



**DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES**

*Planning Division*

**m e m o r a n d u m**

**TO:** The Urbana Historic Preservation Commission

**FROM:** Rebecca Bird, Planner 1

**DATE:** March 31, 2010

**SUBJECT:** Comment on draft amendments to Article XII (Historic Preservation Ordinance) of the Urbana Zoning Ordinance

---

**Introduction and Background**

The current Historic Preservation Ordinance, adopted July 6, 1998, was based on a model ordinance modified to fit local circumstances. Twelve years experience with the ordinance plus significant recent legal cases have highlighted areas of the City's Historic Preservation Ordinance which need to be strengthened. The current ordinance is vague in many places, particularly regarding guidelines for reviewing demolition applications and procedures to evaluate Certificates of Economic Hardship.

The proposed revisions to the Ordinance are intended to clarify intent and make the document easier for applicants, the HPC, and staff to understand and use. These amendments will also help strengthen the City's historic preservation determinations based upon recent case law and a correction of inconsistencies in the present Ordinance.

In the draft ordinance, the criteria for designation of districts and landmarks, as well as the review criteria for Certificates of Appropriateness (COA), are essentially the same as in the existing ordinance. The exception is that the draft ordinance includes COA criteria for demolition. Staff recognizes that these criteria may need revision based on the final results of the case *Hanna and Mrowka v. City of Chicago*, currently making its way through the courts.

City staff is asking the Historic Preservation Commission for feedback on the attached draft ordinance before it becomes an official Zoning Ordinance text amendment case. The process for Zoning Ordinance text amendments is for the Plan Commission to hold a public hearing and make a recommendation to the City Council. If the Historic Preservation Commission votes on a recommendation to the Plan Commission at their April 7, 2010 meeting, the case would go forward to the May 6, 2010 Plan Commission meeting.

## Issues and Discussion

### Review of Changes

The attached draft ordinance does not track the proposed changes in a “strikethrough” and “underline” format as the number of changes would make such a document difficult to read. Instead, the current Ordinance has been included in this packet to compare with the proposed revisions. The major changes are reviewed below.

### Overview of Major Changes

1. The proposed revision combines what is now a minimum of two HPC meetings – (1) preliminary determination without full public notice and (2) a public hearing and recommendation – into one public hearing with a public notice. The property owner and/or the City have the right to request a continuation of the hearing. The current system creates a situation where the public is notified *after* the HPC has made a determination that the property/district is eligible for landmark designation, which carries the impression that the matter has already been decided. There may be times when the public would have knowledge about a building which would help determine its eligibility for landmark status. This revision will improve the due process of landmark determinations.
2. In voting on district and landmark applications, the HPC would no longer make a preliminary determination vote and then a separate recommendation vote. Under the new procedures, the HPC would review the application, any evidence that is presented, and public input before voting to recommend approval or denial. This process is analogous to that conducted by the Urbana Plan Commission and is more consistent with relevant case law. Under the Ordinance as currently written, there is an implication that the HPC is being asked to make a recommendation based on factors outside of whether the property/district meets the criteria for designation resulting from the two separate votes. The implication is that the HPC is being asked whether the property *should* be designated rather than whether it is *qualified* to be designated.
3. The new procedures would eliminate the property owner “registered preference” forms but would maintain and clarify “valid protest” procedures. In the past, property owners have confused the registered preference forms with the “official protest,” which is supposed to be initiated by property owners and submitted to the City Clerk’s office. The “registered preference” form is unique to the Historic Preservation Ordinance; the City does not send a registered preference form for rezonings or other land use decisions.
4. The Certificate of Appropriateness (COA) application process has been greatly clarified, including the appropriate level of review. There is new language for “exempt undertakings” which would not require review, for minor works which require administrative review, and major works which require HPC review.
5. Review criteria for demolition COA applications are introduced for the first time. The current Ordinance does not include any guidance for review demolition COA applications.

6. The proposed revision substantially clarifies and expands Tables XII-1 and XII-2 outlining the level of review for COA applications: (1) no review, (2) administrative review, or (3) HPC review. The new tables categorize projects into the following categories: ordinary building maintenance, ordinary site maintenance, building changes and new construction, site changes and new construction, and demolition. Many new types of projects have been added and the level of review for some projects has changed.
7. The new procedures expand and clarify the procedures for Certificates of Economic Hardship, including adding review criteria based on an Illinois Supreme Court decision (*Zaruba v. Village of Oak Park*).

**Changes Article By Article:**

*Section XII-1. Statement of Purpose*

No changes

*Section XII-2. Definitions*

Deleted definitions:

Architectural Review Guidelines

Area

Building

Registered Preference

Added definitions:

Complete Application

Exempt Undertaking

Major Works

Ordinary Maintenance

Person

Preliminary Determination

Protest

Reasonable Economic Return

Undertaking

Modified definitions:

Certificate of Appropriateness

Certificate of Economic Hardship

Conservation Right

Construction

Contributing

Landmark

Minor Works

Noncontributing

Valid Protest

*Section XII-3. Historic Preservation Commission*

Page 5.

XII-3.C.2.b – Added language specifying the Secretary’s role in receiving and processing applications.

XII-3.C.2.c – Added language clarifying when an application is accepted as complete. This is important as subsequent timelines and deadlines derive from this date.

XII-3.D.2 –All decisions or actions of the HPC are to be made by a majority vote of members present and voting, but in any event not less than three affirmative votes. Currently, landmark decisions are made by a majority vote of all Commissioners then holding office, while other decisions are made by a majority vote of those members present.

XII-3.D.4 – An abstention in voting would no longer go with the majority vote as currently is the case. There are two ways to treat the effect of an abstention. One way holds to the notion that a member of a body has an obligation to vote and if the member abstains, the abstention should be treated as acquiescing with the majority, hence “it goes with the majority.” This rule is more frequently employed when the vote needed is a majority of a fixed number, as in “a majority of the elected members” because in this situation an abstention is otherwise tantamount to a no vote. The other way to treat an abstention is to regard it as not favoring either side and is thus totally ignored in the count. This rule seems more appropriate for the Historic Preservation Commission because seldom would an abstention be tantamount to a no vote because a majority of those voting controls.

*Section XII-4. Historic Districts*

Page 7.

XII-4.A – Clarifies that building permits cannot be issued once a complete district application is accepted until that application is decided upon.

Page 8.

XII-4.B – Consolidates sections on giving notice to property owners and the public into one section.

Currently, when the property owner(s) is sent notice about the public hearing, they are given a “registered preference” form, giving them the opportunity to express their preference regarding the proposed designation. This form is frequently confused with the official protest available to the property owner and has therefore been eliminated.

Page 9.

XII-4.D – Currently, the HPC is to review the application within 35 days of receiving a complete application. This does not work with the required noticing and meeting scheduling and sometimes is impossible to meet. Proposed is a change to 60 days. The full 60 days would not be necessary in most cases, but depending on when an application is submitted, 60 days would sometimes be necessary.

The new procedures would combine two required meetings into one, all under a public hearing (which could be continued). Currently a minimum of two HPC meetings are held: (1) a qualifying preliminary determination which is not a public hearing and with no notice required other than to property owners, and (2) a public hearing and recommendation. The revised ordinance would combine these two meetings. A public hearing would be opened right away and could be continued if necessary or requested. Combining these two meetings would (1) allow straightforward applications to be handled more efficiently in one meeting, while still allowing more complicated cases to be considered over two meetings, and (2) improve due process procedures by incorporating all HPC consideration within a public hearing.

Page 10.

XII-4.E.3 – The new procedures would require historic district ordinances to be recorded. This is to alert potential buyers of local landmarks and properties within local historic districts of the designation before purchasing the property. Currently, there is no such provision in the preservation ordinance.

XII-4.F – This section would clarify how to amend a designated district, either by repealing in whole or part, or to enlarge a district.

#### *Section XII-5. Historic Landmarks*

Page 10.

XII-5.A – The changes in this section are similar to the changes in XII-4.A, by making it consistent with the same section in the historic district procedures and clarifying that building permits cannot be issued once a complete landmark application is accepted until that application is decided upon.

Page 11.

XII-5.B – As noted above, the new procedures consolidate the sections on giving notice to property owners and the public into one section.

Currently, when the property owner(s) is sent notice about the public hearing, they are given a “registered preference” form, giving them the opportunity to express their preference regarding the proposed designation. This form is frequently confused with the official protest available to the property owner and has therefore been removed from both the landmark and district designation procedures.

Page 12.

XII-5.D – As with the new procedures for historic districts, the proposed revisions combine the two required meetings into one, all under a public hearing (which can be continued). The public hearing will be continued to the next meeting if the property owner requests it and/or if the City desires it be continued. A preliminary determination would no longer be made.

Page 13.

XII-5.E.3 – The new procedures would require historic landmark ordinances to be recorded.

XII-5.F – This section would clarify how to amend or rescind a designated landmark.

*Section XII-5.1. District and Landmark Designation Protests*

Page 13.

This section would replace the protest procedures currently outlined in each the historic district and landmark sections and make the protest procedures consistent for both districts and landmarks.

*Section XII-6. Certificate of Appropriateness Review.*

Pages 13-14.

XII-6.B – The proposed procedures include a more detailed process for determining levels of review. The levels of review include exempt undertakings (no review), minor works (administrative review), and major works (HPC review).

Page 15.

XII-6.C – This section provides more guidance on how to evaluate Certificate of Appropriateness applications. The criteria for evaluation are essentially the same as in the existing ordinance, XII-6.B.2(c), except the standard for use has been deleted and standards have been added for review of demolition. The demolition standards are those used by the City of St. Joseph, Missouri, where demolition review in historic districts is prevalent.

Page 16.

XII-6.C.10 – The new procedures include criteria for approval or denial of demolitions.

XII-6.D – This section establishes factors for reviewing Certificates of Economic Hardship which are based on an Illinois Supreme Court ruling on a Certificate of Economic Hardship case (*Zaruba v. Village of Oak Park*).

Page 18.

XII-6.E – The proposed revisions provide a more detailed process for appealing Certificates of Appropriateness and/or Economic Hardship. The new regulations require public notification (except to neighbors) for appeals cases.

Pages 20-23.

Tables XII-1 and XII-2 – The proposed revisions substantially clarify and expand Tables XII-1 and XII-2 outlining the levels of review for proposed work. The new tables categorize projects into the following categories: (1) ordinary building maintenance, (2) ordinary site maintenance, (3) building changes and new construction, (4) site changes and new construction, and (5) demolition. Many new undertakings have been added to the revised tables in an attempt to make the tables more comprehensive. Since the tables were added to the Ordinance in 2002, several applications have been submitted for

undertakings not included in the tables. The revised tables attempt to rectify this. Included under each category is now an “all other” projects within this category, to ensure full coverage.

In addition to including new undertakings, the revised tables include several changes in the level of review for certain projects. These changes are intended to increase the efficiency of processing applications. When an application is administratively reviewed, it can be completed within a few days. When an application goes to the Historic Preservation Commission for review, it can take up to 50 days due to legal noticing requirements. For a project to be reviewed administratively, both the Zoning Administrator and the Chair of the Historic Preservation Commission must first of all agree that the project is a Minor Work and can be reviewed administratively. Then, approving or denying the application requires the agreement of both the Zoning Administrator and the Chair. If they do not agree, the application will be forwarded to the Preservation Commission for review. This clause allows clear-cut projects to be reviewed more efficiently but ensures that if there is any uncertainty about an application between the Zoning Administrator and the Chair, the application will be reviewed by the full Preservation Commission.

*Changes to Table XII-1 and XII-2, Level of Review for COA Applications*

Below are the proposed changes to the level of review for specific undertakings.

- ‘Exempt’ = Exempt Undertakings (no review)
- ‘Minor’ = Minor Works (administrative review)
- ‘Major’ = Major Works (HPC review)

*Building changes and new construction*

- Application of same type of roofing materials, from Minor to Exempt
- Doors (except storm doors), from Major to Minor
- Gutters and downspouts (integral and attached), from Major to Minor
- Shutters, from Major to Minor
- Storm doors and storm windows, from Minor to Exempt
- Window screens, from Minor to Exempt

*Site changes and new construction*

- Air conditioner condenser units, from Exempt to Minor
- Walkways, from Exempt to Minor

Below are proposed new undertakings to be added to Tables XII-1 and XII-2.

New Undertakings

*Building ordinary maintenance*

- Masonry repointing with compatible mortar
- Painting previously painted surfaces, regardless of paint colors
- Roof cladding, with like materials

- All other exterior building maintenance and repairs

*Site ordinary maintenance*

- Structural landscape features
- All other repairs of site improvements

*Building changes and new construction*

- Architectural features and details
- Awnings
- Building additions
- Construction of new buildings (other than accessory)
- Mailboxes
- Painting of unpainted masonry
- Satellite dishes
- Siding, removal of non-original synthetic siding
- Signs and interpretative displays (permanent)
- Window screens
- All other new construction and changes to buildings

*Site changes and new construction*

- Accessory buildings (greater than 100 sq. ft. in area)
- Parking lots
- Patios
- Signs (permanent)
- Signs (temporary)
- Walkways
- Walls and screens
- All other site modifications

*Demolition*

- Accessory structures (less than 100 sq. ft. in area)
- Accessory structures (greater than 100 sq. ft. in area)
- All other demolition, removal, and relocation



## **Staff Recommendation**

Staff recommends that the Urbana Historic Preservation Commission forward a recommendation of **APPROVAL** to the Urbana Plan Commission of the presented text amendments outlined in this staff memorandum.

Staff realizes that there are many changes presented and that additional time may be necessary to continue to review and discuss the proposed changes.

Attachments: Proposed Revised Historic Preservation Ordinance  
Current Historic Preservation Ordinance  
Illinois Supreme Court Decision, Zaruba v. Village of Oak Park

## ARTICLE XII. HISTORIC PRESERVATION

<b>Section XII-1.</b>	<b>Statement of Purpose</b>
<b>Section XII-2.</b>	<b>Definitions</b>
<b>Section XII-3.</b>	<b>Historic Preservation Commission</b>
<b>Section XII-4.</b>	<b>Historic Districts</b>
<b>Section XII-5.</b>	<b>Historic Landmarks</b>
<b>Section XII-5.1</b>	<b>District and Landmark Designation Protests</b>
<b>Section XII-6.</b>	<b>Certificates of Appropriateness and Economic Hardship</b>
<b>Section XII-7.</b>	<b>Affirmation of Existing Zoning</b>
<b>Section XII-8.</b>	<b>Building Permits Previously Issued</b>
<b>Section XII-9.</b>	<b>Penalties</b>
<b>Section XII-10.</b>	<b>National Register of Historic Places</b>

### Section XII-1. Statement of Purpose

The purpose of this ordinance is to promote the educational, cultural, economic and general welfare of the community by:

1. Providing a mechanism to identify and preserve the distinctive historic, architectural and/or landscape characteristics of Urbana, which represent elements of the city's cultural, social, economic, political and architectural history;
2. Fostering civic pride in the beauty and noble accomplishments of the past as represented in Urbana's landmarks and historic areas;
3. Stabilizing and improving the property value of Urbana's landmarks and historic areas;
4. Promoting restoration and rehabilitation by encouraging investment in historic resources;
5. Ensuring that all of the economic benefits resulting from preservation, including tax incentives, new jobs and renewed buildings, are available to our citizens; and
6. Preserving the character of historic neighborhoods and especially Urbana's historic downtown buildings and facades.

### Section XII-2. Definitions

*Alteration:* Any act or process that changes one or more of the exterior architectural features of the structure, including, but not limited to, the erection, construction, reconstruction, demolition, or relocation of any structure.

*Appurtenances:* Articles in the area surrounding a landmark or a building or structure within a historic district. This shall include, but not be limited to: fences, statues, signs, pavement and outbuildings visible from a public street or sidewalk.

*Certificate of Appropriateness:* A certificate approving of plans for alteration, relocation, construction, removal or demolition of either a designated landmark; or a structure within a designated historic district.

*Certificate of Economic Hardship:* A certificate authorizing an alteration, relocation, construction, removal or demolition following the denial of a Certificate of Appropriateness.

*Chair:* The Chair of the Urbana Historic Preservation Commission.

*Complete Application:* An application shall be considered a complete application at the time the Secretary has marked it as complete.

*Conservation Right:* The rights more fully defined in 765 ILCS 120/1 including easements, covenants, deed restrictions or any other type of less than full fee simple interest that may be used to protect a landmark or historic district.

*Construction:* Any act or process which requires a building permit, including the act of adding to a structure by an addition, or the erection of a new principal or accessory structure on a lot or property.

*Contributing:* A classification applied to a site, building, structure or object within a historic district signifying that it contributes generally to the qualities which give the historic district its historical, architectural, archaeological or cultural significance, but without necessarily being itself a landmark. See 'non-contributing'.

*Council:* The City Council of the City of Urbana.

*Demolition:* Any act or process that destroys in part or in whole a landmark, site or structure within a designated historic district.

*Exempt Undertakings:* Undertakings which are explicitly classified as 'Exempt Undertakings' in Tables XII-1 and XII-2 and which do not require a Certificate of Appropriateness. See 'Undertaking'.

*Exterior Architectural Features:* The architectural character and general composition of the exterior of a building or structure, including but not limited to the type and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs, ornamental details, and appurtenant elements.

*Historic:* Related to the City's architectural, artistic, civic, cultural, economic, educational, ethnic, political, or social heritage.

*Historic District:* An area designated pursuant to procedures prescribed herein which contains, within defined geographic boundaries, buildings, structures, sites, or objects which may or may not be landmarks that contribute to the overall historic characteristics of the designated area.

*Improvement:* Any building, structure, bridge, work of art, parking space, parking lot, public infrastructure, fence, gate, wall, landscaping, or other object constituting a physical addition to real property, or any part of such addition.

*Landmark:* A property, building, structure, site, or object which is worthy of preservation because of its historic and/or architectural significance to the City of Urbana designated pursuant to procedures prescribed herein.

*Minor Works:* Exterior changes affecting the exterior appearance of designated historic landmarks or historic districts, but which do not appreciably affect the properties' historic integrity, and which require a minimum of discretion in conforming to adopted design criteria. Minor Works are specified in Section XII-6 and Table XII-1.

*Major Works:* Any exterior changes other than Exempt Undertakings or Minor Works.

*Noncontributing:* A building, structure, site, or object which may be part of a landmark or district, but does not possess historic, architectural, or archaeological significance or integrity per se; however, the relationship of these buildings, structures, sites, or objects to those that are contributing may be important to the preservation of the landmark or district. See 'contributing'.

*Object:* Constructions that are primarily artistic in nature and are relatively small in scale, including those constructions that are associated with a specific setting or environment.

*Ordinary maintenance.* Any work for which a building permit is not required by law where the purpose and effect of such work is to correct any decay, deterioration or damage to structures, buildings, features, sites or objects, to restore the same, as nearly as practical, to its condition prior to the occurrence of such decay, deterioration or damage.

*Owner(s) of Record:* The person(s) or corporation or other entity in whose name(s) the property is held according to the last recorded deed in the records of the Champaign County Recorder.

*Parcel:* A parcel of real property other than railroad right-of-way which qualifies as a lot of record under the Urbana Subdivision and Land Development Code; and is included within a proposed historic district or is a designated landmark.

*Parcel Owner:* An owner of record of a parcel. (See 'owner of record.')

*Person:* Any individual, corporation, firm, trust, trustee, administrator, executor, partnership or joint venture.

*Preliminary Determination:* A preliminary first step in evaluating whether a nomination for designation of a historic district meets the criteria set forth herein.

*Preservation Commission:* Urbana Historic Preservation Commission.

*Preservation Commissioners:* Members of the Urbana Historic Preservation Commission.

*Protest:* See 'valid protest.'

*Reasonable Economic Return:* See Section XII-6.D, Certificate of Economic Hardship.

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

*Relocation:* Any repositioning of a building, structure, or object on its site or moving it to another site. The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing buildings, structures, sites, or objects.

*Secretary:* Representative of the Community Development Services Department of the City of Urbana designated to provide staff support to the Historic Preservation Commission.

*Structure:* Any building, or other construction, which requires attachment to the ground, including but without limiting the generality of the foregoing, advertising signs, billboards, poster panels, and supports and frames thereof.

*Undertaking.* Any alteration, construction, removal, relocation or demolition of or to any building, structure, or attached landscape appurtenances, in whole or in part, and which in any way affects an exterior architectural feature of a property designated under this Article, regardless of “contributing” or “noncontributing” status. This definition explicitly excludes seasonal installation of window air conditioning units, living landscaping, and ornamentation and fixtures which are not appurtenances, including temporary decorations and lighting. This definition also excludes any work taking place within public rights-of-way, including alleys.

*Valid Protest:* A valid protest is a document signed by the requisite number of parcel owners respecting each parcel which expresses a protest against the designation of such parcel as either a landmark or as part of a historic district.

### **Section XII-3. Historic Preservation Commission**

- A. *Preservation Commission Created.* There is hereby created the Urbana Historic Preservation Commission, consisting of seven members. One member may reside in the 1 ½ mile extra-territorial jurisdictional area of Urbana while the rest must be residents of the City of Urbana. The Preservation Commission shall be appointed by the Mayor of Urbana and approved by the City Council. Members shall be appointed on the basis of expertise, experience or interest in the areas of architecture, architectural history, building construction or engineering, finance, historic preservation, geography, landscape architecture, law, neighborhood organizing, planning, real estate or another related field. Preservation Commissioners shall serve without compensation and shall serve terms of three years. Initially, Preservation Commissioners shall serve staggered terms of three persons for three years, two persons for two years, and two persons for one year.
- B. *Purpose.* The Preservation Commission is created for the purpose of:
1. Identifying such buildings, structures, sites, objects or historic districts within the City of Urbana that are historically significant in that they exemplify and/or reflect the cultural, social, economic, political or architectural history of the nation, state or City;
  2. Advising the City Council on the designation of such buildings, structures, sites or objects as either landmarks or historic districts, as defined herein;
  3. Protecting the historical characteristics of landmarks or districts by reviewing proposed changes to their exterior architectural appearances;
  4. Educating the public on the opportunities presented by historic preservation; and
  5. Performing such other functions as may be useful or necessary to safeguard and enhance the community heritage as embodied in historic parcels or buildings, structures, sites or objects.
- C. *Officers.* There shall be a Chair and a Vice-Chair elected by the Preservation Commission, each of whom shall serve a term of one year and shall be eligible for re-election. Elections shall be held annually.
1. *The Chair Shall Preside over Meetings.* In the absence of the Chair, the Vice-Chair shall perform the duties of the Chair. If both the Chair and Vice Chair are absent, those members present shall elect a temporary Chair.
  2. *Secretary.* The Secretary of the Preservation Commission shall be a representative of the Department of Community Development Services of the City of Urbana. The Secretary shall:

- a) Take minutes of each Preservation Commission meeting, an original of which shall be kept in the office of the Department of Community Development Services;
- b) Provide administrative and technical assistance to the Preservation Commission to assist it in making the decisions and findings as provided herein, including receiving and processing applications for the Preservation Commission;
- c) Determine whether an application submitted for decision under this ordinance is complete and if so determined, stamp the time and date, and mark it 'accepted as complete';
- d) Publish and distribute to the Preservation Commissioners copies of the minutes, reports and decisions of the Preservation Commission;
- e) Give notice as provided herein or by law for all public hearings conducted by the Preservation Commission;
- f) Advise the Mayor of vacancies on the Preservation Commission and expiring terms of Preservation Commissioners;
- g) Prepare and submit to the City Council a complete record of the proceedings before the Preservation Commission on all appeals from decisions of the Preservation Commission and on any other matters requiring Council consideration; and
- h) Have no vote.

D. *Meetings*

1. A quorum shall consist of a majority of the members of the Preservation Commission then holding office, but not less than three.
2. All decisions or actions of the Preservation Commission shall be made by a majority vote of those members present and voting at any meeting where a quorum exists, but in any event not less than three affirmative votes.
3. Meetings shall be held at regularly scheduled times to be established by resolution of the Preservation Commission at the beginning of each calendar year. Meetings may also be held at any time upon the call of the Chair. There shall be a minimum of four meetings per year.
4. Abstentions shall not be considered an aye or nay vote and shall not be ruled by the Chair to go with the majority.
5. All meetings shall conform to the requirements of the Open Meetings Act.
6. No action shall be taken by the Preservation Commission which in any manner could deprive or restrict the owner of the subject property of its use, modification, maintenance, disposition or demolition until such property owner shall first have had the opportunity to be heard at public meeting(s) of the Preservation Commission, as provided herein.

- E. *Vacancies*. The Mayor may declare vacant the seat of any Preservation Commissioner who no longer meets the residency requirement, who fails to attend three consecutive meetings without notification to the Secretary, or who fails to attend one-half of all meetings held during any one-year period. In such cases as well as for resignations, the Mayor shall appoint a successor with approval of the City Council.

F. *Powers and Duties.* The Preservation Commission shall have the following powers:

1. To adopt its own procedural regulations.
2. To conduct an ongoing survey to identify Urbana's historically and architecturally significant buildings, structures, sites, objects and districts.
3. To investigate, hold public hearings and designate or recommend designation of landmarks and historic districts.
4. To keep a register of all buildings, structures, sites, objects or districts that have been designated under this ordinance, including all information required for each designation.
5. To determine an appropriate system of plaques and markers to identify historic landmarks and districts and to make recommendations for the design and implementation of specific markings of the streets and routes leading from one landmark or historic district to another.
6. To nominate landmarks and historic districts to the National Register of Historic Places.
7. To inform and educate the citizens of Urbana concerning the historic and architectural heritage of the City.
8. To hold public hearings and to review building permit applications for new construction within historic districts and for additions to, alterations, relocations, removal or demolition of designated landmarks or buildings, structures, sites or objects within historic districts, and to issue or deny Certificates of Appropriateness for such actions. The Preservation Commission may require applicants to submit plans, drawings, specifications and other information as may be necessary to make decisions.
9. To consider and make decisions upon applications for Certificates of Economic Hardship.
10. To apply criteria as set forth herein for the alteration, construction, relocation or removal of landmarks or buildings, structures, sites or objects within historic districts.
11. To review and comment upon submitted applications for zoning amendments, special use permits, conditional use permits, Mixed Office Residential District provisions, or zoning variances for properties contiguous to or separated only by public right-of-way from designated landmarks and historic districts. The Zoning Administrator should send notification of such applications to the Preservation Commission for comment prior to the hearing by the Plan Commission, the Board of Zoning Appeals, or the City Council.
12. To testify before the City Council and all boards and commissions, including the Building Safety Code Board of Appeals, the Community Development Commission, the Plan Commission, the Property Maintenance Code Board of Appeals, and the Zoning Board of Appeals on any matter affecting historically or architecturally significant buildings, structures, sites, objects and areas. The Chair or the Chair's designee shall give such testimony on behalf of the Preservation Commission.
13. To administer on behalf of the City of Urbana, upon designation by the City Council, any property or full or partial interest in real property, including a conservation right as that term is used in 765 ILCS 120/1, which the City may possess or accept as a gift or otherwise.

14. To recommend application for, acceptance of, and administration of such gifts, grants and money as may be appropriate for the purpose of this ordinance to the Urbana City Council.
15. To consider amendments to the preservation component of the Comprehensive Plan of the City of Urbana and to recommend action upon such amendments to the Plan Commission and the City Council.
16. To periodically review the Urbana Zoning Ordinance and to recommend to the Plan Commission and the City Council any amendments appropriate for the protection and continued use of landmarks or buildings, structures, sites or objects within historic districts.
17. To recommend certification of designated historic districts to the Illinois Historic Preservation Agency.
18. To recommend prospective Preservation Commissioners to the Mayor in order to fill vacancies on the Preservation Commission.
19. To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to the implementation of the purpose of this ordinance.

## **Section XII-4. Historic Districts**

- A. *Historic District Nomination.* Nominations shall be made to the Preservation Commission on a completed application form provided by the Preservation Commission. The Secretary shall have five working days to review an application for completeness. From the time when an application has been marked as complete by the Secretary, the Building Official shall not issue building permits (including demolition permits) for activities that would require a Certificate of Appropriateness for all affected properties until the designation process is concluded, except when a Certificate of Appropriateness is issued.
1. Nominations may be made by any person, including individual members of the Preservation Commission. In the event a member of the Preservation Commission is the nominator, he/she shall present his/her evidence in the same manner as all other nominators but shall not participate thereafter as a commission member on the matter. (Ord. No. 2008-03-012, 03-03-08)
  2. A completed application form for historic district nominations must be accompanied by signatures of parcel owners representing no less than 25% of the parcels within the proposed district endorsing said nomination. The determination of whether the application has the endorsement of the owners on behalf of a parcel shall be, if a sole owner, by his or her signature, and if multiple owners, by the owners representing no less than 50% of the title interest in the property. If the affected property is owned by a corporation, a signed corporate resolution must be submitted authorizing an endorsement; if owned by a partnership, the partner signing must submit an affidavit that he/she is authorized to sign on behalf of the partnership. Each parcel is considered independently, regardless of single ownership of multiple parcels.
  3. The Preservation Commission may request additional information from the applicant, but at a minimum, nominations shall include the following:
    - a) The name and address of the owner of record of each property proposed for designation;
    - b) Common street addresses, tax parcel identification numbers, and legal addresses of the property proposed for designation;



- c) A map delineating the boundaries and location of the district proposed for designation;
- d) A written statement describing the district and setting forth the reasons the district may be eligible for nomination, including a statement indicating which of the criteria in Section XII-4.C are met by the nomination; and
- e) An application fee as set forth in Chapter 14 of the Urbana City Code.

B. *Notice.* The following forms of notice shall be made for historic district nominations:

1. *Notice of Application.* Within ten days of accepting a complete application, the Secretary shall notify parcel owners within the proposed district of said application. If there are multiple owners for one parcel, each owner shall be sent a notice. Such notification shall be given by first class mail. In addition, the Secretary shall include a copy of the application or relevant portions thereof for the property owners' information, as well as appropriate general information on the City's historic preservation ordinance including information describing the Certificate of Appropriateness process and when a certificate is required.
2. *Notice of Public Hearing.* Not less than ten days before a public hearing on the proposal, the following forms of notice shall be made:
  1. *Notice to Property Owner.* The Secretary shall notify property owners of the time, date, and location of the public hearing and include a form whereby the property owner can express his/her opinion regarding the proposed designation. Notification shall be by first class mail to:
    - a) The occupant of the property affected at the address of the property;
    - b) The person who last paid the general taxes on the property affected according to the records of the Champaign County Supervisor of Assessments at the listed address;
    - c) The person shown on the last recorded deed of the property affected directing where the tax bill should be sent; and
    - d) If the property affected is being purchased under contract for deed and a memorandum of such contract has been recorded with the Champaign County Recorder, then such contract buyers shall be notified at the address of the property affected.
  2. *Notice by Publication and Sign.* Notification shall be given in accordance with Section XI-10.

C. *Criteria for Designation of a Historic District.* A proposed historic district must meet one or more of the following criteria for designation:

1. Contain a significant number of buildings, structures, sites or objects meeting any of the standards in Section XII-5.C.1;
2. Contain a contiguous grouping of properties having a sense of cohesiveness expressed through a style, period or method of construction; or
3. Have sufficient historical integrity to convey a sense of historical time and place.

D. *Review Process.* The Preservation Commission shall commence a public hearing on the question of designation within 60 days of receiving a complete application. The Commission may continue the hearing to a subsequent meeting following its adopted bylaws.

1. At the public hearing, the Preservation Commission shall take any comments from the nominator(s), the owner(s), and any other parties who wish to be heard on the application. In addition, the Preservation Commission shall consider all written comments received by the Preservation Commission prior to or during the hearing. It is the responsibility of the nominator(s) to provide evidence of suitability for historic district status as well as documentation of such evidence.
2. Following public input, the Preservation Commission shall :
  - a) Review and evaluate all information presented to it pertinent to the nomination according to the applicable criteria set forth in Section XII-4.C herein; and
  - b) Identify all contributing and noncontributing buildings, structures, sites or objects within the proposed historic district that are listed in the application.
3. During the public hearing, the Preservation Commission may find that portions of the nomination do not meet the criteria necessary for designation, in which case such portions shall not be considered further. If contiguity of the district is interrupted, areas may be considered as separate districts. The Preservation Commission may amend, but not extend the boundaries of the proposed historic district.

E. *Decisions on Designation.*

1. Historic Preservation Commission Authority:
  - a) If the Preservation Commission determines to recommend designation of the proposed historic district, it shall do so per Section XII-3.D.2.
  - b) The Preservation Commission's recommendation shall be in writing and shall be accompanied by minutes of the meeting. Said recommendation shall then be forwarded to the Urbana City Council for consideration at a City Council meeting occurring within 60 days following the date of the close of the public hearing.
  - c) Affected parcel owners shall be notified by first class mail with a copy of the recommendation 10 days prior to the City Council meeting when designation will be considered.
  - d) The Secretary shall send a copy of the decision and the accompanying report to:  
  
The City Council  
The nominator(s); and  
The Urbana Building Safety Division.
2. City Council Authority:
  - a) If the City Council determines that the proposed historic district should be created, it shall do so by enacting an ordinance.
  - b) No application relating to the same property or district may be filed during the 12 months following such a denial by the Urbana City Council.

- c) A parcel can only be nominated for one historic district at any one time and, if designated, may not be represented in a nomination or historic parcel vote in another proposed historic district.
3. *Historic District Status Recorded.* The Preservation Commission shall record a copy of the ordinance designating a historic district at the office of Champaign County Recorder of Deeds.
- F. *Amendment of Designation.* Once the City Council has designated a historic district, said designation may be amended by the same procedure and according to the same criteria set forth herein for designation.
  1. To repeal designation of an existing historic district, in whole or in part, a completed application form for historic district nominations must be accompanied by signatures of parcel owners representing no less than 25% of the parcels within the designated district endorsing said amendment. The determination of whether the application has the endorsement of the owners on behalf of a parcel shall be as stated in Section XII-4.A.2.
  2. To enlarge an existing historic district, a completed application form for historic district nominations must be accompanied by signatures of parcel owners representing no less than 25% of the parcels being proposed to be added to the designated district endorsing said amendment. The determination of whether the application has the endorsement of the owners on behalf of a parcel shall be as stated in Section XII-4.A.2.

## **Section XII-5. Historic Landmarks**

- A. *Historic Landmark Nomination.* Nominations shall be made to the Preservation Commission on a completed application form provided by the Preservation Commission. The Secretary shall have five working days to review an application for completeness. From the time when an application has been marked as complete by the Secretary, the Building Official shall not issue building permits (including demolition permits) for activities that would require a Certificate of Appropriateness until the designation process is concluded, except when a Certificate of Appropriateness is issued.
  1. Nominations may be made by any person, including individual members of the Preservation Commission. In the event a member of the Preservation Commission is the nominator, he/she shall present his/her evidence in the same manner as all other nominators but shall not participate thereafter as a commission member on the matter. (Ord. No. 2008-03-012, 03-03-08)
  2. Owner approval shall not be required for historic landmark nomination or designation.
  3. The Preservation Commission may request additional information from the applicant, but at a minimum, nominations shall include the following:
    - a) The name and address of the owner of record of each property proposed for designation;
    - b) Common street address, tax parcel identification number, and legal address of the property proposed for designation;
    - c) A map delineating the boundaries and location of the property proposed for designation;
    - d) A written statement describing the property and setting forth the reasons the landmark may be eligible for nomination, including a statement indicating which of the criteria in Section XII-5.C.1 are met by the nomination; and

- e) An application fee as set forth in Chapter 14 of the Urbana City Code.

B. *Notice.* The following forms of notice shall be made for historic landmark nominations:

1. *Notice to Property Owner.* Within ten days of accepting a complete application, the Secretary shall notify the parcel owner(s) of the proposed landmark of the time and date of the Commission meeting where review of the application will occur. The Secretary shall include a copy of the application or relevant portions thereof for the property owner's information, as well as appropriate general information on the City's historic preservation ordinance including information describing the Certificate of Appropriateness process and when a certificate is required. Notification shall be made by first class mail to:
  - a) The occupant of the property affected at the address of the property;
  - b) The person who last paid the general taxes on the property affected according to the records of the Champaign County Supervisor of Assessments at the listed address;
  - c) The person shown on the last recorded deed of the property affected directing where the tax bill should be sent; and
  - d) If the property affected is being purchased under contract for deed and a memorandum of such contract has been recorded with the Champaign County Recorder, then such contract buyers shall be notified at the address of the property affected.
2. *Notice by Publication and Sign.* Notification shall be given in accordance with Section XI-10.

C. *Criteria for Designation of a Landmark.*

1. *Landmark Criteria.* A proposed landmark must meet one or more of the following criteria for designation:
  - a) Significant value as part of the architectural, artistic, civic, cultural, economic, educational, ethnic, political or social heritage of the nation, state, or community.
  - b) Associated with an important person or event in national, state or local history.
  - c) Representative of the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, craftsmanship, method of construction or use of indigenous materials, while retaining a high degree of integrity.
  - d) Notable work of a master builder, designer, architect or artist whose individual genius has influenced an area.
  - e) Identifiable as an established and familiar visual feature in the community owing to its unique location or physical characteristics.
  - f) Character as 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.
  - g) Located in an area that has yielded, or may be likely to yield, information important in history or prehistory.

2. The Preservation Commission may find that portions of the nomination do not meet the criteria necessary for designation, in which case such portions shall not be further considered.

D. *Review Process.*

1. *Public Hearing.* The Preservation Commission shall commence a public hearing on the question of designation within 60 days of receiving a complete application. At the public hearing, the Preservation Commission shall take comments from the nominator(s), the owner(s), and any other parties who wish to be heard on the application. In addition, the Preservation Commission shall consider all written comments received by the Preservation Commission prior to or during the hearing. It is the responsibility of the nominator(s) to provide evidence of suitability for historic landmark status as well as documentation of such evidence. The owner(s) of the subject property may request a continuation of the public hearing until the next regularly scheduled meeting of the Preservation Commission. If such a request is made, the Preservation Commission shall grant the request and continue the public hearing until the next meeting.
2. *Commission Review & Determination.* The Preservation Commission shall review all information presented to it pertinent to the nomination.

E. *Decisions on Designation.*

1. Historic Preservation Commission Authority:
  - a) If the property owner consents in writing to landmark designation, and the Preservation Commission finds that the property conforms to one or more criteria set forth in Section XII-5.C.1, the Preservation Commission may make the final determination and designate the property as a historic landmark, following the voting requirements per Section XII-3.D.2.
  - b) Lacking written owner consent to the landmark designation, the Preservation Commission shall recommend that the Urbana City Council approve or deny said application as specified in Section XII-3.D.2. The Preservation Commission's recommendation shall be in writing and shall be accompanied by minutes of the meeting. Said recommendation shall then be forwarded to the Urbana City Council for consideration at a City Council meeting occurring within 60 days following the date of the close of the public hearing.
  - c) The landmark parcel owners shall be notified by first class mail with containing a copy of the recommendation 10 days prior to the City Council meeting when designation will be considered.
  - d) The Secretary shall send a copy of the decision and the accompanying report to:  
  
The City Council  
The nominator(s); and  
The Urbana Building Safety Division.
2. City Council Authority:
  - a) If the City Council determines that the proposed historic landmark should be designated, it shall do so by enacting an ordinance.
  - b) No application relating to the same property may be filed during the 12 months following such a denial by the Urbana City Council.

3. *Landmark Status Recorded.* A copy of the ordinance or Historic Preservation Commission decision sheet designating a historic landmark shall be recorded at the office of Champaign County Recorder of Deeds.
- F. *Amendment of Designation.* Once a landmark has been designated, said designation may be amended or rescinded by the same procedure and according to the same criteria set forth herein for designation.

### **Section XII-5.1. District and Landmark Designation Protests**

1. If a valid protest is timely filed against any application to designate a historic district or historic landmark, or to amend or rescind an existing designation, such application shall only be approved by a minimum two-thirds vote of the alderpersons then holding office, excepting those who abstain for reason of a proclaimed conflict of interest.
  - a) With respect to a historic district, to be considered a valid protest, at least 40% of the parcels within the subject district shall have protest documents signed and submitted on behalf of such parcels by the respective owners of such parcels as set forth in subsection c) below.
  - b) With respect to a landmark, to be considered a valid protest as to the subject parcel, a protest document, signed and submitted on behalf of such parcel by the respective owner(s) of such parcel as set forth in subsection c) below.
  - c) For a protest to be valid, it must be signed by the following persons as appropriate:
    1. If a sole owner of record, by such sole owner;
    2. If the record owners are more than one, by not less than 50% of the title interest in such parcel; or
    3. If the record owner is a corporation, it must be accompanied by a signed corporate resolution authorizing the protest; if owned by a partnership, the partner signing must submit an affidavit that he/she is authorized to sign on behalf of the partnership.
2. Each parcel is considered independently, regardless of single or multiple ownership.
3. To be considered as timely filed, a valid protest must be filed with the City Clerk by 5:00PM on the Wednesday preceding the City Council meeting at which the designation will be considered until which time said protest can be withdrawn but after which time said protest shall be final. The City Clerk shall forthwith provide a copy of said protest to the Secretary.

### **Section XII-6. Certificates of Appropriateness & Economic Hardship**

- A. *Certificate of Appropriateness Required.* No person shall make or cause to make any undertaking without the City having first issued a Certificate of Appropriateness approving such work; however, undertakings designated in Tables XII-1 and XII-2 under “No Review” may be made without an application for a Certificate of Appropriateness. Furthermore, the Community Development Services Department shall not issue any building or demolition permit allowing work which could not otherwise take place until a Certificate of Appropriateness has been issued.
- B. *Certificate of Appropriateness process.*

1. *Determining level of review.* Applications for Certificates of Appropriateness shall be made by forms supplied by the Community Development Services Department. The application shall be regarded as complete when so marked by the Secretary. Following receipt of a complete application for any work qualifying as an undertaking, the Zoning Administrator and Chair of the Historic Preservation Commission shall determine according to Tables XII-1 and XII-2 whether the application is an exempt undertaking and requires no review, requires administrative review, or requires Historic Preservation Commission review.

In cases where applications include multiple activities, those determined to be Minor Work may be reviewed administratively and Major Work activities reviewed by the Historic Preservation Commission.

2. *No review.* When both the Zoning Administrator and Chair determine that the proposed undertaking(s) are exempt from review then the Zoning Administrator shall end the review process and so notify the applicant and Building Safety Manager in writing within 10 working days following receipt of the complete application.
3. *Minor and Major Work.* Except for applications determined to be exempt undertakings requiring no review, as provided in Section XII-6.B.1, the Zoning Administrator and Chair shall determine whether the proposed undertaking(s) constitutes Minor Work or Major Work as defined under Section XII-2 and Tables XII-1 and XII-2 of this Article. When both the Zoning Administrator and Chair determine that the activity constitutes Minor Work then the project shall be reviewed administratively.
4. *Administrative review.* When both the Zoning Administrator and Chair determine that the proposed undertaking(s) constitutes Minor Work, then the application shall be reviewed administratively following the criteria specified in Section XII-6.C of this Article. For Minor Work, within ten working days of receipt of a complete application, written notice shall be made that said application is either approved, approved with conditions, or denied. Approval or approval with conditions shall require agreement of both the Zoning Administrator and Chair that the application conforms to the specified criteria. In the case of denial by both the Zoning Administrator and Chair, the reasons for denial shall be cited. If one but not both the Zoning Administrator or Chair determines that the application does not conform to the specified criteria, the Secretary shall forward the application to the Historic Preservation Commission for review.
5. *Historic Preservation Commission review.*
  - a. *Public hearing.* The Historic Preservation Commission shall hold a public hearing within 50 calendar days of the Secretary having received a complete application. Notice of the public hearing shall conform with the procedures specified in Section XI-10.
  - b. *Review criteria.* Following input provided at the public hearing, the Historic Preservation Commission shall determine whether the application conforms to the criteria specified in Section XII-6.C of this Article.
  - c. *Commission action.* Following input, the Commission shall vote on a motion to approve, approve with conditions, or deny the application based on the application's conformance with the review criteria. Any conditions imposed for approval must relate to the specified review criteria. In denying a Certificate of Appropriateness, the Commission shall provide reasons for denial and should recommend ways to bring the application into conformance. The

Commission is the final decision-making body for Certificates of Appropriateness, unless the decision is appealed in accordance with Section XII-6.E of this Article.

- d. Within ten working days of the Commission's final action on the application, the Secretary shall notify the applicant(s) and Building Safety Manager of the issuance of a Certificate of Appropriateness.

C. *Review Criteria for Certificates of Appropriateness*

In making a determination whether to issue or deny a Certificate of Appropriateness, the Preservation Commission shall consider the following criteria:

1. Maintain the significant original qualities and character of the buildings, structures, sites or objects including, if significant, its appurtenances. Removing or altering any historic or distinctive architectural features should be avoided whenever possible.
2. Retain and preserve the historic character of a property. Avoid removing distinctive materials or altering features, spaces, and spatial relationships that characterize a property.
3. Recognize each property as a physical record of its time, place, and use. Do not undertake changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties.
4. Retain and preserve changes to a property that have acquired historic significance in their own right.
5. Preserve distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property.
6. *Deteriorated historic features.* Repair rather than replace deteriorated historic features. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features must be substantiated by documentary and physical evidence.
7. *Treatment methods.* Use the gentlest means possible when using chemical or physical treatments. Do not use treatments that cause damage to historic materials.
8. *Archaeology.* Protect and preserve archeological resources in place. If such resources must be disturbed, mitigation measures should be undertaken.
9. *New construction.* With new additions, exterior alterations, or related new construction, do not destroy historic materials, features, and spatial relationships that characterize the property. Undertake new additions and adjacent or related new construction in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. Differentiate new work from the old. To protect the integrity of the property and its environment, new additions and new construction shall be compatible with the original architecture of the landmark or styles within the historic district and in terms of the following guidelines:
  - a) *Height.* The height of the proposed building or structure or additions or alterations should be compatible with surrounding buildings or structures.
  - b) *Proportions of structure's front façade:* The proportion between the width and height of the proposed building or structure should be compatible with nearby buildings or structures.



- c) *Proportions of openings into the facility:* The proportions and relationships between doors and windows should be compatible with existing buildings and structures.
  - d) *Relationship of building masses and spaces:* The relationship of a building or structure to the open space between it and adjoining buildings or structures should be compatible.
  - e) *Roof shapes:* The design of the roof should be compatible with that of adjoining buildings and structures.
  - f) *Appurtenances:* Use of appurtenances should be sensitive to the individual building or structure, its occupants and their needs.
  - g) *Scale of building or structure:* The scale of the building or structure should be compatible with that of surrounding buildings or structures.
  - h) *Directional expression of front elevation:* Street façades should blend in with other buildings and structures with regard to directional expression when adjacent buildings or structures have a dominant horizontal or vertical expression.
10. *Demolition.* In granting a Certificate of Appropriateness to undertake demolition, the Commission shall find that at least one of the following conditions exists:
- a) The demolition would be limited to a nonsignificant portion of a building or a nonsignificant accessory structure, and provided that the demolition will not adversely affect those parts of a building or buildings which are significant as determined by the Commission; or
  - b) The demolition request is for a noncontributing building and the demolition will not adversely affect the character of the district; or
  - c) The Building Official of the City of Urbana certifies that the demolition is required for public safety because of an unsafe or dangerous situation.

D. *Certificate of Economic Hardship.*

1. Notwithstanding any contrary provisions of this Article, following denial of a Certificate of Appropriateness application, the applicant may apply for, and the Commission may issue, a Certificate of Economic Hardship to allow work for which a Certificate of Appropriateness has been denied. Applications for Certificates of Economic Hardship shall be made on forms provided by the City of Urbana.
2. *Public hearing.* The Historic Preservation Commission shall hold a public hearing within 50 calendar days of the Secretary having received a complete application. Notice of the public hearing shall conform with the procedures specified in Section XI-10.
3. At the public hearing, the Commission shall take statements presented by the owner(s) and any other interested parties concerning the effect of the proposed undertaking on any designated historic landmark or property within a designated historic district based upon the criteria set forth in this Article. The Commission shall conduct such hearings in a manner consistent with adopted rules of procedure, as may be amended from time to time. The hearing may be continued to a date certain.

The applicant bears the burden of proof that denial of the proposed work would leave the property without an economically viable use, and that the sale, rental, or rehabilitation of the property is not possible, resulting in the property being incapable of earning any reasonable economic return.

The Commission may solicit expert testimony to evaluate information provided either as part of a Certificate of Economic Hardship application or at the public hearing, and may continue the public hearing to provide time to evaluate new evidence.

4. *The Factors and Standards for Commission Decision.* The factors to be considered by the Commission on the issue of economic hardship shall include, but are not limited to, the following:
  - a) A substantial decrease in the fair market value of the property as a result of the denial of the certificate of appropriateness;
  - b) A substantial decrease in the financial return to owners of record or other investors in the property as a result of the denial of the certificate of appropriateness;
  - c) The cost of the proposed construction, alteration, relocation or demolition, and an estimate of any additional cost that would be incurred to comply with the recommendations of the Commission for changes necessary for the issuance of a certificate of appropriateness;
  - d) The structural soundness of any structures on the property and their suitability for rehabilitation;
  - e) The economic feasibility of rehabilitation or reuse of the existing structure, or in the case of proposed demolition, the economic feasibility of improvement on the property.
  
5. *Evidence.* The applicant may be required to submit evidence at the hearing to support any of the factors, including those listed above, which the applicant believes to have contributed to the economic hardship alleged to be incurred if the applicant is not granted a Certificate of Appropriateness. Specific information and documentation which may be presented by the applicant as competent evidence at the hearing may include:
  - a) 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).
  - b) The assessed value of the land and improvements thereon according to the two most recent assessments.
  - c) Real estate taxes for the previous two years.
  - d) Remaining balance on mortgage, if any, and annual debt service, if any, for the previous two years.
  - e) All appraisals obtained within the previous two years by the owner or applicant in connection with this purchase, financing or ownership of the property.
  - f) Any listing of the property for sale or rent, price asked and offers received, if any.
  - g) Any consideration by the owner as to profitable adaptive uses for the property.
  - h) If the property is income-producing, the annual gross income from the property for the previous two years, itemized operating and maintenance expenses for the previous two years, and annual cash flow before and after debt service, if any during the same period.
  - i) Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture or other.

- j) Any other information including the 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 used or yield a reasonable return to present or future owners.
6. *Commission findings.* Following public input, the Commission shall approve the issuance of the Certificate of Economic Hardship only if it finds that either 1) the subject property cannot be put to any reasonably beneficial use or 2) the owner/applicant will suffer a substantial economic loss if the application is not approved, and in either case, further finds that the hardship was not created with the intent of circumventing this Article.
7. Should the Commission adopt either finding in Subsection 6 above, and lacking a finding that the owner/applicant self-created the hardship with the intent of circumventing this Article, then the Commission shall issue a Certificate of Economic Hardship.
8. Should the Commission fail to adopt either finding in Subsection 6 above, then the application for a Certificate of Economic Hardship is denied.

E. *Appeals*

1. Approval or denial of any Certificate of Appropriateness or Certificate of Economic Hardship may be appealed when the following requirements are met:
  - a) If the appeal pertains to a Landmark, the appeal may be taken only by the applicant or other person who has a financial interest in the property. If the appeal pertains to a property within a historic district, the appeal may be taken by the applicant or an owner of a property within the historic district
  - b) The appeal shall be taken by filing a notice of appeal with the Zoning Administrator. The notice of appeal shall describe the decision being appealed and shall specify the grounds for the appeal.
  - c) The appeal shall be taken within 15 days of mailing the notice of the decision to the applicant.
  - d) When both a Certificate of Appropriateness and Certificate of Economic Hardship have been denied for the same work, one but not both decisions may be appealed.
2. Once an appeal has been filed, work allowed by the approval of a Certificate of Appropriateness or a Certificate of Economic Hardship shall be stayed until the appeal is decided.
3. Section XI-3.D does not apply to appeals of decisions made by the Zoning Administrator under this article.
4. *Notice of appeal.* The Secretary shall give due notice of the hearing in writing to the appellant, the property owner, and the City Council. At least 15 days, but not more than 30 days, notice of the time and place of the hearing on the appeal shall be published in a newspaper of general circulation in the City of Urbana. The notice of such hearing shall contain the address and location of the property involved in the appeal, if any, and a brief description of the issue being appealed.
5. *Consideration of appeal.* The city council shall decide the appeal by passing a resolution, with a majority vote of the alderpersons then holding office, that either upholds the decision of the Preservation Commission or reverses the decision of the Preservation Commission.

6. If the Council decides that a Certificate of Appropriateness or Economic Hardship should be issued, the Secretary shall notify the applicant and the Building Safety Division within seven days of the Council's decision and the Building Safety Division then shall begin review of the permit within 15 days.
7. If the Council concurs with the Preservation Commission's decision not to issue a Certificate of Appropriateness or a Certificate of Economic Hardship, the Secretary shall notify the applicant and the Building Safety Division of this decision within seven days.

F. *Special Emergency and Life Safety Circumstances*

1. If emergency circumstances affect a landmark or a building, structure, site or object within a historic district in a way that requires immediate relief, repair or demolition, the Urbana Fire Chief or Building Safety Division Manager shall certify that such conditions exist and nothing in this article shall prevent said conditions being eliminated as quickly as is practicable. Emergencies are defined as life or health-threatening conditions requiring immediate attention.
2. In a non-emergency circumstance, where the Urbana Fire Chief or Building Safety Division Manager shall require exterior alterations in an existing use to conform to life safety or other codes, a Certificate of Appropriateness shall be required. In the event that irreconcilable conflicts arise between such codes and this Article, the Preservation Commission shall grant permission to conform to those codes even if a Certificate of Appropriateness would not otherwise be issued.

**Table XII-1: Level Of Review for Contributing Properties**

	Exempt Undertakings	COA Required	
		Minor Works (Administrative Review)	Major Works (HPC review)
<b>Description of undertaking</b>			
<i>Building ordinary maintenance</i> made in kind and using like materials:			
Architectural features, repair of existing	X		
Masonry repointing with compatible mortar		X	
Painting previously painted surfaces, regardless of paint colors	X		
Roof cladding, with like materials		X	
All other exterior building maintenance and repairs		X	
<i>Site ordinary maintenance</i> made in kind and using like materials:			
Access drives	X		
Outdoor storage, replacement of existing	X		
Steps (not attached to buildings)	X		
Structural landscape features		X	
Walkways	X		
All other repairs of site improvements		X	
<i>Building changes and new construction</i> , including:			
Access ramps/lifts - erection, alteration, removal		X	
Application of same type of roofing materials	X		
Architectural features and details		X	
Awnings		X	
Building additions			X
Construction of new buildings (other than accessory)			X
Decorative glass (colored, leaded, or beveled)			X
Doors (except storm doors)		X	
Gutters and downspouts (integral and attached)		X	
Mailboxes	X		
Painting of unpainted masonry		X	
Porches, decks, and attached steps (including enclosing)			X
Roofs, including roof lines and materials			X
Satellite dishes		X	
Shutters		X	
Siding, removal of non-original synthetic siding		X	
Siding (other)			X
Signs and interpretative displays (permanent)			X
Storm doors and storm windows	X		
Windows (except storm windows and window screens)			X
Window screens	X		
All other new construction and changes to buildings			X

	Exempt Undertakings	COA Required	
		Minor Works (Administrative Review)	Major Works (HPC review)
<i>Site changes and new construction, including:</i>			
Accessory buildings (less than 100 sq. ft. in area)	X		
Accessory buildings (greater than 100 sq. ft. in area)			X
Access drives			X
Air conditioner condenser units		X	
Fences		X	
Landscape planting beds and gardens	X		
Mechanical and electrical service equipment		X	
Parking lots			X
Patios		X	
Signs (permanent)			X
Signs (temporary)	X		
Walkways		X	
Walls and screens (as landscape features)		X	
All other site modifications			X
<i>Demolition, removal, and relocation of buildings and other structures:</i>			
Accessory structures (less than 100 sq. ft. in area)		X	
Accessory structures (greater than 100 sq. ft. in area)			X
Fences (nonhistoric)		X	
Fences (historic)			X
All other demolition, removal, and relocation			X

**Table XII-2: Level Of Review for Non-Contributing Properties**

	Exempt Undertakings	COA Required	
		Minor Works (Administrative Review)	Major Works (HPC review)
<b>Description of undertaking</b>			
<i>Building ordinary maintenance</i> made in kind and using like materials:			
Architectural features, repair of existing	X		
Masonry repointing with compatible mortar	X		
Painting previously painted surfaces, regardless of paint colors	X		
Roof cladding, with like materials	X		
All other exterior building maintenance and repairs	X		
<i>Site ordinary maintenance</i> made in kind and using like materials:			
Access drives	X		
Outdoor storage, replacement of existing	X		
Steps (not attached to buildings)	X		
Structural landscape features	X		
Walkways	X		
All other repairs of site improvements	X		
<i>Building changes and new construction</i> , including:			
Access ramps and lifts (erection, alteration, removal)	X		
Application of same type of roofing materials	X		
Architectural features and details		X	
Awnings		X	
Building additions			X
Construction of new buildings (other than accessory)			X
Decorative glass (buildings less than 50 years old)	X		
Decorative glass (buildings 50+ years old)			X
Doors (except storm doors)		X	
Gutters and downspouts (integral and attached)	X		
Mailboxes	X		
Painting of unpainted masonry (buildings less than 50 years old)	X		
Painting of unpainted masonry (buildings 50+ years old)		X	
Porches, decks, and attached steps (including enclosing)			X
Roofs, including roof lines and materials (buildings less than 50 years old)		X	
Roofs, including roof lines and materials (buildings 50+ years old)			X
Satellite dishes		X	
Shutters	X		

	Exempt Undertakings	COA Required	
		Minor Works (Administrative Review)	Major Works (HPC review)
Siding, removal of non-original synthetic siding	X		
Siding (other)		X	
Signs and interpretative displays (permanent)		X	
Storm doors and storm windows	X		
Windows (except storm windows and window screens)		X	
Window screens	X		
All other new construction and changes to buildings		X	
<i>Site changes and new construction, including:</i>			
Accessory buildings (less than 100 sq. ft. in area)	X		
Accessory buildings (greater than 100 sq. ft. in area)			X
Access drives		X	
Air conditioner condenser units		X	
Fences		X	
Landscape planting beds and gardens	X		
Mechanical and electrical service equipment		X	
Parking lots			X
Patios		X	
Signs (permanent)		X	
Signs (temporary)	X		
Walkways		X	
Walls and screens (as landscape features)		X	
All other site modifications		X	
<i>Demolition, removal, and relocation of buildings and other structures:</i>			
Accessory structures (less than 100 sq. ft. in area)	X		
Accessory structures (more than 100 sq. ft. in area)		X	
Fences		X	
All other demolition, removal, and relocation			X



## ARTICLE XII. HISTORIC PRESERVATION

- Section XII-1. Statement of Purpose
- Section XII-2. Definitions
- Section XII-3. Historic Preservation Commission
- Section XII-4. Historic Districts
- Section XII-5. Historic Landmarks
- Section XII-6. Certificate of Appropriateness
- Section XII-7. Affirmation of Existing Zoning
- Section XII-8. Building Permits Previously Issued
- Section XII-9. Penalties
- Section XII-10. National Register of Historic Places

### Section XII-1. Statement of Purpose

The purpose of this ordinance is to promote the educational, cultural, economic and general welfare of the community by:

1. Providing a mechanism to identify and preserve the distinctive historic, architectural and/or landscape characteristics of Urbana, which represent elements of the city's cultural, social, economic, political and architectural history; and
2. Fostering civic pride in the beauty and noble accomplishments of the past as represented in Urbana's landmarks and historic areas;
3. Stabilizing and improving the property value of Urbana's landmarks and historic areas;
4. Promoting restoration and rehabilitation by encouraging investment in historic resources;
5. Ensuring that all of the economic benefits resulting from preservation, including tax incentives, new jobs and renewed buildings, are available to our citizens; and
6. Preserving the character of historic neighborhoods and especially Urbana's historic downtown buildings and facades.

### Section XII-2. Definitions

*Alteration:* Any act or process that changes one or more of the exterior architectural features of the structure, including, but not limited to, the erection, construction, reconstruction, demolition, or relocation of any structure.

*Appurtenances:* The area surrounding a landmark or a building or structure within a historic district. This shall include, but not be limited to: fences, statues, signs, pavement and outbuildings visible from a public street or sidewalk.

*Architectural Review Guidelines:* A standard of design quality that will preserve the historic and architectural character of a landmark or a structure within a designated historic district.

*Area:* A specific geographic division of the City of Urbana.

*Building:* Any support, enclosure, or shelter for persons, animals, or property.

*Certificate of Appropriateness:* A certificate approving of plans for alteration, relocation, construction, removal or demolition of either a designated landmark; or a structure within a designated historic district.

*Certificate of Economic Hardship:* A certificate authorizing an alteration, relocation, construction, removal or demolition even though a Certificate of Appropriateness previously has been denied.

*Chair:* The Chair of the Urbana Historic Preservation Commission.

*Conservation Right:* Per Chapter 765 of the Illinois Compiled Statutes Section 120, Paragraph 1, a conservation right includes easements, covenants, deed restrictions or any other type of less than full fee simple interest that may be used to protect a landmark or historic district.

*Construction:* The excavation of earth to provide for a foundation, basement, or cellar; and/or the addition or removal from a lot or tract of land for the construction of a structure; and/or the act of placing or affixing a component of a structure upon the ground or upon another such component; and/or the placing of construction materials in a permanent manner; and/or the demolition, elimination, and/or removal or an existing structure in connection with such construction.

*Contributing:* A building, structure, site or object that adds to the historical associations, architectural qualities, or archaeological values for which a property is significant because it was present during the period of significance, relates to the documented significance of the property, and possesses integrity or is capable of yielding important information about the period. Although most commonly used in historic district designations, this term may also be used when a property is considered for landmark status which includes more than one resource, such as a house and a garage.

*Council:* The City Council of the City of Urbana.

*Demolition:* Any act or process that destroys in part or in whole a landmark, or a site or structure within a designated historic district.

*Exterior Architectural Features:* The architectural character and general composition of the exterior of a building or structure, including but not limited to the type and texture of the building material and the type, design and character of all windows, doors, light fixtures, signs, ornamental details, and appurtenant elements.

*Historic:* Related to the City's architectural, artistic, civic, cultural, economic, educational, ethnic, political or social heritage.

*Historic District:* An area designated pursuant to procedures prescribed herein which contains, within defined geographic boundaries, buildings, structures, sites or objects which may or may not be landmarks that contribute to the overall historic characteristics of the designated area.

*Parcel Owner:* An owner of record of a parcel, or, if the parcel is being purchased under a contract for deed and memorandum of such contract has been recorded with the Champaign County Recorder, then the contract buyer shall be regarded as the parcel owner unless the memorandum that is recorded states that the rights under this ordinance are reserved to the contract seller.

*Improvement:* Any building, structure, bridge, work of art, parking space, parking lot, public infrastructure, fence, gate, wall, landscaping, or other object constituting a physical addition to real property, or any part of such addition.

*Landmark:* A property, building, structure, site or object which is worthy of rehabilitation, restoration and preservation because of its historic and/or architectural significance to the City of Urbana designated pursuant to procedures prescribed herein.

*Minor Works:* Repairs that do not require a building permit or exterior changes that do not involve substantial alterations, additions, or removals that could impair the integrity of the property and/or the district as a whole.

*Noncontributing:* A building, structure site or object which may be part of a landmark or district, but does not possess historic, architectural or archaeological significance or integrity per se; however, the relationship of these buildings, structures, sites or objects to those that are contributing may be important to the preservation of the landmark or district. Inclusion of these properties within a historic district subjects these properties to those design review standards and guidelines applicable to noncontributing properties.

*Object:* Constructions that are primarily artistic in nature and are relatively small in scale, including those constructions that are associated with a specific setting or environment.

*Owner(s) or Record:* The person(s) or corporation or other entity in whose name(s) the property is held according to the last recorded deed in the records of the Champaign County Recorder.

*Parcel:* A parcel of real property other than railroad right-of-way which qualifies as a lot of record under the Urbana Subdivision and Land Development Code; and is included within a proposed historic district or is a designated landmark.

*Preservation Commission:* Urbana Historic Preservation Commission.

*Preservation Commissioners:* Members of the Urbana Historic Preservation Commission.

*Registered Preference:* A parcel owner's written indication as to their choice of whether or not their property should be designated as a landmark or included within a district.

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

*Relocation:* Any repositioning of a building, structure or object on its site or moving it to another site. The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing buildings, structures, sites or objects.

*Secretary:* Representative of the Community Development Services Department of the City of Urbana designated to provide staff support to the Historic Preservation Commission.

*Structure:* Any building, or other construction, which requires attachment to the ground, including but without limiting the generality of the foregoing, advertising signs, billboards, poster panels, and supports and frames thereof.

*Valid Protest:* Valid protest is a document signed by the requisite number of parcel owners respecting each parcel which document expresses a protest against the designation of such parcel as either a landmark or a designation of the proposed area of that historical district in which such district the parcel is located.

### Section XII-3. Historic Preservation Commission

- A. *Preservation Commission Created.* There is hereby created the Urbana Historic Preservation Commission, consisting of seven members. One member may reside in the 1 ½ mile extra-territorial jurisdictional area of Urbana while the rest must be residents of the City of Urbana. The Preservation Commission shall be appointed by the Mayor of Urbana and approved by the City Council. Members shall be appointed on the basis of expertise, experience or interest in the areas of architecture, architectural history, building construction or engineering, finance, historic preservation, geography, landscape architecture, law, neighborhood organizing, planning, real estate or another related field. Preservation Commissioners shall serve without compensation and shall serve terms of three years. Initially, Preservation Commissioners shall serve staggered terms of three persons for three years, two persons for two years, and two persons for one year.
- B. *Purpose.* The Preservation Commission is created for the purpose of:
1. Identifying such buildings, structures, sites, objects or historic districts within the City of Urbana that are historically significant in that they exemplify and/or reflect the cultural, social, economic, political or architectural history of the nation, state or City;
  2. Advising the City Council on the designation of such buildings, structures, sites or objects as either landmarks or historic districts, as defined herein;
  3. Protecting the historical characteristics of landmarks or districts by , reviewing proposed changes to their exterior architectural appearances;
  4. Educating the public on the opportunities presented by historic preservation; and
  5. Performing such other functions as may be useful or necessary to safeguard and enhance the community heritage as embodied in historic parcels or buildings, structures, sites or objects.
- C. *Officers.* There shall be a Chair and a Vice-Chair elected by the Preservation Commission, who shall each serve a term of one year and shall be eligible for re-election. Elections shall be held annually.
1. *The Chair Shall Preside over Meetings.* In the absence of the Chair, the Vice-Chair shall perform the duties of the Chair. If both the Chair and Vice Chair are absent, those members present shall elect a temporary Chair.
  2. *Secretary.* The Secretary of the Preservation Commission shall be a representative of the Department of Community Development Services of the City of Urbana. The Secretary shall:
    - a) Take minutes of each Preservation Commission meeting, an original of which shall be kept in the office of the Department of Community Development Services;
    - b) Provide administrative and technical assistance to the Preservation Commission to assist it in making the decisions and findings as provided herein;
    - c) Publish and distribute to the Preservation Commissioners copies of the minutes, reports and decisions of the Preservation Commission;
    - d) Give notice as provided herein or by law for all public hearings conducted by the Preservation Commission;

- e) Advise the Mayor of vacancies on the Preservation Commission and expiring terms of Preservation Commissioners;
- f) Prepare and submit to the City Council a complete record of the proceedings before the Preservation Commission on all appeals from decisions of the Preservation Commission and on any other matters requiring Council consideration; and
- g) Have no vote.

D. *Meetings*

1. A quorum shall consist of a majority of the members of the Preservation Commission then holding office, but not less than three.
2. Recommendations regarding the designation of landmarks and historic districts as herein provided shall require a majority vote of all Commissioners then holding office. All other decisions or actions of the Preservation Commission shall be made by a majority vote of those members present at any meeting where a quorum exists.
3. Meetings shall be held at regularly scheduled times to be established by resolution of the Preservation Commission at the beginning of each calendar year. Meetings may also be held at any time upon the call of the Chair. There shall be a minimum of four meetings per year.
4. If a Preservation Commissioner's abstention is not based upon an asserted conflict of interest, then such vote shall be recorded as an abstention, but the Chair of the Preservation Commission shall rule that such vote goes with the majority of those votes actually cast as an aye or a nay vote.
5. All meetings shall conform to the requirements of the Open Meetings Act.
6. No action shall be taken by the Preservation Commission which in any manner could deprive or restrict the owner of the subject property of its use, modification, maintenance, disposition or demolition until such property owner shall first have had the opportunity to be heard at public meeting(s) of the Preservation Commission, as provided herein.

E. *Vacancies.* The Mayor shall declare vacant the seat of any Preservation Commissioner who fails to attend three consecutive meetings without notification to the Secretary, or who fails to attend one-half of all meetings held during any one-year period. In such cases as well as for resignations, the Mayor shall appoint a successor with approval of the City Council.

F. *Powers and Duties.* The Preservation Commission shall have the following powers:

1. To adopt its own procedural regulations.
2. To conduct an ongoing survey to identify Urbana's historically and architecturally significant buildings, structures, sites, objects and districts.
3. To investigate, hold public hearings and designate or recommend designation of landmarks and historic districts.
4. To keep a register of all buildings, structures, sites, objects or districts that have been designated under this ordinance, including all information required for each designation.

5. To determine an appropriate system of plaques and markers to identify historic landmarks and districts and to make recommendations for the design and implementation of specific markings of the streets and routes leading from one landmark or historic district to another.
6. To nominate landmarks and historic districts to the National Register of Historic Places.
7. To inform and educate the citizens of Urbana concerning the historic and architectural heritage of the City.
8. To hold public hearings and to review building permit applications for new construction within historic districts and for additions to, alterations, relocations, removal or demolition of designated landmarks or buildings, structures, sites or objects within historic districts, and to issue or deny Certificates of Appropriateness for such actions. The Preservation Commission may require applicants to submit plans, drawings, specifications and other information as may be necessary to make decisions.
9. To consider and make decisions upon applications for Certificates of Economic Hardship that would allow the performance of work for which a Certificate of Appropriateness has been denied.
10. To apply criteria as set forth herein for the alteration, construction, relocation or removal of landmarks or buildings, structures, sites or objects within historic districts.
11. To review and comment upon submitted applications for zoning amendments, special use permits, conditional use permits, Mixed Office Residential District provisions, or zoning variances for properties contiguous to or separated only by public right-of-way from designated landmarks and historic districts. The Zoning Administrator shall send notification of such applications to the Preservation Commission for comment prior to the date of the hearing by the Plan Commission, the Board of Zoning Appeals, or the City Council.
12. To testify before all boards and commissions, including the Building Safety Code Board of Appeals, the Community Development Commission, the Plan Commission, the Property Maintenance Code Board of Appeals, and the Board of Zoning Appeals on any matter affecting historically or architecturally significant buildings, structures, sites, objects and areas. The Chair or the Chair's designee shall give such testimony on behalf of the Preservation Commission.
13. To administer on behalf of the City of Urbana, upon designation by the City Council, any property or full or partial interest in real property, including a conservation right as that term is used in Chapter 765 of the Illinois Compiled Statutes Section 120, Paragraph 1, which the City may possess or accept as a gift or otherwise.
14. To recommend application for, acceptance of, and administration of such gifts, grants and money as may be appropriate for the purpose of this ordinance to the Urbana City Council.
15. To consider amendments to the preservation component of the Comprehensive Plan of the City of Urbana and to recommend action upon such amendments to the Plan Commission and the City Council.
16. To periodically review the Urbana Zoning Ordinance and to recommend to the Plan Commission and the City Council any amendments appropriate for the protection and continued use of landmarks or buildings, structures, sites or objects within historic districts.
17. To recommend certification of designated historic districts to the Illinois Historic Preservation Agency.

18. To recommend prospective Preservation Commissioners to the Mayor in order to fill vacancies on the Preservation Commission.
19. To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to the implementation of the purpose of this ordinance.

## **Section XII-4. Historic Districts**

- A. *Historic District Nomination.* Nominations shall be made to the Preservation Commission by means of a completed application form provided by the Preservation Commission. A filing fee may be required with this application form. The application and filing fee shall not be accepted until the Secretary considers it complete. The Secretary shall have five working days to review an application for completeness.
1. Nominations may be made by any person, including individual members of the Preservation Commission. In the event a member of the Preservation Commission is the nominator, he/she shall present his/her evidence in the same manner as all other nominators but shall not participate thereafter as a commission member on the matter. (Ord. No. 2008-03-012, 03-03-08)
  2. A completed application form for historic district nominations must be accompanied by signatures of parcel owners representing no less than 25% of the parcels within the proposed district endorsing said nomination. The determination of whether the application has the endorsement of the owners on behalf of a parcel shall be, if a sole owner, by his or her signature, and if multiple owners, by the owners representing no less than 50% of the title interest in the property. If the affected property is owned by a corporation or partnership, a signed resolution must be submitted indicating an endorsement. Each parcel is considered independently, regardless of single ownership of multiple parcels.
  3. The Preservation Commission may request additional information from the applicant, but at a minimum, nominations shall include the following:
    - a) The name and address of the owner of record of each property proposed for designation;
    - b) A boundary description accurately describing the boundaries of the proposed district, common street addresses, if any, and tax parcel identification numbers of the property proposed for designation;
    - c) A map delineating the boundaries and location of the district proposed for designation;
    - d) A written statement describing the district and setting forth the reasons the district may be eligible for nomination, including a statement indicating which of the criteria in Section XII-4.C.1 are met by the nomination; and
    - e) An application fee as found in Chapter 14 of the Urbana City Code, as may be amended from time to time by the Urbana City Council.
- B. *Notice to Property Owners of Applications.* Upon receipt of an accepted application for designation of a historic district, the Secretary or his/her designee shall notify parcel owners within the proposed district of the time and date of the Commission meeting where preliminary review of the application will occur. If there are multiple owners for one parcel, each owner shall be sent a meeting notice. Such notification shall be given at least ten days in advance, by U.S. mail. In addition, the Secretary

shall include a copy of the application or relevant portions thereof for the property owners' information, as well as appropriate general information on the City's historic preservation ordinance including information describing the Certificate of Appropriateness process and when a certificate is required.

C. *Criteria for Designation of a Historic District.* The Preservation Commission shall, upon such investigation as it deems necessary, make a preliminary determination as to whether a historic district meets one or more of the following criteria necessary for designation.

1. *Historic District Criteria:*

- a) A significant number of buildings, structures, sites or objects meeting any of the standards in Section XII-5.C.1.
- b) An area containing a contiguous grouping of properties having a sense of cohesiveness expressed through a style, period or method of construction.
- c) An area of sufficient historical integrity to convey a sense of historical time and place.

2. The Preservation Commission may find that portions of the nomination do not meet the criteria necessary for designation, in which case such portions shall not be further considered. But if contiguity is interrupted, areas may be considered as separate districts. The Preservation Commission may amend, but not extend the boundaries of the proposed historic district.

3. The preliminary determination as to whether a proposed historic district meets one or more of the foregoing criteria shall be made within 35 days of filing of the application with the Preservation Commission. The Secretary or his/her designee shall notify the applicant in writing of the preliminary determination for the nomination. The letter shall specify the date of said determination.

D. *Notification of Public Hearing on Historic District Designation.* The Preservation Commission shall commence a public hearing within 45 days following the date of the preliminary determination that a historic district meets one or more of the criteria in Section XII-4.C.1. Within 15 days following the preliminary determination, but not less than ten days before a public hearing on the proposal, the following forms of notice shall be made:

1. *Notice by Mail.* The Secretary of the Preservation Commission shall mail a copy of the preliminary determination, the date of the public hearing, and a form to express their preference on behalf of each of the parcels within a proposed historic district with regard to the proposed designation. Notification shall be mailed U.S. first-class postage pre-paid to:

- a) The address of the property affected;
- b) The address of the person who last paid the general taxes on the property affected according to the records of the Champaign County Supervisor of Assessments;
- c) The address, if any, shown on the last recorded deed of the property affected directing where the tax bill should be sent; and
- d) If the property affected is being purchased under contract for deed and a memorandum of such contract has been recorded with the Champaign County Recorder, then such contract buyers shall be notified at the address of the property affected.



2. *Notice by Publication.* At least 15 days, but not more than 30 days before a public hearing, notice of the time and place of the public hearing on any proposed historic district shall be published in a newspaper of general circulation in the City of Urbana. The notice of such proposed hearing shall contain the common street address(es), if any, and, a description of the proposed district boundaries for which such action is sought, as well as a brief description of the proposed action. The cost of such publication shall be in addition to the fee and will be billed to the applicant.
3. *Notice by Sign.* The Department of Community Development Services shall make a good faith effort to post notice by sign in accordance with Section XI-10 of the Urbana Zoning Ordinance.

E. *Protests Against Designation of Historic District.*

1. *Determination of Protest on Behalf of a Parcel.* The manner by which parcel owners protest designations shall be at their sole discretion, but a valid protest must be in writing and must be signed by the requisite number of parcel owners for such parcel as follows:
  - a) If a sole owner, then protest must be signed by the sole owner; or
  - b) If multiple owners, then protest must be signed by the owners representing the majority of the title interest in the property. By way of illustration, if four persons are joint owners of a parcel, it would take three of such joint owners to sign the protest for it to be valid.
  - c) There shall be one registered preference for each historic parcel within the proposed district. For example, if an owner owns four historic parcels, each parcel would have one vote.
2. For a written protest to be valid, the owners of at least 40% of the parcels within the proposed district must indicate their opposition to the nomination. Said protest shall be filed with the City Clerk by 5:00 p.m. on the Wednesday preceding the City Council meeting at which the designation will be considered.

F. *Public Hearing on Designation of Historic District*

1. At the Preservation Commission public hearing, the Preservation Commission shall take testimony presented by the nominator(s), the owner(s), and any other parties who wish to be heard on the application of the criteria for designation enumerated in Section XII-4.C.1. In addition, the Preservation Commission shall consider all written comments received by the Preservation Commission prior to or during the hearing. It shall be the responsibility of the nominator(s) to provide evidence of suitability for historic district status as well as documentation of such evidence.
2. The Preservation Commission shall review and evaluate all submitted information according to the applicable criteria set forth in Section XII-4.C.1 herein.
3. The Preservation Commission shall identify all contributing and noncontributing buildings, structures, sites or objects within the proposed historic district that are listed in the application.
4. During the public hearing, the Preservation Commission may find that portions of the nomination do not meet the criteria necessary for designation, in which case such portions shall not be further processed. But if contiguity of the district is interrupted, areas may be considered as separate districts. However, the Preservation Commission may amend, but not extend the boundaries of the proposed historic district.

- G. *Decisions on Designation.* A recommendation of the Commission on designation shall be made within 60 days following the date of the public hearing.
1. If the Preservation Commission determines to recommend designation of the proposed historic district, it shall do so by a majority vote of the Preservation Commissioners then holding office.
  2. The Preservation Commission's recommendation shall be in writing and shall be accompanied by a report summarizing the evidence presented at the hearing and a report of the Commission's findings. Said recommendation will then be forwarded to the Urbana City Council.
  3. The parcel owners shall be sent a copy of the Preservation Commission's recommendation within 15 days by pre-paid U.S. first class mail postage. If there are multiple owners for one parcel, each owner shall be sent a copy of the recommendation.
  4. The Secretary shall send a copy of the Preservation Commission recommendation and the accompanying report to:  
  
The City Council;  
The nominator(s); and  
The Urbana Building Safety Division
  5. If there is no filed protest to the proposed historic district and the City Council determines that the proposed historic district should be approved, it shall do so by enacting an ordinance in accordance with the voting requirements of a majority vote of the quorum.
  6. If there is a filed protest to the proposed historic district and the City Council determines that the proposed historic district should be approved, it shall do so by enacting an ordinance in accordance with the voting requirements of a two-thirds "affirmative" vote of all the Alderpersons then holding office.
  7. No application relating to the same property or district may be filed during the 12 months following a denial by the Urbana City Council.
  8. A parcel can only be nominated for one historic district at any one time and, if designated, may not be represented in a nomination or historic parcel vote in another proposed historic district.
  9. An existing historic district may be expanded in the same manner in which a historic district is designated, except those parcels within the existing historic district that are restricted in accordance with Section XII-4.G.7.
- H. *Amendment of Designation.* Once a historic district designation has been made by the Preservation Commission or City Council, said designation may be amended by the same procedure and according to the same criteria set forth herein for designation.
- I. *Historic Districts*
1. *Joseph Royer Historic District:* 801 W. Oregon and 701 S. Busey
  2. *Buena Vista Historic District:* 1 thru 8 Buena Vista Court
  3. *West Main Street Historic District:* 802, 803, 804, 806, 807, 807 ½, 808, 809, 810, 811, 812, 813, 814, 816 W. Main St.
  4. Any others that may be designated

## Section XII-5. Historic Landmarks

- A. *Historic Landmark Nomination.* Nominations shall be made to the Preservation Commission on a completed application form provided by the Preservation Commission. The Secretary or his/her designee shall not accept an application or filing fee until it is considered complete. The Secretary shall have five working days to review an application for completeness.
1. Nominations may be made by any person, including individual members of the Preservation Commission. In the event a member of the Preservation Commission is the nominator, he/she shall present his/her evidence in the same manner as all other nominators but shall not participate thereafter as a commission member on the matter. (Ord. No. 2008-03-012, 03-03-08)
  2. Owner approval shall not be required for historic landmark nomination or designation.
  3. The Preservation Commission may request additional information from the applicant, but at a minimum, nominations shall include the following:
    - a) The name and address of the owner of record of each property proposed for designation;
    - b) A legal description, common street address, and tax parcel identification number of the property proposed for designation;
    - c) A map delineating the boundaries and location of the property proposed for designation;
    - d) A written statement describing the property and setting forth the reasons the landmark may be eligible for nomination, including a statement indicating which of the criteria in Section XII-5.C.1 are met by the nomination; and
    - e) An application fee as found in Chapter 14 of the Urbana City Code, as may be amended from time to time by the Urbana City Council.
- B. *Notice to Property Owners of Application.* Once an application for designation of a landmark is accepted, the Secretary or his/her designee shall notify the parcel owner(s) of the proposed landmark of the time and date of the Commission meeting where preliminary review of the application will occur. Such notification shall be given at least ten days in advance, by U.S. first-class postage prepaid mail. In addition, the Secretary shall include a copy of the application or relevant portions thereof for the property owners' information, as well as appropriate general information on the City's historic preservation ordinance including information describing the Certificate of Appropriateness process and when a certificate is required.
- C. *Criteria for Designation of a Landmark.* The Preservation Commission shall, upon such investigation as it deems necessary, make a preliminary determination as to whether or not a proposed landmark is eligible for designation.
1. *Landmark Criteria.* A proposed landmark must meet one or more of the following criteria for designation:
    - a) Significant value as part of the architectural, artistic, civic, cultural, economic, educational, ethnic, political or social heritage of the nation, state, or community.
    - b) Associated with an important person or event in national, state or local history.

- c) Representative of the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, craftsmanship, method of construction or use of indigenous materials, while retaining a high degree of integrity.
  - d) Notable work of a master builder, designer, architect or artist whose individual genius has influenced an area.
  - e) Identifiable as an established and familiar visual feature in the community owing to its unique location or physical characteristics.
  - f) Character as 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 or integrity or architectural significance.
  - g) Located in an area that has yielded, or may be likely to yield, information important in history or prehistory.
2. The Preservation Commission may find that portions of the nomination do not meet the criteria necessary for designation, in which case such portions shall not be further considered.
  3. The preliminary determination as to whether a proposed landmark meets one or more of the foregoing criteria shall be made by vote of the Preservation Commission within 35 days of the filing of an accepted application. The Secretary or his/her designee shall notify the applicant in writing of the preliminary determination for the nomination. The letter shall specify a date of said determination.
- D. *Notification of Public Hearing to Consider Landmark Designation.* The Preservation Commission shall commence a public hearing within 45 days following the date of the preliminary determination that a proposed landmark meets one or more of the criteria in Section XII-5.C.1. Within 15 days following the preliminary determination but not less than ten days before a public hearing on the proposal, the following forms of notice shall be made by U.S. first class mail postage pre-paid:
1. *Notice by mail.* The Secretary of the Preservation Commission shall mail a copy of the preliminary determination, the date of the public hearing, and a registered preference form to each of the owners of a proposed landmark. Notification shall be mailed to:
    - a) The address of the property affected;
    - b) The address of the person who last paid the general taxes on the property affected according to the records of the Champaign County Supervisor of Assessments;
    - c) The address, if any, shown on the last recorded deed directing where the tax bill should be sent; and
    - d) If the subject parcel is being purchased under contract for deed and a memorandum of such contract has been recorded with the Champaign County Recorder, then such contract buyers shall be notified at the address of the property affected.
  2. *Notice by Publication.* At least 15 days, but not more than 30 days before a public hearing, notice of the time and place of the public hearing on any proposed landmark shall be published in a newspaper of general circulation in the City of Urbana. The notice of such proposed hearing shall contain the common street address, if any, and, if available, the legal description of the property

for which such action is sought, as well as a brief description of the proposed action. The cost of such publication shall be in addition to the application fee and will be billed to the applicant.

3. *Notice by Sign.* The Department of Community Development Service shall make a good faith effort to post notice by sign in accordance with Section XI-10.

E. *Protests Against Designation of Historic Landmark*

1. *Protest from Subject Property Owner.* Individual parcel owner(s) may protest the nomination of their property as a historic landmark in the form of a signed Registered Preference. The Registered Preference must be signed by the requisite number of owners for such parcel as follows:
  - a) If a sole owner, then protest must be signed by the sole owner; or
  - b) If multiple owners, then the Registered Preference must be signed by the owners representing at least 50% of the title interest in the property. By way of illustration, if four persons are joint owners of a parcel, it would take two of such joint owners to sign the protest for it to be valid.
  - c) If owned by a corporation or partnership, a signed resolution must accompany the Registered Preference.
2. Registered Preferences opposing the nomination of a historic landmark must be submitted to the Secretary of the Preservation Commission no less than two full working days prior to the scheduled Preservation Commission hearing on the subject property.
3. *Amendment to Nomination.* Once a landmark designation has been made by the Preservation Commission or City Council, said designation may be amended or rescinded by the same procedure and according to the same criteria set forth herein for designation.

F. *Decisions on Landmark Designation*

1. Historic Preservation Commission Authority:
  - a) If the landmark designation application was submitted by the owner of the subject property, or submitted by someone other than the owner but agreed to by the owner by means of a signed Registered Preference form, the Historic Preservation Commission may approve or deny said application by a majority vote of the Commissioners then holding office. A decision shall be made within 60 days following the date of commencement of the public hearing.
  - b) If the landmark designation was submitted by someone other than the property owner and the owner has submitted a Registered Preference against the nomination, the Historic Preservation Commission shall recommend the Urbana City Council approve or deny said application by a majority vote of the Commissioners then holding office. Said recommendation shall be forwarded to the Urbana City Council within 60 days following the date of commencement of the public hearing. The Preservation Commission's recommendation shall be in writing and shall be accompanied by a report summarizing the evidence presented at the hearing and setting forth findings. Said recommendation shall then be forwarded to the Urbana City Council for consideration at the next City Council meeting.

- c) The landmark parcel owners shall be notified by a letter containing a copy of the recommendation 15 days prior to the City Council meeting when designation will be considered.
- d) The Secretary shall send a copy of the decision or recommendation and the accompanying report to:

The City Council  
The nominator(s); and  
The Urbana Building Safety Division.

2. *City Council Authority*

- a) If the landmark designation application was submitted by someone other than the owner of the subject property and the owner has submitted a Registered Preference against the nomination, the Urbana City Council shall approve or deny said application by enacting an ordinance in accordance with the voting requirements of a two thirds majority vote of all the Alderpersons then holding office.
- b) No application relating to the same property may be filed during the 12 months following such a denial by the Urbana City Council.

G. *Historic Landmarks*

- 1. Tiernan's Block/Masonic Temple: 115 W. Main Street
- 2. The Lindley House: 312 W. Green Street
- 3. The Gothic Revival Cottage: 108 N. Webber Street
- 4. Busey's Hall/Princess Theater: 120 thru 124 W. Main Street
- 5. Ricker House: 612 W. Green Street
- 6. Sutton House: 502 E. Elm Street
- 7. Freeman House: 504 E. Elm Street
- 8. Any others that may be designated

## **Section XII-6. Certificate of Appropriateness Review**

- A. *Scope of Certificate of Appropriateness.* A Certificate of Appropriateness is required for any alteration, relocation, construction, removal or demolition that affects the exterior architectural appearance of any landmark or any building, structure, site or object within a historic district regardless of whether a building permit is required for such action. Contributing and noncontributing properties will be subject to the level of review found in Table XII-1 and Table XII-2. In accordance with Table XII-1 and Table XII-2, those activities or projects listed under "no review" shall not require a Certificate of Appropriateness. In the event that a proposed activity or project is considered a minor work, the Zoning Administrator together with the Chair or Vice Chair is authorized to issue a Certificate of Appropriateness on behalf of the Preservation Commission. Those projects or activities not considered minor works would be subject to review by the Preservation Commission. The Certificate of Appropriateness review shall be required for activities once a preliminary determination is made that a parcel or district will be considered by the Preservation Commission.

<b>Table XII-1: Project Level Of Review for Contributing Structures</b>			
	<b>No Review</b>	<b>Certificate of Appropriateness Review</b>	
		<b>Administrative (minor works) (10 days)</b>	<b>HP Commission (within 35 days)</b>
<b>Type of Project</b>			
Change in exterior paint schemes	<b>x</b>		
Repair of existing exterior architectural features	<b>x</b>		
Replacement of existing outside storage	<b>x</b>		
Landscaping	<b>x</b>		
Site repairs:			
walkways	<b>x</b>		
steps	<b>x</b>		
driveways	<b>x</b>		
Site modifications:			
storage sheds (less than 100 sq. ft.)	<b>x</b>		
air conditioners	<b>x</b>		
mechanical and electrical service equipment		<b>x</b>	
Improvements, alterations, renovations not requiring a building permit (including but not limited to):			
screening		<b>x</b>	
siding replacement		<b>x</b>	
erection, alteration, or removal of access ramps or lifts		<b>x</b>	
replacement of fences		<b>x</b>	
application of same type of roofing materials		<b>x</b>	
Installation of, or change in:			
storm doors and storm windows		<b>x</b>	
screens		<b>x</b>	
fences		<b>x</b>	
Demolition			<b>x</b>
Construction			<b>x</b>
Change of (including but not limited to):			
brick walkway			<b>x</b>
colored, leaded or beveled glass			<b>x</b>
driveway			<b>x</b>
gutters			<b>x</b>
landscape wall			<b>x</b>
ornamentation			<b>x</b>
permanent sign			<b>x</b>
porch/deck/steps			<b>x</b>
roof			<b>x</b>
siding			<b>x</b>
shutters			<b>x</b>
doors and windows			<b>x</b>

**Table XII-2: Project Level Of Review For Non-Contributing Structures**

	Structures less than 50 years of Age at the time of designation			Structures more than 50 years of Age at the time of designation		
	No Review	Certificate of Appropriateness Review		No Review	Certificate of Appropriateness Review	
		Administrative (minor works) (within 10 days)	HP Commission (within 35 days)		Administrative (minor works) (within 10 days)	HP Commission (within 35 Days)
<b>Type of Project</b>						
Change in exterior paint schemes	x			x		
Repair of existing exterior architectural features	x			x		
Replacement of existing outside storage	x			x		
Landscaping	x			x		
Site repairs:						
walkways	x			x		
steps	x			x		
driveways	x			x		
Site modifications:						
storage sheds (less than 100 sq. ft.)	x			x		
air conditioners	x			x		
mechanical and electrical service equipment	x			x		
Improvements, alterations, renovations not requiring a building permit (including but not limited to):						
screening	x			x		
siding replacement	x			x		
erection, alteration, or removal of access ramps	x			x		
replacement of fences		x			x	
application of same type of roofing materials	x			x		
Installation of, or change in:						
storm doors and storm windows	x				x	
screens	x			x		
fences		x			x	
Demolition			x			x
Construction			x			x
Change of (including but not limited to):						
brick walkway	x				x	
colored, leaded or beveled glass	x				x	
driveway		x			x	
gutters	x			x		
landscape wall		x			x	
ornamentation		x				x
permanent sign		x			x	
porch/deck/steps		x			x	
roof		x				x
siding		x			x	
shutters	x				x	
doors and windows		x			x	



B. *Review Criteria for Certificate of Appropriateness*

1. In making a determination whether to issue or deny a Certificate of Appropriateness, if the proposed activities cannot be considered “minor works” as identified in Table XII-1 and Table XII-2, the Preservation Commission shall consider, among other things, the effect of the proposed alteration, relocation, construction, removal or demolition upon the exterior architectural features and upon the historic value, characteristics and significance of the landmark or of the historic district.
2. The criteria to be used by the Preservation Commission in making its determination shall include, but not be limited to:
  - a) The maintenance of the significant original qualities or character of the buildings, structures, sites or objects including, if significant, its appurtenances. The removal or alteration of any historic or distinctive architectural features should be avoided whenever possible.
  - b) The compatibility of proposed new additions and new construction to the original architecture or the landmark or styles within the historic district shall be evaluated against the following general guidelines:
    - 1) *Height*: The height of the proposed building or structure or additions or alterations should be compatible with surrounding buildings or structures.
    - 2) *Proportions of structure’s front façade*: The proportion between the width and height of the proposed building or structure should be compatible with nearby buildings or structures.
    - 3) *Proportions of openings into the facility*: The proportions and relationships between doors and windows should be compatible with existing buildings and structures.
    - 4) *Relationship of building masses and spaces*: The relationship of a building or structure to the open space between it and adjoining buildings or structures should be compatible.
    - 5) *Roof shapes*: The design of the roof should be compatible with that of adjoining buildings and structures.
    - 6) *Appurtenances*: Use of appurtenances should be sensitive to the individual building or structure, its occupants and their needs.
    - 7) *Scale of building or structure*: The scale of the building or structure should be compatible with that of surrounding buildings or structures.
    - 8) *Directional expression of front elevation*: Street façades should blend in with other buildings and structures with regard to directional expression when adjacent buildings or structures have a dominant horizontal or vertical expression.
  - c) The Secretary of the Interior’s “Standards for Historic Preservation Projects,” as revised from time to time, as follows:
    - 1) Every reasonable effort shall be made to use a property for its originally intended purpose, or to provide a compatible use for a property that requires minimal alteration of the building, structure, site or object and its environment.

- 2) The distinguishing historic qualities or character of a building, structure, site or object and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- 3) All buildings, structures, sites and objects shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
- 4) Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, site or object and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
- 5) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, site or object shall be treated with sensitivity.
- 6) Deteriorated architectural features shall be repaired rather than replaced, wherever feasible. 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, structures, sites or objects.
- 7) The surface cleaning of buildings, structures, sites or objects shall be undertaken utilizing the gentlest means possible. Sandblasting and other cleaning methods that may damage the historic building materials shall not be undertaken.
- 8) Every reasonable effort shall be made to protect and preserve archeological resources affected by or adjacent to any project.
- 9) 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.
- 10) Wherever possible, new additions or alterations to buildings or structures shall be done in such manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the building or structure would remain unimpaired.

*C. Review Process for Certificate of Appropriateness*

1. Any application for a building permit, including plans and specifications when required by the building permit, for designated landmarks or for buildings, structures, sites or objects within designated historic districts, shall be sent by the Building Safety Division to the Zoning Administrator and Chair within ten working days of receipt of the building permit application by the Building Safety Division. The building permit application shall be considered the application for Certificate of Appropriateness unless the applicant completes a separate application for Certificate of Appropriateness. Applications that are not part of a building permit application shall be submitted to the Zoning Administrator. Application forms for Certificate of Appropriateness shall be available from the Department of Community Development Services.

2. The Zoning Administrator and Chair, upon receipt of the completed application, shall determine whether the proposed activity requires a Certificate of Appropriateness. A determination by either the Zoning Administrator or Chair that the proposed activity requires a Certificate of Appropriateness shall cause a continuation of the review process. A determination by both the Zoning Administrator and Chair that the proposed activity does not require a Certificate of Appropriateness shall halt the review process. Written notification of such decision shall be forwarded to the applicant, the Building Safety Manager and the Preservation Commission within ten days of receipt of the application.
3. If the Zoning Administrator and Chair determine that the proposed activity requires a Certificate of Appropriateness, the Zoning Administrator and Chair shall then determine whether or not the proposed activity constitutes a minor work as defined in this Article. If both the Zoning Administrator and Chair determine that the activity constitutes a minor work and conforms to the criteria for a Certificate of Appropriateness, the Zoning Administrator and Chair shall approve the application. Written notification of such decision shall be forwarded to the applicant, the Building Safety Manager and the Preservation Commission within ten days of receipt of the application. If either the Zoning Administrator or the Chair determines that the activity does not conform to the criteria for a Certificate of Appropriateness or does not constitute a minor work, then application for Certificate of Appropriateness shall be forwarded to the Preservation Commission for review within 35 days of receipt of the application.

Within 35 days of receipt of the application for Certificate of Appropriateness or Certificate of Economic Hardship, the Preservation Commission shall schedule a public hearing for consideration of the application. The Department of Community Development Services shall make a good faith effort to post notice by sign in accordance with Section XI-10 herein.

4. If the Preservation Commission determines that the work proposed in the application is consistent with the review criteria in Section Section XII-6.B with or without certain conditions, they may approve a Certificate of Appropriateness with or without conditions by means of a resolution to be passed by a majority vote of those Commissioners currently holding office. Copies of the resolution shall be sent to the owner(s) of record, the Building Safety Division, and the Urbana City Council.
5. If the Preservation Commission finds that the proposed work is not consistent with the review criteria listed in Section XII-6.B, it shall disapprove the application by resolution passed by a majority vote of those Commissioners currently holding office and shall so advise the applicant and the Building Safety Division in writing within 10 days following this decision, and in accordance to the following:
  - a) The Preservation Commission shall state briefly its reasons for denial in writing and may make recommendations to the applicant with respect to the appropriateness of design, arrangement, texture, scale, material, color of material, location or other elements of appearance of the buildings, structures, sites or objects involved. The Secretary shall forward recommendations by the Preservation Commission to the Building Safety Manager and the applicant in those cases where a building permit is required.
  - b) In cases of denial accompanied by recommendation, the applicant may amend the application and be heard again before the Preservation Commission, if within 60 days of the date of receipt of notice of disapproval of the application the applicant amends the application to conform to the recommendations. The applicant shall be heard at the next regular meeting of the Preservation Commission after receipt of the amended application and the Preservation Commission shall approve or disapprove the amended application by resolution passed by a majority vote of those Commissioners currently holding office.

D. *Certificate of Economic Hardship*

1. Notwithstanding any of the provisions of this Article to the contrary, the Preservation Commission may consider issuance of a Certificate of Economic Hardship to allow the performance of work for which a Certificate of Appropriateness has been denied.
2. An applicant for a Certificate of Economic Hardship may submit any or all of the following information in order to assist the Preservation Commission in making a determination on the application:
  - a) The amount paid for the property, the date of purchase and identification of the party from whom the property was purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased.
  - b) The assessed value of the land and improvements thereon according to the two most recent assessments.
  - c) Real estate taxes paid for the previous two years.
  - d) Remaining balance on mortgage, if any, and annual debt service, if any, for the previous two years.
  - e) All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property.
  - f) Any listing of the property for sale or rent, price asked and offers received, if any.
  - g) Any consideration given by the owner as to profitable adaptive uses for the property.
  - h) If the property is income-producing, the annual gross income from the property for the previous two years, itemized operating and maintenance expenses for the previous two years, and annual cash flow before and after debt service, if any during the same period.
  - i) Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture or other.
  - j) The cost of the proposed work and the cost of alternatives.
  - k) Any other information, including the income tax bracket of the owner, applicant or principal investors in the property, as may be reasonably necessary for a determination as to whether the property can be reasonably used to yield a reasonable return to present or future owners.
3. If the Preservation 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 90 days. During this period of delay, the Preservation Commission shall consider alternative proposals to allow for a reasonable beneficial use or a reasonable economic return for the property, or to otherwise preserve the subject property.
4. If by the end of this 90 day period, the Preservation 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 Preservation Commission shall

issue a Certificate of Economic Hardship approving the proposed work. The Preservation Commission's failure to grant the Certificate of Economic Hardship shall be deemed to be a denial of the application.

*E. Appeal of Certificate of Appropriateness or Certificate of Economic Hardship*

1. When a Certificate of Appropriateness or a Certificate of Economic Hardship is approved or denied for either a landmark or a building, structure, site or object within a historic district, the applicant or any property owner within the district or any person with financial interest in the property may, within 30 days of the final action by the Preservation Commission, appeal the Preservation Commission's decision to the City Council.
2. Notification of appeal shall be given in accordance with Section XI-10 of this Ordinance.
3. The City Council may affirm or revise the decision by a majority vote of the Council members currently holding office after due consideration of the facts contained in the record submitted to the Council by the Preservation Commission. The Council may overturn the Preservation Commission's decision by a majority vote of the Council members currently holding office.
4. If the Council decides that a Certificate of Economic Hardship should be issued, the Secretary shall notify the applicant and the Building Safety Division within seven days of the Council's decision and the Building Safety Division then shall begin review of the permit within 15 days.
5. If the Council concurs with the Preservation Commission's decision not to issue a Certificate of Appropriateness or a Certificate of Economic Hardship, the Secretary shall notify the applicant and the Building Safety Division of this decision within seven days.

*F. Special Emergency and Life Safety Circumstances*

1. If emergency circumstances affect a landmark or a building, structure, site or object within a historic district in a way that requires immediate relief, repair or demolition, the Urbana Fire Chief or Building Safety Division Manager shall certify that such conditions exist and said conditions shall be eliminated as quickly as is practicable. Emergencies are defined as life or health-threatening conditions requiring immediate attention.
2. In a non-emergency circumstance, where the Urbana Fire Chief or Building Safety Division Manager shall require exterior alterations in an existing use to conform to life safety or other codes, a Certificate of Appropriateness shall be required. In the event that irreconcilable conflicts arise between such codes and this Article, the Preservation Commission shall grant permission to conform to those codes even if a Certificate of Appropriateness would not otherwise be issued.

**Section XII-7. Affirmation of Existing Zoning**

This Article does not modify or negate the existing zoning of any property in the City of Urbana. Furthermore, nothing contained in this Article relieves any person of the duty of complying with all other statutes, laws, ordinances and regulations. Nor is anything in this Article XII intended to amend the powers of any other regulatory body of the City.

## **Section XII-8. Building Permits Previously Issued**

The provisions of this Article shall not apply to a structure for which a building permit has been applied for, or issued, prior to the date the Secretary of the Commission receives a nomination for a landmark or historic district designation pertaining to said structure. Such exemption shall remain in force until the date that a certificate of occupancy is issued for said building permit.

## **Section XII-9. Penalties**

- A. Any person, firm or corporation who alters, demolishes, repairs or relocates any landmark or any building, structure, site or object within a historic district without complying with the provisions of this Article shall be required to restore the building, structure, site or object to its appearance prior to the violation. Any action to enforce this section shall be brought by the City Attorney, his designee or by designated representatives of the Department of Community Development Services. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.
- B. Any person, firm or corporation knowingly violating this article of this ordinance, upon conviction, shall be fined not less than \$50 nor more than \$500. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(Ord. No. 2005-01-010, 01/28/05)

## **Section XII-10. National Register of Historic Places**

- A. *Criteria for Evaluation.* The Preservation Commission shall use the guidelines of the National Register for Historic Places for evaluating potential sites for National Register nomination.
- B. The following criteria are designed to guide the states, federal agencies and the Secretary of the Interior in evaluating potential entries (other than areas of the National Park System and national historic landmarks) for the National Register:
  - 1. The quality of significance in American history, architecture, archeology and culture is present in districts, sites, buildings, structures and objects that possess integrity of location, design, setting, materials, workmanship, feeling and association; and
  - 2. That are associated with events that have made a significant contribution to the board patterns or our history; or
  - 3. That are associated with the lives of persons significant in our past; or
  - 4. That embody the distinctive characteristics of a type, period or method of construction or that represent the work of a master or that possess high artistic values or that represent a significant and distinguishable entity whose components may lack individual distinction; or
  - 5. That has yielded, or may be likely to yield, information important in prehistory or history.
- C. Ordinarily, cemeteries, birthplaces or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for

the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

1. A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
2. A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or
3. A birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his or her productive life; or
4. A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
5. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan and when no other building or structure with the same association has survived; or
6. A property primarily commemorative in intent if design, age, tradition or symbolic value has invested it with its own historical significance; or
7. A property achieving significance within the past 50 years if it is of exceptional importance. (Ord. No. 9798-112, 06-06-98)

**CERTIFICATE OF ECONOMIC HARDSHIP**  
**Zaruba v. Village of Oak Park**

COURTESY OF THE ILLINOIS MUNICIPAL LEAGUE

[www.iml.org](http://www.iml.org)

The decision of a village to deny plaintiff a Certificate of Economic Hardship, which was required by village ordinance before demolishing a home located within an historic district, was affirmed as it was not against the manifest weight of the evidence.

Zaruba v. Village of Oak Park, 296 Ill. App. 3d 614, 695 N.E.2d 510, 230 Ill. Dec. 1020 (1st Dist. 1998). The plaintiff wanted to demolish his property which was located within the Village's historic district. The wrecking permit could not be issued without the Village first issuing either a Certificate of Appropriateness or a Certificate of Economic Hardship. The Historic Preservation Commission concluded that the building was a contributing resource and, therefore, denied the plaintiff's request for a Certificate of Appropriateness (Certificate of Economic Hardship). At the hearing, the plaintiff testified that there was substantial renovation necessary to make the house habitable and he could not recover his costs after the renovation. The Commission, however, found that the plaintiff overestimated the cost of renovation and included non-essential repairs in his estimated cost, such as resurfacing the floors. The Commission further noted that the building was structurally sound. Finally, the Commission explained that the plaintiff failed to establish that the house was incapable of being put to any reasonable use or that he could not obtain a reasonable economic return without demolishing the building. The Commission noted that any economic hardship was partly due to the plaintiff's failure to repair the property sooner. The Commission concluded that a Certificate of Economic Hardship was inappropriate. The Village adopted the Commission's findings. The circuit court reversed, finding that the Commission should not have considered whether the plaintiff's economic hardship was self-imposed, at least absent finding of an intent by him to circumvent the ordinance. The Village appealed.

Four factors should be considered in determining whether a Certificate of Appropriateness should be granted: 1) a substantial decrease in the fair market value of property as a result of the denial of certificate; 2) the structural soundness of any structures on the property and their suitability for rehabilitation; 3) the economic feasibility of rehabilitation and reuse of the structure; and, 4) the cost the proposed construction, alteration, relocation or demolition. With



regard to the first factor, the court found that the plaintiff failed to produce any evidence that denial of the certificate would decrease the property's fair market value. Secondly, the court found that, according to the building inspector, the building was structurally sound. Third, the court found that the plaintiff failed to produce any evidence that the house was incapable of being rehabbed and sold at a profit. Finally, the court found that the plaintiff failed to suggest the costs of demolishing the house and building something new. Consequently, there was no way of knowing if demolition was the best economic course for the plaintiff. Therefore, the court held that the Commission's findings, which were adopted by the Village, were not against the manifest weight of the evidence. The decision of the circuit court was reversed. The decision by the Village to follow the Commission's recommendation was affirmed.