

## CHAPTER 24

### HISTORIC PRESERVATION COMMISSION

24.01 Purpose and Intent	24.15 Certificate of Appropriateness Hearings
24.02 Definitions	24.16 Approval Required
24.03 Commission Membership	24.17 Appeals
24.04 Powers and Duties	24.18 Fees
24.05 Operating Procedures	24.19 Property Maintenance Required
24.06 Commission Meetings	24.20 Design Standards and Guidelines
24.07 Annual Report	24.21 Unsafe or Dangerous Conditions Exempted
24.08 Commission Training	24.22 Principles for Review
24.09 Designation of Historic Landmarks	24.23 Economic Hardship
24.10 Designation of Historic Districts	24.24 Demolition Procedures
24.11 Amending and Repealing Designations	24.25 Emergency Demolition
24.12 Bloomfield Courthouse Square Commercial District	24.26 Waiver
24.13 Certificate of Appropriateness Required	24.27 Violations
24.14 Certificate of Appropriateness Application	

#### **24.01 PURPOSE AND INTENT.** The purposes of this chapter are to:

1. Promote the educational, cultural, economic and general welfare of the public through the recognition, enhancement and perpetuation of sites and districts of historical and cultural significance;
2. Safeguard the City's historic, aesthetic and cultural heritage by preserving sites and districts of historic and cultural significance;
3. Stabilize and improve property values;
4. Foster pride in the legacy of beauty and achievements of the past;
5. Protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business thereby provided;
6. Strengthen the economy of the City;
7. Promote the use of sites and districts of historic and cultural significance as places for the education, pleasure, and welfare of the people of the City.

#### **24.02 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. "Abutting property" means any property within one-hundred feet (100') of the subject, or applicant's, property.
2. "Alteration" means any addition or modification of any portion of the exterior of a building, structure, object, site or site feature that changes the architectural style, arrangement, texture, or material of the building or feature or significantly changes the color; if such change,

addition, or modification is visible from the public street, sidewalk, alley, or park.

3. “Building” means any structure built for the support, shelter, or enclosure of persons, animals, or property of any kind.

4. “Certificate of appropriateness” means a document issued by the Historic Preservation Commission which documents their approval or approval with modification, of proposed alterations to designated historic landmarks or to buildings, structures, sites, and objects within designated historic districts, which are subject to review.

5. “Contributing” means any building, site, object, and/or structure contained in a designated historic district or National Register of Historic Places historic district, that is identified as a contributor to the historic district.

6. “Cultural resource” means any building, site, structure, object, or district, which may have significance in history or pre-history.

7. “Demolition” of a building means the act or process of pulling down, destroying, removing or razing a building or commencing the work of total or substantial destruction.

8. “Design standards and guidelines” means a document that is produced by the City for the purpose of guiding review of proposed alterations to designated historic landmarks and historic districts. This document establishes criteria for building alterations or new construction, which, if followed, will provide compatible design.

9. “Economic feasibility” refers to the economic impact of preservation measures, generally comparing use of traditional materials versus modern counterparts. For instance, there may be a range of appropriate replacement materials listed, with preference given to traditional materials. In some cases, traditional materials may be more expensive or not readily available, lowering the economic feasibility of using the preferred, traditional materials.

10. “Economic hardship” refers to the economic impact of preservation requirements that would deprive a property owner of all reasonable economic use or return on a property.

11. “Historic district” means a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically by plan or physical development. This area must contain contiguous pieces of property under diverse ownership that meets one or more of the historic significance criteria and has been officially designated by the City through the passage of an ordinance.

12. “Historic landmark” is a building, structure, site or object that meets one or more of the Historic Significance Criteria and has been officially designated through passage of an ordinance.

13. “Historic significance criteria” applies to the quality of significance in American history, architecture, archeology, engineering, and culture that is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

A. That are associated with events that have made a significant contribution to the broad patterns of our history; or

B. That are associated with the lives of significant persons in the past; or

C. 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

D. That have yielded, or may be likely to yield, information important in history or prehistory.

14. “Improvement” means any structure, place, work of art, landscape element, or other object constituting a physical betterment of real property that is visible from a public way or adjoining properties.

15. “Majority” means a simple majority consisting of one over half of the members present and voting if a quorum is established.

16. “Minimum maintenance requirements” mean those regulations adopted by the City requiring property owners to maintain the buildings, structures and sites associated with a landmark or historic district.

17. “National Register Historic District” means a district that is listed on the National Register of Historic Places.

18. “Non-contributing structure” means any structure that does not contribute to the historic character of a district that is identified as such in an officially adopted historic district or National Register listed district.

19. “Object” is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, moveable, an object is associated with a specific setting or environment.

20. “Ordinary maintenance and repair” means any work where the purpose and effect of such work is to correct any deterioration or decay of or damage to a structure or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay, or damage.

21. “Preservation” is defined as the act or process of applying measures necessary to sustain the existing form, integrity and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

22. “Preservation Commission” means the Bloomfield Historic Preservation Commission, as established by this chapter.

23. “Property inventory” means a file of information about buildings, structures, sites, objects and districts in the City of Bloomfield, including, but not limited to, completed Iowa Site Inventory forms, National Register of Historic Places Nominations, Reports of Survey and Evaluation projects and Contexts developed for the City, officially designated City of Bloomfield Landmark and Historic District Nominations and other germane information.

24. “Quorum” means a majority of the membership of the Bloomfield Historic Preservation Commission.

25. “Significant features” means those elements of a building, structure, object or site or a district that contributes to its historic character and value.

26. “Site” is 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 structure.

27. “Site furnishing” refers to objects or elements in the public right-of-way or in public spaces. They are generally small scale elements that may be functional, decorative or both. They can include benches, lights, signs, drinking fountains, trash receptacles, fences, tree grates, clocks, flagpoles, sculpture, monuments, memorials, planters and urns. They

may be movable, used seasonally or permanently installed. They occur as singular items, in groups of similar or identical features, or as part of a system (e.g. signage).

28. "Substantial adverse change" means any change in physical appearance to a building which would significantly alter those features which give the building its value as a historic resource.

#### **24.03 COMMISSION MEMBERSHIP.**

1. The Historic Preservation Commission (hereinafter referred to as the Preservation Commission or Commission) consists of five members appointed by the Council. The members of the Preservation Commission shall be residents of the City or owners of real property within the City. At least one resident (or property owner within the district who is also a resident of the City) of each designated area of historic significance shall be appointed to the Commission. Members shall receive no compensation. The members shall have a demonstrated interest in historic preservation and, as available, shall include professionals in history, architectural history, archaeology, planning, or architecture. *(Ord. 714 – Aug. 21 Supp.)*

2. The term of office for each member of the Commission shall be three (3) years. The appointment of Commissioners shall be staggered with no fewer than two being appointed in any given year and terms commencing on the first day of April.

3. Vacancies occurring in the Commission, other than expiration of term of office, shall be appointed in the same manner as the original appointee only for the unexpired portion of the term of the member replaced.

#### **24.04 POWERS AND DUTIES.** The Commission shall have the following powers and duties:

1. The Commission may conduct studies for the identification, evaluation, registration and designation of historic landmarks and historic districts meeting the definitions established by this chapter. The Commission may proceed at its own initiative or upon petition from any person, agency or organization.

2. The Commission may accept nominations to designate local historic landmarks and local historic districts. Nominations may be prepared by the Commission and can be submitted by any person, agency or organization. The Commission will review, comment, and

make recommendation to designate or not to designate the nominated historic property.

3. The Commission shall establish and oversee a property inventory that complies with the property inventory of the State of Iowa and is available for public inspection and use.

4. The Commission shall make a recommendation to the State Historic Preservation Officer for the listing of a property on the National Register of Historic Places and shall conduct a public hearing thereon.

5. The Commission shall conduct a periodic review of the City's preservation and design review programs to ensure that they meet the intent of this chapter.

6. The Commission shall review all applications for a Certificate of Appropriateness to alter designated historic landmarks or to alter buildings, structures, objects and/or sites within a designated Historic District.

7. The Commission shall report annually to the Council on the status of the City's preservation and design review programs.

8. The Commission shall from time to time establish written design standards and guidelines, subject to the approval of the Council. The Council's approval shall be by resolution.

9. The Commission may apply for grants or seek funding for the operation of programs that meet the intent of this chapter.

10. The Commission may promote public interest in the purposes described in this chapter by carrying on a public education program. This can include:

A. Assist and encourage any organization or persons who desire to protect, enhance, or preserve the use of structures and areas of historic and/or cultural significance;

B. Encourage and assist in the establishment of educational and cultural programs, tours, and events to advance the purpose described in this chapter; advise owners or residents of historic properties;

C. Encourage and assist in the use of incentive programs that aid property owners and residents of historic and/or culturally significant structures for their preservation, and/or culturally significant structures or areas of problems and techniques of, and resources for, historic preservation;

- D. Make recommendations to the Council and City Commissions and Boards on preservation issues when appropriate.
11. In addition to those powers and duties specified above, the Commission may, with Council approval:
- A. Acquire by purchase, bequest or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties;
  - B. Preserve, restore, maintain and operate historic properties, under the ownership or control of the Commission;
  - C. Lease, sell, and otherwise transfer or dispose of historic properties, including properties subject to rights of public access and other covenants; in a manner that will preserve the property;
  - D. Cooperate with the federal, state, and local governments in pursuance of the objectives of historic preservation;
  - E. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation.

#### **24.05 OPERATING PROCEDURES.**

1. The Commission shall adopt by-laws for the conduct of its business in accordance with the provisions of this chapter that define when the meetings will occur, how the agenda is to be structured, and how decisions are to be made.
2. The Commission shall elect a chairman, vice-chairman and a secretary, each of whom shall serve for one year and who shall be eligible for reelection.

#### **24.06 COMMISSION MEETINGS.**

1. The Commission shall meet once a month, excepting when no business is on the agenda. Additional meetings may be scheduled by the Commission as needed.
2. All regularly scheduled meetings of the Commission shall be open to the public. Any person, or his duly constituted representative, shall be entitled to appear and be heard on any matter before the Commission.
3. The Commission shall keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and

information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

4. The City Clerk shall post the official City posting to contain notice of the time, place, and subject matter of such hearing at least twenty-four (24) hours before the hearing.

5. A majority of the Commission shall constitute a quorum; and action taken at any meeting shall require the affirmative vote of the majority of the Commission. If no quorum exists, then the application will be forwarded to the next meeting of the Planning Commission.

**24.07 ANNUAL REPORT.** The Preservation Commission shall prepare a report to the Council summarizing the past year's activities of the Commission. This report should state the status of preservation in the City and recommend any improvements which the Commission deems necessary. The Commission shall present this report annually to the City Council.

**24.08 COMMISSION TRAINING.** The Preservation Commission shall participate in training programs from time to time. These may include special Commission study sessions, which shall not be a regularly scheduled meeting, or other training programs provided in the state or nation. At a minimum, all members shall attend one training session annually.

**24.09 DESIGNATION OF HISTORIC LANDMARKS.**

1. A property owner, the Preservation Commission, or an interested party, agency, or organization may request designation of a historic landmark.

2. Nominations to designate historic landmarks will be submitted to the Preservation Commission and must contain the following:

A. A completed Iowa site inventory form with all attachments or a National Register of Historic Places Nomination Form for a listed property;

B. Photo-documentation of the property at the time of designation;

C. A scale map showing the location of the property within the City at the time of designation;

D. A scale map of the property showing the proposed boundaries, extant buildings, structures, objects, and sites within the tract at the time of designation;



- E. Statement of, and documentation that the property meets one or more of the designation/ significance criteria.
3. Nominations must be submitted 30 days in advance of the regularly scheduled meeting of the Preservation Commission.
  4. Nominations must be complete when submitted to the Preservation Commission; if the nomination is not complete, the nomination will be returned to the applicant.
  5. Nomination will be considered at the next meeting of the Preservation Commission following the submission of the nomination.
  6. Nominations will be made available for public review at City Hall.
  7. The City Clerk will notify all owners of abutting properties by mail of the proposed nomination, the date, time, and location of the Commission meeting at which the nomination will be considered.
  8. The nomination will be sent to the State Historic Preservation Office for review and comment within fourteen days of receipt.
  9. The Preservation Commission during their meeting will determine if the property meets the significance criteria. If the property meets the criteria, they will recommend designation. If the property does not meet the criteria, they will not recommend designation.
  10. If the Preservation Commission recommends designation, the Commission will prepare an ordinance designating the property as a historic landmark. The ordinance:
    - will include the legal description of the property;
    - will specify the applicable significance criteria and provide an explanation of significance; and
    - will contain a statement that proposed alterations to the property as described in the nomination on file in the Property Inventory will require issuance of a certificate of appropriateness before they are initiated.
  11. The proposed ordinance will be submitted to the State Preservation Office for review and comment within fourteen days of receipt.
  12. The Preservation Commission will submit their recommendation, the nomination, and the ordinance designating the property to the Council.

13. The Council will consider the nomination, the ordinance, the recommendations of the Preservation Commission and the State at a regularly scheduled meeting. If the Council approves designation, the designation will be forwarded to the City Clerk for recording and the designation and nomination will be filed in the City's Property Inventory.

#### **24.10 DESIGNATION OF HISTORIC DISTRICTS.**

1. A property owner, the Preservation Commission, or an interested party, agency, or organization may initiate designation of a historic district.
2. Nominations to designate historic districts will be submitted to the Preservation Commission and must contain the following:
  - A. Completed Iowa site inventory forms with all attachments or the National Register Nomination for the listed district;
  - B. Photo-documentation of the property at the time of designation;
  - C. A scale map showing the location of the proposed district within the City at the time of designation;
  - D. A scale map of the district showing the proposed boundaries, extant buildings, structures, objects, and sites within the tract at the time of designation;
  - E. Statement of, and documentation that the district meets one or more of the designation/significance criteria.
3. The Preservation Commission will seek to demonstrate owner support, which may be in the form of a petition or public testimony at a public hearing.
4. Nominations must be submitted 30 days in advance of the regularly scheduled meeting of the Preservation Commission.
5. Nominations must be complete when submitted to the Preservation Commission; if the nomination is not complete, the nomination will be returned to the applicant.
6. Nominations will be considered at the next meeting of the Preservation Commission following the submission of the nomination.
7. Nominations will be made available for public review at City Hall.
8. The City Clerk will notify all property owners within the historic district and owners of abutting properties by mail of the proposed

nomination, the date, time, and location of the Commission meeting at which the nomination will be considered.

9. The nomination will be sent to the State Historic Preservation Office for review and comment within fourteen days of receipt.

10. The Preservation Commission, during their meeting, will determine if the properties meet the significance criteria. If the properties meet the criteria, they will recommend designation. If the properties do not meet the criteria, they will not recommend designation.

11. If the Preservation Commission recommends designation, the Commission will prepare an ordinance designating the properties as a historic district. The ordinance:

- will include the legal description of the property;
- will specify the applicable significance criteria and provide an explanation of significance; and
- will contain a statement that proposed alterations to the property as described in the nomination on file in the Property Inventory will require issuance of a certificate of appropriateness before they are initiated.

12. The proposed ordinance will be submitted to the State Preservation Office for review and comment within fourteen days of receipt.

13. The Preservation Commission will submit their recommendation, the nomination, and the ordinance designating the property to the Council.

14. The Council will consider the nomination, the ordinance, the recommendations of the Preservation Commission and the State at a regularly scheduled meeting. If the Council approves designation, the designation will be forwarded to the City Clerk for recording and the designation and nomination will be filed in the City's Property Inventory.

#### **24.11 AMENDING AND REPEALING DESIGNATIONS.**

1. A property owner, the Preservation Commission, an interested agency or organization may initiate the amendment or repeal of historic landmark or historic district designation by following the process outlined for designation in this chapter.

2. Amending a historic landmark or district will involve adding buildings, structures, objects and sites by following the appropriate designation process outlined in this chapter.

3. A repeal of designation may occur if the historic landmark or historic district no longer meets the significance criteria due to subsequent discovery of information on the significance or destruction of the historic property by an act of God.

#### **24.12 BLOOMFIELD COURTHOUSE SQUARE COMMERCIAL DISTRICT.**

1. The Bloomfield Courthouse Square Commercial District means the area described herein which is a part of the C-2 district as established in the Zoning Regulations. Said area shall be all lots abutting upon Franklin Street between Madison Street and Washington Street; all lots abutting upon Washington Street between Franklin Street and Jefferson Street; all lots abutting upon Jefferson Street between Madison Street and Washington Street and all lots abutting upon Madison Street between Franklin Street and Jefferson Street. Also lot one in block thirty-three and all lots abutting on the north side of Jefferson Street between Madison Street and a point 79.5 feet west of the southwest corner of lot eight in block nineteen, all in the original town (now City of Bloomfield Iowa.)

2. Said area contains a significant portion of buildings, structures or other improvements which, considered as a whole:

- A. Represent one or more distinctive styles or periods of architecture, methods of construction, or both; or
- B. Are associated with persons or events that have made significant contributions to the course of local, state or national history;
- C. Possess a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials or combination thereof, which is deemed to add significantly to the value and attractiveness of properties within such area.

#### **24.13 CERTIFICATE OF APPROPRIATENESS REQUIRED.**

1. Within a historic district or landmark, no person, owner or other entity shall carry out or permit to be carried out the erection, movement, demolition, reconstruction, restoration, renovation, or alteration of structures without first having applied for and been granted a Certificate of Appropriateness by the Preservation Commission for the proposed work under this chapter. This requirement applies to exteriors only unless interiors are specifically designated.

2. In cases where a property may be located in an area with a separate review body, such as The Main Street Design Committee, the Preservation Commission will hear the recommendations of the applicable review body and take them into consideration when making their final decision.

#### **24.14 CERTIFICATE OF APPROPRIATENESS APPLICATION.**

1. An owner or tenant of a designated property seeking to alter an improvement must apply to the City for a Certificate of Appropriateness, on forms prescribed by the City and including all information that the City determines is necessary to consider the application. Required submittal material may include, but is not limited to, the following documentation:

- A. Completed application form;
- B. Site plan/ roof plan (drawn to scale);
- C. Proposed building elevations (drawn to scale);
- D. Photographs of the building conditions (existing and historic);
- E. Product literature and specifications;
- F. Materials sample and color samples.

Incomplete applications will not be considered by the Preservation Commission.

2. Applications for a Certificate of Appropriateness shall be filed a minimum of thirty days before the next regularly scheduled Preservation Commission meeting at which the application is to be considered.

3. Upon receipt of an application for a Certificate of Appropriateness, the Preservation Commission staff representative shall log in the application including the date filed and shall establish a separate file for each application. This file shall provide a record of the certificate application and all actions taken by the Preservation Commission, and any subsequent action or reports of the Director of Public Works, if appropriate.

4. The staff member shall then place the application on the agenda for the next regularly scheduled Preservation Commission meeting and shall notify the applicant of the time, date, and place of said meeting.

5. The applicant may request to meet with a subcommittee of the Preservation Commission for a conceptual review of the proposed work, particularly relating to new construction or additions, prior to the

Commission meeting. Any recommendations made by the subcommittee shall be reported at the formal Commission meeting.

6. Upon reviewing the application, the Commission may determine that the application be approved as submitted, denied as submitted, or approved with conditions.

7. If the Preservation Commission approves the application as submitted, the certificate shall be issued within three working days per plans submitted and approved or modified by the Commission and accepted by the applicant. Conditions of the permit shall be noted on the permit.

#### **24.15 CERTIFICATE OF APPROPRIATENESS HEARINGS.**

1. The Preservation Commission shall hold a public hearing on an application for a Certificate of Appropriateness within thirty days after the completed application was filed.

2. The Preservation Commission shall determine whether the application meets the standards in Bloomfield's Design Guidelines. Within thirty days after the hearing date the Commission shall adopt written findings and conclusions. The Commission shall either recommend that the application be approved as submitted, denied as submitted, or approved with conditions.

3. At least ten days before the hearing date, the City shall post the application on the property to indicate that a Certificate of Appropriateness has been requested. The City shall also mail a certified notice to the recorded owners of all property that is the subject of the application, to abutting properties, and to the Chair of the Preservation Commission.

#### **24.16 APPROVAL REQUIRED.**

1. No City permit shall be issued for any purpose regulated by this chapter for a property unless and until the proposed work or development has been approved or granted approval by the Preservation Commission, or by the City Council on appeal, and then shall be issued only in conformity with such approval or conditional approval.

2. The City shall issue a Certificate of Appropriateness if:

A. An application has been recommended for approval by the Preservation Commission; or

B. The City Council on appeal has approved the Certificate of Appropriateness.

3. When approving an application for a Certificate of Appropriateness, the Preservation Commission may impose a time limit within which construction must begin.
4. If the Preservation Commission denies approval of an application for a Certificate of Appropriateness, no person may submit a subsequent application for the same work within sixty days.

**24.17 APPEALS.** Any person aggrieved or affected by a decision of the Preservation Commission to approve, grant conditional approval, or deny an application, or by the failure of the Commission to act within the time as required may appeal to the City Council from such decision at any time within fifteen days after the date upon which the Commission announces its decision or is required to announce its decision. The grounds for an appeal are that the Commission has violated due process, and that their decision was arbitrary and capricious.

1. An appeal shall be taken by filing a letter of appeal in duplicate, and by concurrently paying a fee in an amount established by City Council resolution for such appeals. Such letter shall set forth the grounds upon which the appeal is based.
2. A staff member shall transmit to the City Council the letter of appeal, copies of the application, meeting minutes and all other papers constituting the record upon which the action of the Preservation Commission was taken.
3. An appeal shall be heard by the Council within a timely fashion after the Commission action.
4. The Council shall review the application and apply the standards as set forth in this chapter in considering the appeal.
5. The Council may affirm, reverse, or modify the decision of the Commission.
6. If the Council affirms the decision or action complained of, and if the appealing person or entity is still aggrieved by such decision or action, the appealing person or entity may do either of the following:
  - A. With the consent of the City Council, have the matter finally resolved by binding arbitration. Binding arbitration shall be before an arbitrator agreed to by both the Council and the appealing person or entity. If the parties are unable to agree on an arbitrator, the matter shall be resolved by a three- person arbitration panel made up of one arbitrator selected by the Council, one arbitrator selected by the appealing person or entity, and one arbitrator selected by the other two arbitrators. The cost

and expense of a single arbitrator shall be borne equally by the City and the appealing person or entity. If a three-person arbitration panel is selected, each party shall bear the expense of its own arbitrator and the parties shall jointly and equally bear the cost and expense of the third arbitrator, and of the arbitration. Each party to the arbitration shall pay its own costs, disbursements, and attorney fees.

B. Bring an action for declaratory ruling in district court to review the decision of the Council.

#### **24.18 FEES.**

1. A fee shall be paid for review by the Commission of an application for a project that includes erection, movement, demolition, reconstruction, restoration, renovation, or alteration of structures. Payments of such fee shall be required from the applicant upon submission of the application to the City Clerk. Such fees may be adjusted by the Council from time to time, as deemed necessary.

2. Applicants proposing demolition shall be required to post a bond, the amount of which shall be set by the Council, prior to the issuance of the Certificate of Appropriateness, in order to ensure complete removal of debris left by said demolition and recompense for damage done to adjacent properties.

#### **24.19 PROPERTY MAINTENANCE REQUIRED.**

1. The Council intends to preserve from deliberate or inadvertent neglect the exterior portions of designated landmarks, contributing buildings or structures in a Historic District and all interior portions thereof whose maintenance is necessary to prevent deterioration of any exterior portion. No owner, lessee, or occupant of any landmark, contributing building or structure in a Historic District shall fail to prevent significant deterioration of the exterior of the structure or special feature beyond the condition of the structure on the effective date of the designating ordinance. Examples of minimum maintenance requirements stipulate the prompt repair of the following:

A. Facades which may fall and injure members of the public or property;

B. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;



- C. Members of ceilings, roofs, ceiling and roof supports or other horizontal member which age, split or buckle due to defective material or deterioration;
  - D. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors;
  - E. Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of protective covering;
  - F. Any fault or defect in the building which renders it not properly watertight or structurally unsafe.
- 2. Applicants may reference the series of Preservation Briefs published by the National Park Service for detailed descriptions of appropriate treatment and maintenance methods for historic properties.
  - 3. No owner, lessee, or occupant of any historic structure shall fail to comply with all applicable provisions of this chapter and other ordinances of the City regulating property maintenance, including without limitation weed control, garbage, and housing.
  - 4. Before the City Attorney files a complaint in municipal court for failure to maintain the property, the Council shall notify the property owner, lessee, or occupant of the need to repair, maintain, or restore the property, shall assist the owner, lessee, or occupant in determining how to preserve the property, and shall give the owner a reasonable time to perform such work.

#### **24.20 DESIGN STANDARDS AND GUIDELINES.**

- 1. The Preservation Commission shall prepare and adopt, with City Council approval, design standards and guidelines for the review of an application for a Certificate of Appropriateness.
- 2. In making its decision, the Commission shall consider the design standards and guidelines in reviewing an application for a Certificate of Appropriateness. If a conflict exists, the criteria found in this chapter shall have precedence.

#### **24.21 UNSAFE OR DANGEROUS CONDITIONS EXEMPTED.**

Nothing in this chapter shall be construed to prevent any measures of construction, alteration, removal, or demolition necessary to correct the unsafe or dangerous condition of any structure, other feature, or parts thereof where such condition is declared unsafe or dangerous by the City building or zoning division or fire department and where the proposed measures have been declared necessary by the City to correct the condition, as long as only such

work that is absolutely necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining a Certificate of Appropriateness under this chapter, but a certificate is required for permanent alteration, removal, or demolition.

#### **24.22 PRINCIPLES FOR REVIEW.**

1. The Preservation Commission shall adhere to the following principles when reviewing applications for Certificates of Appropriateness.

A. The anticipated use for the property remains that for which it was originally intended or requires minimal alteration of the building, structure or site and its environment for the proposed reuse.

B. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be compromised. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

C. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to recreate an earlier appearance shall be discouraged.

D. Certain alterations which may have taken place in the course of time are potentially significant to understanding the history and development of a building, structure, or site and its environment. These historic alterations may have acquired significance in their own right and this significance shall be recognized and respected.

E. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be retained.

F. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair and replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

- G. Surface cleaning of historic structures shall be undertaken with methods that will avoid damage to the historic building materials.
  - H. Contemporary design for alterations and additions shall not be discouraged when such alterations and additions do not compromise 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.
  - I. Whenever possible, new additions or alterations to the structure shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the historic structure would be unimpaired.
2. The Commission shall consider the following site development and design issues when applicable to reviewing Certificate of Appropriateness applications.
- A. Architectural design;
  - B. Scale and proportion;
  - C. Construction materials;
  - D. Method of construction;
  - E. Grading;
  - F. Site development;
  - G. Orientation of buildings;
  - H. Off-street parking;
  - I. Landscaping;
  - J. Signs;
  - K. Street furniture;
  - L. Public areas;
  - M. Relationship of the project to its surroundings.

**24.23 ECONOMIC HARDSHIP.** If, when seeking approval for the demolition of a historic property the owner claims an economic hardship, the determination of economic hardship shall require the applicant to provide evidence sufficient to demonstrate that the application of the standards and regulations of this section deprives the applicant of all reasonable economic use or return on the subject property. The determination of economic hardship is based solely on the property, independent of the owner or ownership.

1. Application for Determination of Economic Hardship. An application for a determination of economic hardship shall be made on a form prepared by the planning director and shall be submitted to the planning division. The application must include photographs, information pertaining to the historic significance of the landmark site and all information necessary to make findings on the standards for determination of economic hardship.

2. Standards for Determination of Economic Hardship. The Preservation Commission shall apply the following standards and make findings concerning economic hardship:

A. The applicant's knowledge of the landmark designation at the time of acquisition, or whether the property was designated subsequent to acquisition;

B. The current level of economic return on the property as considered in relation to the following:

(1) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased;

(2) The annual gross and net income, if any, from the property for the previous three years; itemized operating and maintenance expenses for the previous three years, and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three years;

(3) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three years;

(4) Real estate taxes for the previous four years and assessed value of the property according to the two most recent assessed valuations by the local assessor;

(5) All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property;

(6) The fair market value of the property immediately prior to its designation as a landmark site and the fair market value of the property as a landmark site at the time the application is filed;

(7) Form of ownership or operation of the property, i.e. sole proprietorship, for-profit corporation or not-for-profit corporation, limited partnership, joint venture, etc.; and

(8) Any state or federal income tax returns on or relating to the property for the previous two years.

C. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two years. This determination can include testimony and relevant documents regarding:

(1) Any real estate broker or firm engaged to sell or lease the property,

(2) Reasonableness of the price or rent sought by the applicant, and

(3) Any advertisements placed for the sale or rent of the property.

D. The infeasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:

(1) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;

(2) Estimate of the cost of the proposed construction, alteration, demolition or removal and an estimate of any additional cost that would be incurred to comply with the decision of the Preservation Commission concerning the appropriateness of proposed alterations;

(3) Estimated market value of the property in the current condition after completion of the demolition and proposed new construction, and after renovation of the existing property for continued use; and

(4) The testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.

E. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.

3. Procedure for Determination of Economic Hardship. The Preservation Commission may establish a three-person economic review panel. If such a review panel is established it shall adhere to the following procedures. This panel shall be comprised of three real estate and redevelopment experts knowledgeable in real estate economics in general, and more specifically, in the economics of renovation, redevelopment and other aspects of rehabilitation. The panel shall consist of one person selected by the Preservation Commission, one person selected by the applicant, and one person selected by the first two appointees. If the first two appointees cannot agree on a third person within thirty days of the date of the initial public hearing, the third appointee shall be selected by the Mayor within five days after the expiration of the thirty-day period.

A. Review of Evidence. All of the evidence and documentation presented to the Preservation Commission shall be made available to and reviewed by the economic review panel. The economic review panel shall convene a meeting to review the evidence of economic hardship in relation to the standards set forth in subsection 2 of this section. The economic review panel may, at its discretion, convene a public hearing to receive testimony by any interested party.

B. Report of Economic Review Panel. Within forty-five days after the economic review panel is established, the panel shall complete an evaluation of economic hardship, applying the standards set forth in subsection 2 of this section and shall forward a written report with its findings of fact and conclusions to the Preservation Commission.

C. Preservation Commission Determination Of Economic Hardship. At the next regular Preservation Commission meeting following receipt of the report of the economic review panel, the Commission shall reconvene its public hearing to take final action on the application.

(1) Finding Of Economic Hardship. If after reviewing all of the evidence, the Commission finds that the application of the standards set forth in subsection 2 of this section results in economic hardship, then the Commission shall issue a certificate of appropriateness for demolition.

(2) Denial Of Economic Hardship. If the Commission finds that the application of the standards set forth in subsection 2 of this section does not result in economic hardship then the certificate of appropriateness for demolition shall be denied.

(3) Consistency With The Economic Review Panel Report. The Commission's decision shall be consistent with the conclusions reached by the economic review panel unless, based on all of the evidence and documentation presented to the Commission, the Commission finds by a vote of three-fourths (3/4) majority of a quorum present that the economic review panel acted in an arbitrary manner, or that its report was based on an erroneous finding of a material fact.

**24.24 DEMOLITION PROCEDURES.** The purpose of this section is to preserve and protect, through advance notice of their proposed demolition, significant buildings within the City which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the City; to encourage owners of significant buildings to seek ways to preserve, rehabilitate, or restore such buildings, rather than demolish them; and by furthering these purposes to promote the public welfare, to preserve the resources of the City, and to make the City a more attractive and desirable place in which to live. To achieve these purposes, the Commission is empowered to advise the Director of Public Works with respect to the issuance of permits for demolition.

1. The Director of Public Works, on the day of receipt of an application for demolition of a significant building or within the next five successive business days, shall cause a copy of each such application for a demolition permit to be forwarded to (or shall satisfy himself that a duplicate of such application has been submitted to) the Commission. No demolition permit shall be issued at that time.

2. The Commission shall fix a reasonable time, within 30 days of receiving a copy of such application, for a hearing on the application and shall give public notice thereof by publishing notice of the time, place, and purpose of the hearing at least fourteen days before said hearing and also, within seven days of said hearing, mail a copy of said notice to the applicant, to the owners of all adjoining properties and all property deemed by the Commission to be, to the Planning Commission.

3. If, after such hearing, the Commission determines that the demolition of the building would not be detrimental to the historical or

architectural heritage or resources of the City, the Commission shall so notify the Director of Public Works within ten (10) days of such determination.

4. If the Commission determines that the demolition of the building would be detrimental to the historical or architectural heritage or resources of the City, such building shall be considered a significant building.

5. Upon a determination by the Commission that the building which is the subject of the application for a demolition permit is a significant building, the Commission shall so advise the applicant and the Director of Public Works, and no demolition permit may be issued until at least twelve months after the date of the application for demolition.

6. Notwithstanding the preceding subsection, the Director of Public Works may issue a demolition permit for a significant building at any time after the receipt of written advice from the Commission to the effect that either;

A. The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or

B. The Commission is satisfied that for at least twelve months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore the subject building, and that such efforts have been unsuccessful.

7. No permit for erection of a new structure on the site of an existing significant building may be issued prior to issuance of a permit for demolition of such existing building.

**24.25 EMERGENCY DEMOLITION.** Nothing in this chapter shall be construed to detract in any way from the authority of the Director of Public Works. However, before acting pursuant to this chapter, the Director of Public Works shall make every reasonable effort to inform the Commission of the Director's intentions to cause demolition before the Director initiates same.

**24.26 WAIVER.** The Director of Public Works shall have the power to vary or waive any provision of the City's Building, Electrical, Housing, Mechanical, or Plumbing Codes pursuant to such codes, in any case in which the Director determines that such variance or waiver does not endanger the public health or safety, and such action is necessary for the continued historical preservation of a landmark.



**24.27 VIOLATIONS.** Any person, firm, or corporation violating any of the terms of this chapter shall be deemed guilty of a municipal infraction or misdemeanor and shall be punishable in accordance with the provisions of this Code of Ordinances. Each day a violation occurs shall constitute a separate offense. The remedies herein provided shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

o o o o o o o o o