, or area represents certain distinguishing characteristics of architecture inherently valuable for the study of a time period, type of property, method of construction, or use of indigenous materials.
2. The structure, building, site, or area embodies elements of design, detail, material, or craftsmanship of exceptional quality.
3. The structure, building, site, or area exemplifies a particular architectural style in terms of detail, material, and workmanship which has resulted in little or no alteration to its original construction.
4. The structure, building, site, or area is one of the few remaining examples of a particular architectural style and has undergone little or no alteration since its original construction.
5. The structure, building, site, or area is, or is part of, a contiguous grouping that has a sense of cohesiveness expressed through a similarity of style characteristics, time period, type of property, method of construction, or use of indigenous materials and accents the

architectural significance of an area.

6. The detail, material, and workmanship of the structure, building, or site can be valued in and of themselves as reflective of or similar to those of the majority of the other visual elements in the area.

C. Historic Significance:

1. The structure, building, site, or area is an exceptional example of an historic or vernacular style, or is one of the few such remaining properties of its kind in the Village.

2. The structure, building, site, or area has a strong association with the life or activities of a person or persons who has significantly contributed to or participated in the historic events of the United States, the State, or the Village.

3. The structure, building, site, or area is associated with an organization or group, whether formal or informal, from which persons have significantly contributed to or participated in the historic events of the United States, the State, or the Village.

4. The structure, building, site, or area is associated with a notable historic event.

5. The structure, building, site, or area is associated with an antiquated use due to technological or social advances.

6. The structure, building, site, or area is a monument to, or a cemetery of, an historic person or persons. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

## **14-3-2: APPLICATIONS FOR NOMINATIONS OF LANDMARKS AND HISTORIC DISTRICTS:**

A. Who May Nominate: Applications for nominations for designation of a landmark or historic district may be submitted by: 1) the owner of record of the nominated landmark, or 2) the owners of record of twenty five percent (25%) or more of the sites within an area to be nominated for historic district designation, or 3) the Village for an area to be nominated for historic district designation.

B. Application Requirements: Applications for nomination shall be filed with the Village Manager, on forms provided by the Village Manager and shall, at a minimum, include the following information and specifications:

1. For A Landmark:

a. The name and address of the applicant and owner of record.

b. The legal description and common street address of the property.

c. A written statement describing the structure, building, or site and setting forth reasons in support of the proposed designation, including a list of significant exterior architectural features that should be protected.

d. Written documentation and evidence establishing that the applicant is the current owner of record of the nominated property and that such owner of record consents to the proposed landmark designation. Such documentation or evidence of record ownership shall include a recent title policy in the name of the applicant or other evidence of record ownership acceptable to the Village Manager.

e. An overall site plan and photographs of the landmark. The plan shall also include a front, side, and rear elevation drawing.

f. Such other relevant information as requested by the Village Manager or the Commission.

## 2. For An Historic District:

a. The names and addresses of the applicants.

b. The names and addresses of all of the owners of record of buildings, structures, or sites in the area nominated for designation.

c. A vicinity map delineating the boundaries of the area nominated for designation.

d. A written statement describing the area and structures, buildings, or sites located in the area nominated for designation as an historic district and setting forth the reasons in support of the proposed designation, including a list and photographs of significant exterior architectural features of all structures, buildings, or sites in the district that should be protected.

e. Written documentation and evidence establishing that applicants are the current owners of record of property in the area nominated for designation and that such owners comprise the owners of record of at least twenty five percent (25%) of all sites contained in the nominated area. Such documentation or evidence of record ownership shall include recent title policies in the names of the applicants or other evidence of record ownership acceptable to the village manager.

f. The name, address, and telephone number of one of the applicants who shall be the designated contact person and liaison for the purposes of the application. The name, address, and telephone number of an additional applicant to serve as an alternative contact person shall also be provided.

g. Such other relevant information as requested by the village manager or the commission. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

### **14-3-3: PUBLIC HEARING:**

Following the proper filing of a complete application for nomination of a landmark or historic district, a public hearing on the application shall be set, noticed and conducted in accordance with the provisions contained in [chapter 1](#) of this title. Such hearing shall be commenced not later than ninety (90) days following the filing of a complete application and may be continued upon request or consent of the applicant. (Ord. O2001-12, 3-6-2001)

## **14-3-4: RECOMMENDATIONS BY HISTORIC PRESERVATION COMMISSION:**

- A. General: The commission shall review all information presented to it at the public hearing and shall adopt a recommendation that the nominated landmark or historic district does or does not meet the criteria for designation as herein prescribed. The commission may recommend that an area consisting of less than all of the properties included in the original application be designated as an historic district, as long as the smaller recommended district complies with all requirements for consent of owners of record under this chapter. The recommendation shall contain the following information:
1. The commission's rationale for recommending either approval or rejection of the nomination;
  2. In the case of a recommendation of approval of designation of a landmark, the significant feature or features in the exterior architectural appearance of the landmark that should be protected and preserved;
  3. In the case of a recommendation of approval or designation of an historic district, the significant features in the exterior architectural appearance of any structures, buildings, or sites within the historic district that should be protected and preserved; and
  4. Any other pertinent comments related to the nomination of the landmark or historic district.
- B. Landmarks: In the case of a nominated landmark, within forty five (45) days following the conclusion of the public hearing, the commission shall transmit to the village board its recommendation in the form specified by subsection 2-12-6A of this code. The failure of the commission to act within forty five (45) days following the conclusion of such hearing, or such further time to which the applicant may agree, shall be deemed a recommendation for the approval of the application for designation as submitted. The village board shall promptly act on such recommendation.
- C. Historic Districts: In the case of a nominated historic district, such recommendation by the commission shall be deemed preliminary and shall be accompanied by action of the commission requiring that notice be given to all owners of record of property within the nominated district that the nominated district has been preliminarily determined to meet the standards for designation as an historic district and allowing such owners of record an opportunity to complete a form indicating whether the owner consents to the designation of the nominated district. The manner of obtaining such consent shall be pursuant to section [14-3-6](#) of this chapter. Following receipt of the results of the consent forms submitted by the owners of record, the commission shall reconsider its preliminary recommendation and shall issue a final recommendation to the village board within forty five (45) days following receipt of the results. The commission shall transmit to the village board its recommendation in the form specified by subsection 2-12-6A of this code. The failure of the commission to act within forty five (45) days following the receipt of the results, or such further time to which the applicant may agree, shall be deemed a recommendation for the approval of the application for designation as submitted. The village board shall promptly act on such recommendation.

D. Recommendations On File: All recommendations by the commission shall be filed with the village manager and made available to persons requesting the same in writing. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-3-5: DESIGNATION BY VILLAGE BOARD:**

An ordinance passed by the affirmative vote of at least four (4) members of the Village Board shall be required to designate an official landmark or historic district. Upon passing an ordinance approving the nomination for a landmark or historic district designation, the Village Board shall direct that notice be sent to the Building Commissioner and to the owners of record advising them of such designation and informing them that any structure, building, site, or area designated as a landmark or located within the boundaries of a designated historic district shall thereafter be subject to the requirements of [Chapter 5](#) of this Title. The Village Board shall also direct that the ordinance approving a landmark or historic district designation be recorded in the offices of the appropriate County Recorder of Deeds. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-3-6: CONSENT OF OWNERS OF RECORD IN PROPOSED HISTORIC DISTRICT:**

- A. Manner Of Consent: In the event that the Commission makes a preliminary recommendation that an historic district should be designated and that notice shall be given in accordance with subsection [14-3-4C](#) of this Chapter, the notice shall include one or more written forms on which the owners of record of each site within the proposed district may indicate their ownership and whether or not they consent to the designation of the proposed district. If a site is owned by more than one owner of record, only one consent form may be submitted for that site. The forms for such consent shall be prepared in a manner that enables the Village to verify whether the person submitting the consent form is the owner of record while keeping the owner's name separate from the owner's indication of whether or not the owner consents to the designation.
- B. Effect Of Consent: No historic district shall be designated by the Village without affirmative written consent to such designation by the owners of record of more than fifty percent (50%) of the sites within the proposed district. However, the Village shall not be required to designate any proposed district because of the affirmative written consent to such designation by the owners of record of more than fifty percent (50%) of the sites within the proposed district. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-3-7: DENIAL OF DESIGNATION:**

An applicant whose nomination for a landmark or historic district designation is denied by the Village Board may request reconsideration by filing a written request within thirty (30) days after a decision denying designation is rendered; provided, however, that the Village Board shall reconsider a nomination only if substantial new evidence or information regarding the nominated landmark or historic district is provided. Once a nomination has been denied by the Village Board, no further nominations involving substantially the same relief under this Chapter for any structure, building, site, or area whose designation was denied may be filed for ninety (90) days; provided, however, that this period does not apply to an application to designate a landmark within an area for which historic district designation was denied. (Ord. O2000-7, 4-

18-2000, eff. 5-1-2000)

#### **14-3-8: STAY OF PROCEEDINGS:**

No building, demolition, sign, or other permit shall be issued for a proposed landmark or a structure, building, site, or area in a proposed historic district from the date when the nomination form is filed with the Village Manager until the final disposition of the nomination unless the process for certificate of appropriateness review required by [Chapter 5](#) of this Title is completed. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-3-9: LANDMARK DESIGNATION CONTROLS:**

In the event that a building, structure, or site has been designated as both a landmark and as part of an historic district, the requirements, limitations, restrictions, and regulations contained in this Title pertaining to landmarks shall control over the requirements, limitations, restrictions, and regulations pertaining to historic districts, including, without limitation, the requirements contained in [Chapter 5](#) of this Title regarding the issuance of a certificate of appropriateness. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-3-10: SUCCESSIVE APPLICATIONS:**

- A. Second Applications Without New Grounds Barred: Whenever any application filed pursuant to this Chapter has been finally denied on its merits, a second application seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought unless in the opinion of the Village Manager or the Commission there is substantial new evidence available or a mistake of law or fact significantly affected the prior denial.
- B. New Grounds To Be Stated: Any such second application shall include a detailed statement of the grounds justifying consideration of such application.
- C. Summary Denial With Or Without Hearing: Any such second application may be denied by the Village Manager summarily, and without hearing, on a finding that no grounds appear that warrant a new hearing. In any case where such application is set for hearing, the applicant shall be required to establish grounds warranting reconsideration of the merits of its application prior to being allowed to offer any evidence on the merits. Unless such grounds are established, the application may be summarily dismissed for such failure.
- D. Exception: Whether or not new grounds are stated, any such second application filed more than two (2) years after the final denial of a prior application shall be heard on the merits as though no prior application had been filed. The applicant shall, however, be required to place in the record all evidence available concerning changes of conditions or new facts that have developed since the denial of the first application. In the absence of such evidence, it shall be presumed that no new facts exist to support the new petition that did not exist at the time of the denial of the first application. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

## **CHAPTER 4 WITHDRAWAL OF LANDMARK DESIGNATION**

#### **14-4-1: CONDITIONS FOR WITHDRAWAL:**

The designation of a structure, building, site, or area as a landmark may be withdrawn under any of the following conditions:

- A. The structure, building, site, or area has ceased to meet the criteria for designation because the qualities which caused it to be originally designated have been lost or destroyed, or such qualities were lost subsequent to nomination, but before designation;
- B. Additional information shows conclusively that the structure, building, site, or area does not possess sufficient significance to meet the designation criteria;
- C. The original designation was clearly in error; or
- D. There was prejudicial procedural error in the designation process. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-4-2: REQUESTS FOR WITHDRAWAL:**

The owner of record of any designated landmark structure, building, or site may initiate a procedure to withdraw the designation from such structure, building or site. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-4-3: APPLICATION AND HEARING:**

A procedure to withdraw a landmark designation shall be initiated by filing an application with the Village Manager, in accordance with Section [14-3-2](#) of this Title; provided, however, that the application shall include a written explanation of the reasons for withdrawal as allowed by Section [14-4-2](#) of this Chapter. Upon the filing of a completed application, notice shall be given and a public hearing shall be held in accordance with [Chapter 1](#) of this Title. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-4-4: RECOMMENDATION; DETERMINATION:**

Promptly after the close of the public hearing, the Commission shall either: a) determine that withdrawal of a designation is not warranted and recommend to the Village Board denial of the application; or b) recommend to the Village Board that a designation should be withdrawn. Such recommendation shall be in writing and shall set forth the reasons therefor. Any determination or recommendation shall be submitted to the Village Board, sent to the applicant, and filed with the Village Clerk. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-4-5: BOARD ACTION:**

The Village Board shall promptly act upon a recommendation for withdrawal of a designation. An ordinance passed by the affirmative vote of at least four (4) members of the Village Board shall be required to withdraw an official landmark designation. Upon passing an ordinance approving the withdrawal of such a designation, the Village Board shall direct that notice be sent to the Building Commissioner and the owners of record advising them that such designation has been withdrawn. The Village Board shall also direct that the ordinance

withdrawing a landmark designation be recorded in the office of the appropriate County Recorder of Deeds. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

## **CHAPTER 5 CERTIFICATE OF APPROPRIATENESS**

### **14-5-1: REQUIRED:**

- A. Landmarks: No alteration shall be allowed to, and no permits shall be issued for, the alteration, demolition, signage, or any other physical modifications of the exterior architectural appearance of a designated landmark without the prior issuance of a certificate of appropriateness in accordance with the procedures and criteria specified in this chapter.
- B. Historic District: No alteration shall be allowed to, and no permits shall be issued for, the alteration, demolition, signage, or any other physical modifications of the exterior architectural appearance of any structure, building, site, or area located in a designated historic district without the rendering of a final decision by the commission on an application for a certificate of appropriateness. The final decision of the commission shall be advisory only.
- C. Exemption: Certificates of appropriateness shall not be required in connection with permits necessary for compliance with a lawful order of a village, including, without limitation, any permit necessary to correct what is determined by the issuing officer to be an immediate health or safety problem; provided that such order expressly exempts the alteration, demolition, signage, or other physical modifications from certificate of appropriateness procedures; and provided further that such order may be subject to appropriate conditions to advance the purpose and goals of this title. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

### **14-5-2: CRITERIA:**

All applications for a certificate of appropriateness shall conform to the applicable standards in this section.

#### **A. General Standards:**

1. Alterations that do not affect any essential architectural or historic features of a structure or building as viewed from a public or private street ordinarily should be permitted.
2. The distinguishing original qualities or character of a structure, building, or site and its environment should not be destroyed. No alteration or demolition of any historic material or distinctive architectural feature should be permitted except when necessary to assure an economically viable use of a site.
3. All structures, buildings, sites, and areas should be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance than the true age of the property are discouraged.
4. Changes that may have taken place in the course of time are evidence of the history and

development of a structure, building, or site and its environment. These changes may have acquired significance in their own right, and this significance should be recognized and respected when dealing with a specific architectural period.

5. Distinctive stylistic features or examples of skilled craftsmanship that characterize a structure, building, site, or area should ordinarily be maintained and preserved.

6. Deteriorated architectural features should be repaired rather than replaced, whenever possible. In the event 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 duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

7. The surface cleaning of structures and buildings should be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the structures and buildings should be avoided.

8. New structures or buildings, or alterations to sites should not be discouraged when such structures or alterations do not destroy significant historical or architectural features and are compatible with the size, scale, color, material, and character of the site, neighborhood, or environment.

9. Whenever possible, new structures or buildings, or alterations to the existing conditions of sites should be done in such a manner that, if such new structures or alterations were to be removed in the future, the essential form and integrity of the original structure, building, site, or area would be unimpaired.

10. Any permitted alteration or demolition should promote the purposes of this Title and general welfare of the Village and its residents.

11. Demolition should not be permitted if a structure, building, or site is economically viable in its present condition or could be economically viable after completion of appropriate alterations, even if demolition would permit a more profitable use of such site.

#### B. Design Standards:

1. Height: The height of a landmark after alteration should be compatible with the height of the original landmark. The height of a structure or building and adjacent open spaces after any proposed alteration or construction within an historic district should be compatible with the style and character of the structure or building and with surrounding structures and buildings in an historic district.

2. Relationship Between Mass And Open Space: The relationship between a landmark and adjacent open spaces after its alteration should be compatible with such relationship prior to such alteration. The relationship between a structure or building and adjacent open spaces after alteration within an historic district should be compatible with the relationship between surrounding structures, buildings and adjacent open spaces within such historic district.

3. Relationship Among Height, Width And Scale: The relationship among the height, width, and scale of a landmark after alteration should be compatible with such relationship prior to such alteration. The relationship among height, width, and scale of a structure or building after an alteration within an historic district should be compatible with the relationship among height, width, and scale of surrounding structures and buildings within such historic district.

4. Directional Expression: The directional expressions of a landmark after alteration, whether its vertical or horizontal positioning, should be compatible with the directional expression of the original landmark. The directional expression of a structure or building after alteration within an historic district should be compatible with the directional expression of surrounding structures and buildings within such historic district.

5. Roof Shape: The roof shape of a landmark after alteration should be compatible with the roof shape of the original landmark. The roof shape of a structure, building, or object after alteration within an historic district should be compatible with the roof shape of surrounding structures and buildings within such historic district.

6. Architectural Details, General Designs, Materials, Textures, And Colors: The architectural details, general design, materials, textures, and colors of a landmark after alteration should be compatible with the architectural details, general design, materials, textures, and colors of the original landmark. The architectural details, general design, materials, textures, and colors of a structure or building after alteration within an historic district should be compatible with the architectural details, general design, materials, textures, and colors of surrounding structures and buildings within such historic district.

7. Landscape And Appurtenances: The landscape and appurtenances, including without limitation signs, fences, accessory structures, and pavings, of a landmark after alteration should be compatible with the landscape and appurtenances of the original landmark. The landscape and appurtenances of a structure or building after alteration within an historic district should be compatible with the landscape and appurtenances of surrounding structures and buildings within such historic district.

8. Construction: New construction in an historic district should be compatible with the architectural styles, design standards and streetscapes within such historic districts.

C. Additional Standards: In addition to the foregoing standards, the commission may consider the secretary of the interior's standards for rehabilitation guidelines for rehabilitating historic buildings (revised 1983), and any amendments thereto, in reviewing any application under this section. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

### **14-5-3: APPLICATION:**

A. Formal Application Requirements: Any person proposing an alteration to, or seeking a building, demolition, sign, or other permit for, any designated landmark, or for any structure, building, site, or area within a designated historic district, shall submit a formal application for a certificate of appropriateness as a precondition to commencing such alteration or obtaining such permit. The formal application for a certificate of appropriateness shall include the following information and specifications:

1. Applicant's name;
  2. Owner's name, if different from applicant;
  3. Street address and legal description of the site;
  4. An overall site plan of the site, including front, side, and rear elevation drawings in the case of alteration or partial demolition;
  5. Brief description of the structures, buildings, and objects on the site and the structures, buildings, and objects on site adjacent to and across from such original site;
  6. Detailed description of the proposed alteration or demolition, together with any architectural drawings, sketches, and photographs indicating how and to what extent such alteration or demolition shall affect a landmark or historic district;
  7. Names and addresses of the owners of property adjacent to and access from the site;
  8. A list and photographs of significant architectural features in relation to the structures, buildings, or objects on the site previously designated by the commission as being worthy of protection and preservation;
  9. Identification of any architect or developer involved in the alteration or demolition; and
  10. Such other relevant information as requested by the village manager or the commission.
- B. Preliminary Application Requirements: Preliminary applications for nomination shall be filed with the village manager, on forms provided by the village manager and shall include such information required by subsection A of this section as are necessary to allow review by the commission. No applicant shall be required to file a preliminary application prior to filing a formal application. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-5-4: REVIEW OF APPLICATION:**

##### A. Review Of Formal Application:

1. Public Meeting If No Demolition: After the filing of a properly completed formal application for a certificate of appropriateness that does not include any request for demolition, the commission shall conduct a public meeting on the application. Notice of the meeting shall be given in accordance with section [14-1-4](#) of this title. The meeting shall be conducted within ninety (90) days after the properly completed formal application has been filed.
2. Public Hearing If Demolition, Relocation, Or Removal: After the filing of a properly completed formal application for a certificate of appropriateness that includes a request for demolition, relocation, or removal, the commission shall conduct a public hearing on the application. Notice of the hearing shall be given in accordance with section [14-1-4](#) of this title, and the hearing shall be conducted in accordance with section [14-1-5](#) of this title. The

hearing shall be commenced within ninety (90) days after the properly completed formal application has been filed. (Ord. O2002-37, 6-18-2002)

- B. Review Of Preliminary Applications: Following the proper filing of a complete preliminary application, the village manager shall cause such application to be on the agenda of the next regular commission meeting after the date of its filing. The commission shall, not later than the first regular commission meeting after the preliminary application has been referred to it, commence and conclude its review of the preliminary application.

The purpose of such review shall be to broadly acquaint the commission with the applicant's proposal and to provide the applicant with any preliminary views or concerns that members of the commission may have at the time in the process when positions are still flexible and adjustment is still possible and prior to the time when the applicant is required to expend the funds necessary to prepare the complete documentation required for a formal application.

At the meeting at which the preliminary application is considered, any member of the commission may make any comments, suggestions or recommendations regarding the preliminary application deemed necessary or appropriate by that member; provided, however, that no recommendation shall be made, and no final or binding action shall be taken, with respect to any preliminary application by the Commission. Any views expressed in the course of the Commission's review of any preliminary application shall be deemed to be only preliminary and advisory and only the individual views of the member expressing them. Nothing said or done in the course of such review shall be deemed to create, or to prejudice, any rights of the applicant or to obligate the Commission, or any member of it, to approve or deny any formal application following full consideration thereof as required by this Title. Applications by the Village shall not be subject to the provisions of this subsection. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-5-5: DECISION OF THE COMMISSION:**

- A. Approval: If the application is approved without conditions, the Commission shall issue the certificate of appropriateness permitting the Building Commissioner to proceed with other required reviews and approvals. The Commission shall notify the applicants of its decision within thirty (30) days after the close of the public hearing.
- B. Approval With Conditions: If the application is approved with conditions, the Commission shall notify the applicant in writing and shall specify the conditions to be imposed and the reasons therefor in light of the criteria applicable to this Chapter. If the applicant notifies the Commission in writing that the conditions are acceptable, or if the applicant does not appeal the approval with conditions within the prescribed period of time, the Commission shall issue the certificate of appropriateness, subject to the conditions.
- C. Denial: If the application is denied, the Commission shall notify the applicant in writing and shall specify the particulars in which the application is inconsistent with the criteria applicable to this Chapter. If the Commission issues a denial of the certificate of appropriateness, no alteration shall be permitted to proceed, and no permits shall be issued for, the proposed alteration, demolition, signage, or any other physical modifications of, the designated landmark. If the Commission issues a denial of a certificate of appropriateness for a structure, building, site, or area within a designated historic district, such denial is

merely advisory and shall not prohibit an applicant from proceeding with the proposed alteration, demolition, signage or any other physical modifications the structure, building, site, or area within the historic district upon receiving all other required approvals and permits therefor.

- D. **Validity:** A certificate of appropriateness shall be invalid if the plans approved by the Commission are changed, if any conditions of the certificate are not satisfied, or if any building permit issued for the approved work becomes invalid. A certificate of appropriateness shall remain valid for a period of one year.
- E. **Appeal:** When a certificate of appropriateness for a designated landmark is denied, the applicant may appeal the Commission's decision to the Village Board by filing an appeal in writing to the Village Manager within fifteen (15) days after the applicant is served with notice by personal delivery or certified or registered mail of the Commission's decision. For the purposes of this Section, the date of mailing or delivery shall be the date of service. The Village Board may receive comments on the contents of the record but no new matter may be considered by the Village Board. The Village Board may affirm the decision or recommend changes by a majority vote of the Board after due consideration of the facts contained in the record submitted to the Board by the Commission. The Village Board may overturn the Commission's decision by a majority vote of a quorum of the Village Board. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-5-6: CERTIFICATE OF ECONOMIC HARDSHIP:**

Notwithstanding any of the provisions of the ordinance to the contrary, the Commission may issue a certificate of economic hardship to allow the performance of work for which a certificate of appropriateness has been denied.

- A. **State Assistance:** Applicants claiming economic hardship shall be required to apply to the State Historic Preservation Agency to determine eligibility for rehabilitation assistance. The eligibility for and availability of financial aid shall be considered by the Commission in making its decision.
- B. **Application Requirements:** An applicant for a certificate of economic hardship may submit any or all of the following information in order to assist the Commission in making its determination on the application:
1. 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 and the person from whom the property was purchased).
  2. The assessed value of the land and improvements thereon according to the two (2) most recent assessments.
  3. Real estate taxes for the previous two (2) years.
  4. Remaining balance mortgage, if any, and annual debt service, if any, for the previous two (2) years.
  5. All appraisals obtained within the previous two (2) years by the owner or applicant or

their lenders in connection with this purchase, financing, or ownership of the property.

6. Any listing of the property for sale or rent, price asked, and offers received, if any.

7. Any consideration by the owner as to profitable adaptive uses for the property.

8. 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 annual cash flow before and after debt service, if any, during the same period.

9. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other.

10. Any other information including income tax bracket of the owner, applicant, or principal investors in the property, reasonably necessary for a determination as to whether the property can be reasonably sold or yield a reasonable return to present or future owners.

- C. Study Period: If the Commission finds that without approval of the proposed work, the property cannot obtain a reasonable economic return therefrom, then the application shall be delayed for a period not to exceed forty five (45) days. During this period of delay, the Commission shall investigate plans and make recommendations to the Village Board to allow for a reasonably beneficial use or a reasonable economic return, or to otherwise preserve the subject property. Such plans and recommendations may include, without limitation, the following: a relaxation of the provisions of this Title, a reduction in real property taxes, financial assistance, building code modifications, and/or changes in zoning regulations.
- D. Decision: If, by the end of this forty five (45) day period, the Commission has found that without approval of the proposed work, the property cannot be put to a reasonable beneficial use, or the owner cannot obtain a reasonable economic return therefrom, then the Commission shall issue a certificate of economic hardship approving the proposed work. If the Commission finds otherwise, it shall deny the application for a certificate of economic hardship.
- E. Appeal: When a certificate of economic hardship is denied, the applicant may appeal the Commission's decision in the same manner provided for certificates of appropriateness, as described in Section [14-5-5](#) of this Chapter. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-5-7: NATURAL DESTRUCTION OR DEMOLITION:**

In the case of partial or complete natural destruction or demolition of a landmark or structure, building, site, or area within an historic district, the owner of record shall be required to obtain a certificate of appropriateness from the Commission prior to reconstruction. Although exact duplication of the previous structure may not be required, the exterior design of the property shall be in harmony with:

A. The exterior design of the structure prior to damage, and

B. The character of the historic district, where the structure, building, site or area is within an

historic district. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)

#### **14-5-8: PENALTIES:**

Any person who undertakes or causes an alteration, construction, demolition, or removal of any nominated or designated landmark without a certificate of appropriateness shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00). Any person who undertakes or causes an alteration, construction, demolition, or removal of any structure, building, site, or area within a nominated or designated historic district without having obtained a final decision from the Commission on a certificate of appropriateness application shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00). Every day such violation shall continue to exist shall constitute a separate violation. In addition to such penalties, the Village may institute any appropriate action or proceeding to enjoin, correct or abate any violation of this Title. (Ord. O2000-7, 4-18-2000, eff. 5-1-2000)