

ORDINANCE NO. 2010-07-067

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE CITY OF URBANA, ILLINOIS**

**(Revising Article XII, Historic Preservation
Ordinance - Plan Case No. 2125-T-10)**

WHEREAS, the City Council of the City of Urbana, Illinois, adopted Ordinance No. 9293-124 on June 21, 1993 consisting of a comprehensive amendment to the 1979 Zoning Ordinance of the City of Urbana, also known as the Urbana Zoning Ordinance; and

WHEREAS, the City Council of the City of Urbana, Illinois adopted Ordinance No. 9798-112 on June 6, 1998 consisting of the addition of a Historic Preservation Ordinance; and

WHEREAS, the Zoning Administrator has submitted a petition to amend the Urbana Zoning Ordinance to revise the text of Article XII, Historic Preservation Ordinance. The revision will clarify intent, make Article XII easier for applicants, the Historic Preservation Commission, and staff to understand and use, and will help strengthen the City's historic preservation determinations based upon recent case law; and

WHEREAS, said petition was presented to the Urbana Historic Preservation Commission on April 7, 2010; and

WHEREAS, the Urbana Historic Preservation Commission voted four ayes to zero nays to forward the proposed revision with a recommendation for approval; and

WHEREAS, said petition was presented to the Urbana Plan Commission as Plan Case No. 2125-T-10; and

WHEREAS, after publication in accordance with Section XI-7 of the Urbana Zoning Ordinance and with Chapter 24, Section 11-13-14 of the Illinois

Revised Statutes, the Urbana Plan Commission held a public hearing to consider the proposed amendment on June 24, 2010; and

WHEREAS, the Urbana Plan Commission voted six ayes to zero nays to forward the proposed revision set forth in Plan Case No. 2125-T-10 to the Urbana City Council with a recommendation for approval; and

WHEREAS, after due and proper consideration, the Urbana City Council has deemed it to be in the best interests of the City of Urbana to amend the text of the Urbana Zoning Ordinance as described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. A new Article XII, *Historic Preservation*, of the Zoning Ordinance is hereby enacted to read as follows:

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-5.1 District and Landmark Designation Protests**
- Section XII-6. Certificates of Appropriateness and Economic Hardship**
- 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;
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.

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

Certificate of Appropriateness: A certificate approving of plans for alteration (as defined herein)-of either a designated landmark or a structure within a designated historic district.

Certificate of Economic Hardship: A certificate authorizing an alteration (as defined herein) 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.

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 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 (as defined herein) 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:
 - a. *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:
 - 1) The occupant of the property affected at the address of the property;
 - 2) 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;
 - 3) The person shown on the last recorded deed of the property affected directing where the tax bill should be sent; and
 - 4) 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.

b. *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. The Preservation Commission shall record said amendment at the office of Champaign County Recorder of Deeds.

- a. 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.
- b. 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. The Preservation Commission shall record said amendment or rescindment at the office of Champaign County Recorder of Deeds.

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 or substituting 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)
Description of undertaking			
<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	
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 material, such as masonry, copper, and wood		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

Table XII-1 (cont'd)

	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)
Description of undertaking			
<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		
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 materials, such as masonry (buildings less than 50 years old)	X		
Painting of unpainted materials, such as 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		

Table XII-2 (cont'd)

	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

Section 2. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities.

Section 3. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the

City of Urbana, Illinois, at a regular meeting of said Council on the 19th
day of July, 2010.

PASSED by the City Council this 19th day of July,
2010.

AYES: Gehrig, Lewis, Marlin, Roberts, Smyth, Stevenson

NAYS:

ABSTAINS:



Penelope D. Clark
Penelope D. Clark, City Clerk

APPROVED by the Mayor this 26th day of July,
2010.

Laurel Lunt Prussing
Laurel Lunt Prussing, Mayor