

MCO-18-2006

**AN ORDINANCE ESTABLISHING A HISTORIC
PRESERVATION COMMISSION AND ADDING A NEW
CHAPTER TO THE ELMHURST MUNICIPAL CODE
ENTITLED "HISTORIC PRESERVATION"**

BE IT AND IT IS HEREBY ORDAINED by the City Council of the City of Elmhurst, DuPage and Cook Counties, Illinois, in exercise of its home rule authority, as follows:

SECTION 1. That Chapter 4 of the Elmhurst Municipal Code is amended by adding new Section 4.08, as follows:

Section 4.08 Historic Preservation Commission.

- (a) Creation. There is hereby established a Historic Preservation Commission.
- (b) Powers and Duties. The Historic Preservation Commission shall have the powers and duties as set forth in the Elmhurst Historic Preservation Ordinance. (Chapter 21 of the Elmhurst Municipal Code)
- (c) Membership and Officers. The membership and officers of the Historic Preservation Commission shall be as provided in the Elmhurst Historic Preservation Ordinance. The Mayor, City Manager, Director of Zoning, Planning and Economic Development and Zoning Administrator shall be ex-officio members. Ex-officio members shall have no vote.
- (d) Rules. The Historic Preservation Commission shall adopt such rules governing its procedures and regulating its business as it from time to time, deems proper and necessary. The adoption and amendment of rules shall be by a majority vote of the voting members of the Commission each of whom shall be furnished with a copy of such proposed rules or any amendments thereto at least ten (10) days before the meeting at which they are to be considered.

SECTION 2. That the Elmhurst Municipal Code be amended by adding Chapter 21, HISTORIC PRESERVATION, consisting of Articles I through IV, as follows:

Article I. General

Section 21.10 Title. This ordinance shall be known and may be cited as the Historic Preservation Ordinance and may be referred to herein as “the Ordinance” or “this Ordinance”.

Section 21.11 Findings. The City Council finds:

- (a) That properties, buildings, structures and objects of or relating to the City which are sources of its tradition and stability are threatened with deterioration or disappearance due to lack of maintenance, development or redevelopment in the City and in areas adjacent thereto; and
- (b) That the public health, safety and general welfare and sound land planning require that properties, buildings, structures, sites and objects having special historic or architectural significance should be preserved, enhanced, continued or restored to use; and
- (c) That the City’s economic vitality and tax base cannot be maintained and enhanced without regard for Elmhurst’s heritage represented by its older historic and architecturally significant properties, buildings, structures, sites, objects and neighborhoods; and
- (d) That according to surveys of City residents, a substantial majority thereof believe the City should provide for the designation of historically and/or architecturally significant buildings; and
- (e) That State and Federal governments encourage the preservation of historic and architecturally significant buildings, structures, properties, sites and objects.

Section 21.12 Intent and Purpose.

- (a) The intent of this ordinance is to promote historic and architectural preservation in the City. The City seeks to protect, enhance, and perpetuate those historical and architecturally significant structures, buildings, sites, objects and areas valued by the City and its residents that are significant to the City's history, culture, and architecture, preserving the community character, encouraging respect for past and providing a historical context for the City.
- (b) The purpose of this ordinance is to:

1. Foster civic pride in the beauty and accomplishments of the past as represented in the City's landmarks and historic districts;
2. Preserve, promote, maintain and enhance the City's historic and architecturally significant resources and character as a community comprised principally of well-maintained single-family residential neighborhoods, cultural and educational institutions and thriving business areas oriented to serve the day-to-day needs of local residents;
3. Foster and encourage preservation, restoration and rehabilitation of areas, properties, structures and sites thereby preventing future blight and deterioration;
4. Protect and enhance the attractiveness of the City to homeowners, home buyers, tourists, visitors, businesses, and shoppers, and the support and promotion of business, commerce, industry, cultural activities, education and tourism, thereby providing economic benefits to the City, its residents, institutions and businesses;
5. Maintain and improve property values in the City;
6. Protect, preserve, and enhance the City's aesthetic appearance and character;
7. Encourage the designation of landmark status upon structures, buildings, properties, sites, objects and areas on a local, State, and national level while recognizing the property rights of the owners of historic and architecturally significant properties, structures, buildings, sites and objects;
8. Educate the general public as to the significance of historic preservation;
9. Continue the preparation of surveys and studies of the City's historical and architectural resources and maintain and update a register of areas, properties, structures, buildings, sites, objects and areas that may be worthy of landmark designation; and
10. Encourage public participation in identifying and preserving historical and architectural resources through public hearings on proposed designations, applications for changes to historic properties, buildings, sites, structures, and applications for changes to same due to economic hardships.

Section 21.13 Definitions. For purposes of this ordinance, the following definitions shall control:

- (a) **ALTERATION:** Any act or process requiring a building permit or demolition permit, or any act or process included in Article IV of this ordinance, that changes one or more of the historic, cultural, architectural or archaeological features of an area, property, structure, site or object, including, but not limited to, the erection, construction, reconstruction or relocation of any property, structure or object, or any part of a property, building, structure, site or object, or land altering activities.
- (b) **APPLICANT:** A person who submits an application for designation of a Landmark, for issuance of a Certificate of Appropriateness or for a Certificate of Economic Hardship.
- (c) **APPLICATION:** A form submitted for designation of a Landmark, for approval of alteration, construction, demolition or relocation that requires issuance of a Certificate of Appropriateness or Certificate of Economic Hardship.
- (d) **AREA:** A specific geographic division of the City of Elmhurst.
- (e) **BUILDING:** Any structure built, used, designed, or intended for the support, shelter, protection, or enclosure of persons, animals, chattels, or property of any kind, and which is permanently affixed to the land.
- (f) **BUILDING DEPARTMENT:** The City of Elmhurst Building Department.
- (g) **BUSINESS DAY:** A day on which the City of Elmhurst is open for business. Sections of this ordinance, which refer to time periods in which “business days” are not specified, shall be understood to refer to calendar days.
- (h) **CERTIFICATE OF APPROPRIATENESS:** A certificate issued by the Commission indicating review and authorization of plans for alteration, construction, demolition or relocation of a landmark, or property, structure, site or object within a district.
- (i) **CERTIFICATE OF ECONOMIC HARDSHIP:** A certificate issued by the Commission after a determination by the Commission that the previous denial of a Certificate of Appropriateness has resulted in a denial of all reasonable use of and return from the property.

- (j) COMMISSION: The Elmhurst Historic Preservation Commission.
- (k) COMMISSIONERS: Persons appointed by the Mayor, with the advice and consent of the Council, to the Elmhurst Historic Preservation Commission and the ex-officio members of the Commission.
- (l) CONSTRUCTION: The act of adding an addition to a building or structure or the erection of a new principal or accessory building or structure on a property or site that requires a building permit under the ordinances of the City.
- (m) CORPORATE AUTHORITIES: The Mayor and City Council of the City of Elmhurst.
- (n) COUNCIL: The City Council of the City of Elmhurst.
- (o) DEMOLITION: Any act or process that destroys all or any part of an exterior wall, foundation, interior or exterior column or load-bearing wall of a landmark or a property, structure, site or object within a district.
- (p) DEPARTMENT OF PLANNING, ZONING & ECONOMIC DEVELOPMENT OR DEPARTMENT: City of Elmhurst Department of Planning, Zoning and Economic Development.
- (q) DESIGN GUIDELINE: Any design standard specified by the Commission for alteration, construction or relocation that is unique to a particular landmark or district to be used in conjunction with other design standards in this Chapter, and the U.S. Secretary of Interior's "Standards for Rehabilitation of Historic Properties", as amended.
- (r) DISTRICT: An identifiable area with definable boundaries designated as a "Historic District" by an ordinance adopted by the Council and in which a significant number of the properties, structures, sites or objects have a high degree of historic, cultural, architectural or archaeological significance and integrity. Many of the properties, buildings, structures, sites or objects included in the district may qualify as landmarks and may or may not be contiguous. For purposes of this Chapter and unless otherwise expressly provided by Council in the ordinance for designation, all designations shall presumptively include the lot(s) of record or the zoning lots (as determined by the Zoning Administrator) associated with buildings, structures and objects located in the district.
- (s) EXTERIOR ARCHITECTURAL APPEARANCE: The architectural character and general composition of the exterior of a property, structure or object, visible from a public street or public way, including but not

limited to the kind and texture of the building material and the type, design and character of all architectural details and elements, including, but not limited to, windows, doors, light fixtures, trim and signs.

- (t) **LAND ALTERING ACTIVITY:** Any act or process requiring a permit that changes one or more of the historic, cultural, architectural or archaeological features of an area, property or site, including but not limited to, berming, scraping, leveling, grading, pile driving, excavating and compacting.
- (u) **LANDMARK:** A property, building, structure, site or object designated as a "landmark" by ordinance adopted by the City Council. Landmarks shall have a high degree of historic, cultural, architectural or archaeological significance to the City. For purposes of this Chapter and unless otherwise expressly provided by Council in the ordinance for designation, all designations shall presumptively include the lot(s) of record or zoning lots (as determined by the Zoning Administrator), as the case might be, associated with the property, building, structure, site or object designated as a landmark.
- (v) **LOT OF RECORD:** a lot which is part of a subdivision, the plat of which has been recorded in the office of the Recorder of Deeds of DuPage County; or a parcel of land, the deed to which was recorded in the office of said Recorder of Deeds prior to the adoption of this ordinance.
- (w) **MEMBERS:** Members including ex officio members of the Commission, also referred to throughout this ordinance as "Commissioners."
- (x) **NOMINATOR:** A person or persons who submit a form for the designation of a landmark or district.
- (y) **OBJECT:** Anything constructed, fabricated or created, the use of which does not require permanent or semi-permanent location on or in the ground, and can be moved from one location to another, including without limitation ships, boats, railroad cars, automobiles, wagons, tractors, statues and works of art.
- (z) **OWNER OF RECORD:** For purposes of this Chapter, owner of record shall mean any person having a legal or equitable interest in a property. The owner of record shall be established by the records of the DuPage County Recorder.
- (aa) **PERSON:** An individual, corporation, governmental agency, business trust, estate, trust, partnership, corporation, firm, association, two (2) or more persons having a joint or common interest, or any other legal entity.

- (bb) ZONING & PLANNING COMMISSION: The City of Elmhurst Zoning & Planning Commission.
- (cc) PROJECT: Any proposed or actual alteration, construction, demolition or relocation of an area, property, building, structure, site, area or object.
- (dd) PROPERTY: Land and structures or land and objects identified as a separate lot for purposes of the subdivision and zoning regulations of the City.
- (ee) RELOCATION: Any repositioning of a structure or object on its site or to another site.
- (ff) REPAIR: Any change to an area, property, structure, site or object that is not alteration, construction, relocation or demolition.
- (gg) RULES: The rules and procedures of the Elmhurst Preservation Commission, as amended from time to time.
- (hh) SITE: The location of an event, activity, structure or object.
- (ii) STRUCTURE: Anything constructed or erected, the use of which requires, directly or indirectly, a permanent location on or in the ground, including without limitation buildings, garages, fences, gazebos, signs, billboards, antennas, satellite sending or receiving dishes, swimming pools, walks, walls, steps, sidewalks, and works of art.
- (jj) ZONING LOT: A single tract of land located within a single block, which is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. Therefore, a “zoning lot or lots” may or may not coincide with a lot of record.

Article II. Administration

Section 21.20 Historic Preservation Commission.

- (a) Compositions, Qualifications, Terms, Conditions and Officers.
 1. The Elmhurst Historic Preservation Commission is established pursuant to Section 4.08 of the Elmhurst Municipal Code, and shall consist of seven (7) members, appointed by the Mayor with the consent of the City Council, one of whom shall be designated as Chair. Each Commissioner shall have one vote, and shall serve without compensation. The Mayor, the City Manager and the

Director of the Department of Planning, Zoning and Economic Development or the Director's designee shall be ex officio members of the Commission. Ex Officio Members shall be nonvoting and shall not be counted for purposes of establishing a quorum of the Commission.

2. The Commissioners shall be appointed on the basis of expertise, experience or interest in the area of architectural history, building construction, engineering, finance, historical preservation, architectural preservation or real estate, at least one of which shall be a licensed architect and at least another which shall be a licensed attorney whose practice concentrates in real estate law. All Commissioners shall be residents of the City.
3. The term of each Commissioner shall be three (3) years or until a successor shall be appointed and qualified provided that the initial appointments on the Commission shall be as follows: two members for one year; three members for two years and two members for three years. Notwithstanding the foregoing, all terms shall expire on May 30 of the last year of the individual member's term.

The Mayor shall have the power to remove any member of the Commission for cause and after public hearing before the Mayor.

Vacancies on the Commission shall be filled for the unexpired term of the member whose position has become vacant, in the same manner as provided in this Chapter with respect to appointments to a full term.

4. Officers of the Commission shall consist of a chair and secretary. The chair shall be designated by the Mayor with the advice and consent of the City Council. The Secretary shall be the Director of Planning, Zoning and Economic Development or his/her designee.

In the absence of the chair, the Commissioners present shall elect a Commissioner to serve as the presiding officer of the meeting who shall have the same powers as the Chair.

The Secretary shall have the following duties:

- (i) Take minutes or cause same to be taken of each Commission meeting;

- (ii) Maintain a permanent record of all resolutions, motions, transactions and determinations;
 - (iii) The Secretary shall publish and distribute copies of the minutes, reports and decisions of the Commission to Commissioners;
 - (iv) Give notice as provided herein or by the rules of the Commission for all public hearings conducted by the Commission;
 - (v) Prepare and submit to the City Council a complete record of the proceedings before the Commission.
- (b) Meetings, Hearings, Procedures and Decisions. Regular meetings of the Commission shall be held no less frequently than four (4) times per year. Special meetings may be called, or meetings may be canceled by the chair or any four (4) Commissioners. All meetings, hearings and deliberations shall be open to the public except as otherwise permitted by the Illinois Open Meetings Act as amended from time to time. Testimony at any hearing required by the Commission shall be under oath.
1. The Commission, by its rules, may create a sub-committee structure to enhance efficiency in consideration of Commission business.
 2. No Commissioner shall be in any manner financially interested directly in his own name or indirectly in the name of any other person, association, trust, corporation, or other entity in any property, building, structure, site or object which is the subject of an application for Landmark Designation, a Certificate of Appropriateness or Certificate of Economic Hardship or the performance of any work relating thereto upon a Commissioner may be called upon to act or vote. No Commissioner may represent, either as agent or otherwise, any person, association, trust, corporation, or other entity, with respect to any application for Landmark Designation, a Certificate of Appropriateness or Certificate of Economic Hardship upon which such Commissioner may be called upon to vote, nor may any such Commissioner take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official capacity.
 3. No motion shall be passed by the Commission which could in any manner deprive or restrict the owner of a property, building,

structure, site or object in its use, alteration, maintenance, disposition or demolition until such owner shall first have had the opportunity to be heard at a public hearing or public meeting of the Commission.

4. Every final decision of the Commission and every recommendation it makes to the Council or its duly authorized committee in connection with a Landmark Designation, Certificate of Appropriateness, or Certificate of Economic Hardship shall include written findings of fact, and shall specify the reason or reasons for such decision or recommendation.
5. The Secretary shall endeavor to provide notice of any decision of the Commission to the applicant and any designated interested parties within fifteen (15) business days of such decision, but the failure to do so shall not affect the validity of the decision.
6. A quorum shall consist of four (4) Commissioners for any regular or special meeting. A meeting of the Commission shall not be conducted without establishment of a quorum.

(c) Powers and Duties of the Commission. The Commission shall have the following powers and duties:

1. To adopt its own procedural rules. In the absence of such rules, the Commission shall conduct its business, as nearly as practicable, in accordance with Robert's Rules of Order, newly revised, latest edition.
2. To conduct a survey of structures, buildings, objects, sites, and areas in the City in order to identify those with historical and architectural significance;
3. To keep a register of all buildings, structures, objects, sites, and areas that have been designated as landmarks, including all information required for each designation;
4. To determine an appropriate system of markers and make recommendations for the design and implementation of specific markings of the streets and routes leading from one landmark to another;
5. To investigate the need, desirability and practicability of designating areas of the City as historic districts and to make recommendations to the City Council on same and the criteria and

procedures therefore, should historic districts be proposed to be established.

6. To provide information to owners of landmarks, structures and buildings, as well as to residents of the City, regarding physical and financial aspects of preservation, renovation, rehabilitation, and reuse, including information about incentives that may be available and possible designation under this ordinance, and procedures for inclusion on the State of Illinois or National Register of Historic Places.
7. To inform and educate the residents of the City concerning the historic and architectural heritage of the City by publishing appropriate maps, newsletters, brochures, and pamphlets, and holding programs and seminars.
8. To hold public hearings and review applications for construction, alteration, removal or demolition affecting proposed or designated landmarks or structures and issue or deny Certificates of Appropriateness and Certificates of Economic Hardship for such actions;
9. To make recommendations regarding the designation and withdrawal of designation of landmarks;
10. To request technical advice and assistance from City staff members and to retain specialists or consultants when expressly authorized by the City Council;
11. To perform such other functions as directed by the City Council, including without limitation regulatory, informational, and incentive-oriented functions;
12. To administer on behalf of the City of Elmhurst any property or full or partial interest in real property, including a conservation right as that term is used in the Real Property Conservation Rights Act (765 ILCS 120/1 et. seq.), which the City may have or accept as a gift or otherwise, as directed by the City Council;
13. To administer on behalf of the City as directed by the City Council, such gifts, grants and money as may be appropriate for the purpose of this Chapter;
14. To pursue and participate in the "certified local government" program of the National Historic Preservation Act, as amended,

and the Illinois Historic Preservation Agency; and carry out any responsibilities delegated to the Commission under that program (upon acceptance), including review and comment on any National Register nominations submitted to the Commission upon request of the Council, attendance at informational and educational programs sponsored by the Illinois Historic Preservation Agency, and preparation of an annual report of the activities of the Commission;

15. To review proposed planned unit development applications, zoning amendments, applications for conditional uses and applications for zoning variances that materially affect proposed or designated landmarks and districts; and
16. To periodically review the City of Elmhurst Zoning Ordinance and to recommend to Zoning & Planning Commission and City Council any amendments appropriate for the protection and continued use of landmarks or property and structures within historic districts.
17. When authorized by the City Council, the Commission shall undertake an ongoing survey and research effort in the City to identify neighborhoods, areas, properties, sites, structures, objects and buildings that have historic, community, architectural, or importance, interest, or value. As part of the survey, the Commission shall review and evaluate any prior surveys and studies by any unit of government or private organization and compile appropriate descriptions, facts, and photographs.

Article III. Landmark Designation

Section 21.30 Criteria for the Recommendation of Landmark Designation.

- (a) To be eligible for landmark designation, a property, area, building, structure, object or site shall satisfy the following criteria:
 1. be of an age of at least fifty (50) years; and
 2. be listed on the National or State Register of Historic Places, before the filing of an application of designation by the City;or
 3. be of an age of at least fifty (50) years; and

4. have sufficient integrity of location, design, materials and workmanship to make it worthy of preservation or restoration; and
5. satisfy any two (2) of the following criteria:
 - (i) Distinctive architectural style (period, type, method of construction, materials); architecturally significant; example of best remaining architectural type in the City;
 - (ii) Its location as a site of a significant historic or prehistoric event or activity which may or may not have taken place within or involved the use of any existing improvements on the property;
 - (iii) Its identification with a person or persons who significantly contributed to the historic, cultural, architectural, archaeological or related aspect of the development of the City, State, Midwest Region or the United States;
 - (iv) Its exemplification of an architectural type, style or design distinguished by innovation, rarity, uniqueness or overall quality of design, detail, materials or craftsmanship;
 - (v) Its identification as the work of an architect, designer, engineer or builder whose individual work is significant in the history or development of the City, the State, the Midwest Region or the United States;
 - (vi) Its exemplification of important planning and urban design techniques distinguished by innovation, rarity, uniqueness or overall quality of design or detail;
 - (vii) Its association with important cultural or social aspects or events in the history of the City, the State, the Midwest Region or the United States;
 - (viii) Its location as a site of an important archaeological resource; unique location or established and familiar visual feature of a neighborhood;
 - (ix) Its representation of a historic, cultural, architectural, archaeological or related theme expressed through distinctive areas, properties, structure, sites or objects that may or may not be contiguous;

- (x) Its unique location or distinctive physical appearance or presence representing an established and familiar visual feature of a neighborhood, community or the City;
- (xi) Its exemplification of a pattern of neighborhood development or settlement significant to the cultural history or traditions of the City, whose components may lack individual distinction;
- (xii) Fine or unique example of a utilitarian structure; and
- (xiii) It is likely to yield important information regarding Elmhurst history or pre-history.

The Commission shall limit their consideration to the foregoing criteria in making a determination on a nomination of an area, property, structure, site or object for designation by ordinance as a landmark.

Section 21.31 Applications for Landmark Nominations.

- (a) Nominations. Nomination of an area, property, structure, site or object for consideration and designation as a Landmark or district shall be submitted to the Director of Zoning, Planning and Economic Development on a form prepared by the Department of Zoning, Planning and Economic Development, and may be initiated by any of the following:
 - 1. An owner of record of the area, property, structure, site or object being nominated.
 - 2. A Commissioner or member of the Historic Preservation Commission.
 - 3. A member of the City Council.
 - 4. The Mayor.
 - 5. Any resident of the City of Elmhurst.
 - 6. Any not-for-profit organization with its principal place of business in the City.
 - 7. Any corporation, partnership, firm or other business entity.

All property owners of the proposed landmark must consent to consideration of designation. Owner consent shall be submitted with the application. If the property owner(s) do/does not consent to the nomination, the Commission shall reject the application as incomplete.

An application to nominate an area, property, structure, site or object filed by any person or entity other than the owner(s) thereof shall be subject to payment of a filing fee of \$100.00. Such application shall not be deemed completed until payment of such fee has been made.

(b) Applications. Applications for a landmark nomination shall be filed with the Planning, Zoning & Economic Development Department, on forms provided by the Department and shall, at a minimum; include the following information and specifications:

1. The name and address of the applicant and owner of record.
2. The legal description and common street address of the property.
3. A written statement describing the structure, building, or site and setting forth reasons in support of the proposed designation, including a list of significant exterior architectural features that should be protected.
4. Qualifying criteria for landmark designation and why the proposed structure meets such criteria.
5. Written documentation and evidence establishing that the applicant(s) is/are the current owner(s) of record of the nominated property and that each owner of record consents to the proposed landmark designation. Such documentation or evidence of record ownership shall include a recent title policy in the name of the applicant or other evidence of ownership acceptable to City Attorney. In the event legal and equitable title is held by separate parties, written consent of each shall be required.
6. An overall site plan and photographs of the landmark. The plan shall also include a front, side, and rear elevation drawing.
7. Such other relevant information as requested by the City Attorney or the Commission.

A nomination may be withdrawn by the person or persons who submitted the nomination form at any time prior to the Commission scheduling a public hearing provided however, that such withdrawal shall not be

effective until the City is reimbursed for costs incurred up to the date of withdrawal.

Section 21.32 Landmark Designation Procedures.

- (a) **Public Hearing Required.** The Commission shall conduct a public hearing as hereunder provided after the filing of a complete application with the Planning, Zoning and Economic Department.
1. The completed forms and associated materials shall be forwarded by the Department to the Commission for its consideration.
 2. Upon receipt of the application, the secretary of the Commission shall schedule a public hearing, to be held within sixty (60) days after the Department Staff have determined that the application is complete.
 3. Notice of time and place of the public hearing shall be published at least once in a newspaper of general circulation within the City of Elmhurst not more than 30 days or less than 15 days before such hearing. In addition, notices shall be sent by first class mail, postage prepaid, to all owners of all property (as determined from current property tax records) located within 500 feet of any lot line of the nominated property.
 4. The hearing shall be conducted in accordance with the Rules of the Commission. The Commission shall consider all testimony or other evidence relating to the designation criteria set forth in Section 21.20(a) of this Chapter from any person who makes written submittals or appears at the public hearing. The owner(s) or authorized representatives thereof of a property, building, structure, site or object nominated shall be allowed a reasonable opportunity to present testimony or other evidence concerning the applicability and satisfaction of the designation criteria set forth in Section 21.20(a).
 5. A Certificate of Appropriateness shall be required for alteration, construction, removal or demolition of a proposed landmark from the date when the nomination form, with owner(s) consent, is presented to the Commission until the final disposition of the request.
- (b) **Deliberations and Decisions.** A decision shall be made within sixty (60) days following the date of the public hearing is closed.

1. Following the public hearing, the Secretary of the Commission shall prepare the Commission's evaluation, recommendation and all available information for submittal to the City Council within sixty (60) days thereof.
2. If the Commission decides that the landmark should be designated, it shall do so by a majority vote of the members appointed to the Commission.
3. The nomination process shall end, if: (i) the Commission fails to make its recommendation within sixty (60) days after the close of the public hearing; or (ii) if the Commission finds that the nominated Landmark does not meet the criteria for designation.
4. If the Commission fails to make its recommendation within sixty (60) days after the close of the public hearing, or if the Commission fails to recommend a proposed designation to the City Council, the Commission may not reconsider the proposed designation for a period of one (1) year from the date of the Commission's final action or the close of the public hearing, whichever is later, provided however that the reconsideration shall be permitted within such one (1) year period, if: (i) significant new information concerning the previously nominated Landmark relating to the criteria for designation is provided; and (ii) the Commission votes by an affirmative vote of at least four (4) Commissioners to reconsider the previously nominated Landmark.
5. The owner(s) of record shall be notified by a letter within ten (10) business days after a final decision by the Commission.
6. The designation of a nominated Landmark shall be by Ordinance and such landmark designation shall be incorporated as part of this Chapter. If the City Council approves the application for a designation, notices will be sent to the property owners, the Planning, Zoning and Economic Development Department, the Building Commissioner, and the City Clerk and a certified copy of the ordinance shall be filed of record with the DuPage County Recorder.
7. Properties, buildings, structures, sites and objects designated as Landmarks shall be subject to the issuance of Certificates of Appropriateness in accordance with Section 21.30 of this Chapter.

Article IV. Enforcement

Section 21.30 Certificates of Appropriateness.

- (a) **Certificates Required.** A Certificate of Appropriateness issued by the Commission shall be required before any building permit, moving permit, demolition permit, sign or other permit is issued for any designated landmark. A Certificate of Appropriateness is required if, in the opinion of the Director of the Department of Zoning, Planning and Economic Development or such Director's designee, the building, structure, property, object or site will be altered, added to, extended or repaired in such a manner as to produce a major change in the exterior appearance of such property, building, structure, site or object. A Certificate of Appropriateness is required for front exterior facades of landmarks and those facades visible from public view. This ordinance does not regulate the interiors of privately owned landmarked structures.

Such major changes to a landmark include, but are not limited to:

1. Major changes by addition, alteration, maintenance, reconstruction, rehabilitation, renovation or repair;
 2. Any new construction and demolition in whole or in part requiring a permit from the City;
 3. Moving a building; or
 4. Any construction, alteration, demolition, or removal affecting a significant exterior architectural feature as specified in the ordinance designating the landmark, including but not limited to changes to the roofline.
- (b) **Exceptions.** An exception to the Certificate of Appropriateness shall be made if the applicant shows to the Commission that a failure to grant the permit will cause an imminent threat to life, health or property or if without Commission approval if the Fire Chief, Building Commissioner or City Manager so determine.

Section 21.41 Application for Certificate of Appropriateness.

- (a) **Certificate of Appropriateness Required.** Any person proposing an alteration to, or seeking a building, demolition, sign, or other permit for, any designated landmark shall submit an application for a Certificate of Appropriateness. Issuance of a Certificate of Appropriateness is a precondition to commencing such alteration or obtaining such permit.

Every application for a demolition permit or a building permit, including plans and specifications, shall be forwarded by the Planning, Zoning and Economic Development Department to the Commission within fifteen (15) days following receipt of the application.

(b) Application Requirements. The application for a Certificate of Appropriateness shall include the following information and specifications:

1. Applicant's name;
2. The names of and written consent of all owners (whether legal or equitable) of the property, building, structure, site or object, if different from applicant;
3. Street address and legal description of the site;
4. An overall site plan of the site, including front, side; rear elevation drawings shall be included in the case of alteration or partial demolition;
5. Brief description of the structures, buildings, and objects on the site and the structures, buildings, and objects on site adjacent to and across from such original site;
6. Detailed description of the proposed alteration or demolition, together with any architectural drawings, sketches, and photographs indicating how and to what extent such alteration or demolition shall affect a landmark or historic district;
7. Names and addresses of the owners of property adjacent to and across a street or alley from the site;
8. A list and photographs of significant architectural features in relation to the structures, buildings, or objects on the site previously designated by the Commission as being worthy of protection and preservation;
9. Identification of any architect or developer involved in the alteration or demolition;
10. Payment of filing fee of \$100.00;
11. Such other relevant information as requested by City Staff or the Commission.

It shall be unlawful to undertake any of the work specified in this section and Section 21.40 of this Chapter without first obtaining a Certificate of Appropriateness from the Commission. Applications for a Certificate of Appropriateness shall be made on forms prepared by the Planning, Zoning and Economic Development Department, and shall be submitted to the Commission Secretary. Application forms shall be available from the Department.

Section 21.32 Standards for Certificates of Appropriateness. In making a determination whether to approve or deny an application for a Certificate of Appropriateness, the Commission shall be guided by the Secretary of the Interior's "Standards for Rehabilitation", as follows:

- (a) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building, structure or object and its site and environment.
- (b) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- (c) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (d) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- (e) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize an historic property shall be preserved.
- (f) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- (g) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

- (h) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (i) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- (j) New additions and adjacent or related new construction shall be undertaken 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.

Section 21.43 Design Guidelines. The Commission when determining whether to approve or deny any application for a Certificate of Appropriateness, shall at a minimum, consider the following architectural criteria:

- (a) Height. The height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures in an historic district;
- (b) Proportions of windows and doors. The proportions and relationships between doors and windows should be compatible with the architectural style and character of the landmark;
- (c) Relationship of Building Masses and Spaces. The relationship of a structure within an historic district to the open space between it and adjoining structures should be compatible;
- (d) Roof Shape. The design of the roof, fascia, and cornice should be compatible with the architectural style and character of the landmark;
- (e) Landscaping. Landscaping should be compatible with the architectural character and appearance of the landmark;
- (f) Scale. The scale of the structure after alteration, construction, or partial demolition should be compatible with its architectural style and character and with surrounding structures in an historic district, as applicable;
- (g) Directional Expression. Facades in historic districts should blend with other structures with regard to directional expression. Structures in an historic district should be compatible with the dominant horizontal or vertical expression of surrounding structures;

- (h) Compatibility. The directional expression of a landmark after alteration, construction, or partial demolition should be compatible with its original architectural style and character; and
- (i) Architectural Details. Architectural details including types of materials, colors, and textures should be treated so as to make landmark compatible with its original architectural style and character of a landmark or historic district.

Section 21.44 Hearing on Applications for Certificate of Appropriateness.

- (a) Hearing Procedures.
 - 1. Applications for a Certificate of Appropriateness shall be available from the Planning, Zoning and Economic Development Department. Such applications shall be completed and submitted to the Department, which shall be forwarded to the Historic Preservation Commission. The Commission Secretary shall schedule a public hearing for consideration of the application within forty-five (45) days after receipt of application.
 - 2. Notice of time and place of the public hearing shall be published at least once in a newspaper of general circulation within the City of Elmhurst not more than 30 days nor less than 15 days before such hearing. In addition, notices shall be sent by first class mail, postage prepaid, to all owners of property (as determined from current property tax records) located within 500 feet of any lot line of the subject property.
 - 3. The hearing shall be conducted within forty-five (45) days after receipt of an application in accordance with the Rules of the Commission. The Commission shall consider all relevant and material testimony or evidence relating to the Standards set forth in Section 21.32 and Design Guidelines set forth in Section 21.33 of this Chapter from any person who makes written submittals or appears at the public hearing. The owner of the Landmark shall be allowed a reasonable opportunity to present testimony or evidence concerning the applicability of the standards and guidelines in the aforesaid Sections.
 - 4. The Commission shall review the application and vote to issue or deny the application within sixty (60) days after receipt of the application. The time to consider the application may be extended with the consent of the applicant.

(b) Issuance of a Certificate of Appropriateness.

1. If the Commission votes to approve the application, its action shall be the final administrative decision upon the application. The Certificate of Appropriateness shall be issued to the applicant within ten (10) business days following the decision of the Commission. Upon receipt of the Certificate of Appropriateness the applicant may complete applications to other City Departments to obtain necessary permits, if any.
2. If the application is approved with conditions, the Commission shall notify the applicant in writing and shall specify the conditions to be imposed and the reasons in light of the applicable criteria. If the applicant notifies the Commission in writing that the conditions are acceptable, or if the applicant does not appeal the conditional approval to the City Council as set forth in Section 21.36 of this Chapter, the Commission shall issue the Certificate of Appropriateness, subject to the specified conditions.
3. Work performed pursuant to the Certificate of Appropriateness shall be substantially commenced within one hundred eighty (180) days from the date of issuance by the Commission and shall remain valid until a Certificate of Occupancy is issued by Building Department, provided however that in no event shall a Certificate of Appropriateness be valid for more than two (2) years from its date of issuance without an extension having been issued by the Commission. Certificates of appropriateness shall not be transferable from the applicant to another or subsequent owner of the same property without the written consent of the Commission.

(c) Denial of a Certificate of Appropriateness.

If the Commission disapproves the Certificate of Appropriateness, no alteration shall be permitted to proceed, and no permits shall be issued for, the proposed alteration, demolition or any other physical modifications of the designated landmark.

If the Commission votes to disapprove the application, the applicant shall be notified within ten (10) business days and the notice shall be accompanied by recommendations to the applicant concerning those changes, if any, in the plans and specifications for the proposed alteration, construction, relocation or demolition that would protect the distinctive character of the landmark or district and that would cause the Commission to approve the application. The Commission shall make reasonable efforts

to confer with the applicant, offer technical guidance, and attempt to resolve differences.

The applicant may submit a revised application that incorporates the recommendations of the Commission. At the discretion of the Commission, additional filing fees may be waived. The application shall be considered to be withdrawn if no such revised application is received within thirty (30) days after Commission disapproval.

- (d) Process for submittal of a revised application:
 - 1. Submittal by the applicant of a revised application that incorporates the recommendations of the Commission. The Commission shall schedule a public hearing within thirty (30) days of receipt of a written revised application.
 - 2. Notice of time and place of the public meeting shall be given in the same manner as with initial applications.
 - 3. If the Commission denies the revised application, the applicant may appeal the decision to the City Council in accordance with Section 21.36 of this Chapter. The failure of the Commission to render a decision within the forty-five (45) days from the date the revised application is filed, shall be deemed a denial.

Section 21.45 Certificate of Economic Hardship.

- (a) General. The Commission may issue a certificate of economic hardship to allow the performance of work for which a Certificate of Appropriateness has been denied. Applicants claiming economic hardship shall be required to apply to the Illinois State Historic Preservation Agency or other appropriate State Agency to determine eligibility for rehabilitation assistance. The eligibility for and availability of financial aid shall be considered by the Commission in making its decision.
- (b) Application Required; Contents of Application. An applicant for a certificate of economic hardship may submit any or all of the following information in order to assist the Commission in making its determination on the application:
 - 1. The amount paid for the property, the date of purchase, and the party from whom purchased (including a description of the personal, business or familial relationship, if any, between the owner and the person or entity from whom or which the property was purchased).

2. The equalized assessed value of the land and improvements thereon according to the two (2) most recent assessments.
3. Property taxes for the previous two (2) years.
4. Remaining mortgage balance, if any, and annual debt service, if any, for the previous two (2) years.
5. All appraisals, if any, obtained within the previous two (2) years by the owner or applicant or their lenders in connection with this purchase, financing, or ownership of the property.
6. Any listing of the property for sale or rent, asking price, and offers received, if any.
7. The profitable adaptive uses for the property considered by the owner, if any.
8. If the property is income-producing, the annual gross income from the property for the previous two (2) years, itemized operating and maintenance expenses for the previous two (2) years, and annual cash flow before and after debt service, if any, during the same period.
9. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or otherwise.
10. Any other information including income tax bracket of the owner, applicant, or principal investors in the property, reasonably necessary for a determination as to whether the property can be reasonably sold or yield a reasonable return to present or future owners.

- (c) Action by Commission. If the Commission finds that without approval of the proposed work, the property cannot realize a reasonable economic return, then the application shall be delayed for a period not to exceed forty five (45) days. During this delay period, the Commission shall investigate plans and make recommendations to the City Council to allow for a reasonably beneficial use or a reasonable economic return on, or to otherwise preserve the subject property. Such plans and recommendations may include, without limitation, the following: a relaxation of the provisions of this Chapter, availability of, financial assistance, building code modifications, and/or changes in zoning regulations. If, by the end

of this forty five (45) day period, the Commission finds that without approval of the proposed work, the property cannot be put to a reasonable beneficial use, or the owner cannot realize a reasonable economic return, then the Commission shall issue a certificate of economic hardship approving the proposed work. If the Commission finds otherwise, it shall deny such an application.

Section 21.46 Appeals.

- (a) **Right of Approval.** When a Certificate of Appropriateness or a Certificate of Economic Hardship for a designated landmark is denied, the applicant or the owner(s) may appeal the Commission's decision to the City Council by filing a written appeal with the Office of the City Clerk within thirty (30) days after the Commission's denial. Such appeal shall be on forms prepared by the Department and may be accompanied by other written material setting for the basis for such appeal. The Council shall allow written or oral argument by the applicant and the Commission.
- (b) **Decision.** After due consideration of the record of proceedings, the City Council may affirm the decision of the Commission or reverse such decision, with or without conditions, by a majority vote of the corporate authorities.
- (c) **Time for Issuance of Certificate after Appeal Decision.** If the Council votes to issue a Certificate of Appropriateness or Certificate of Economic Hardship, as the case might be, the Secretary shall notify the applicant and the Building Department within seven (7) days of the Council's decision and the Building Commissioner shall issue such permits as may be required within fifteen (15) days thereafter provided the applicable permit applications are complete, the proposed work complies with applicable codes and all applicable fees have been paid. If the Council affirms the Commission's decision, the secretary shall notify the applicant and the Building Department within seven (7) days.

Section 21.47 Demolition or Destruction by Fire or Casualty.

- (a) **Demolition.** In the case of partial or complete demolition of a Landmark, the owner of record shall be required to obtain a Certificate of Appropriateness from the Commission prior to reconstruction. Although exact duplication of the previous structure may not be required, the exterior design of the property shall be in harmony with the exterior design of the structure prior to demolition.
- (b) **Destruction by Fire or Casualty.**

- (i) A landmark building or structure that is destroyed or damaged by fire or other casualty or by act of God need not be rebuilt or restored if the cost of restoration to its condition prior to such occurrence exceeds fifty percent (50%) of the cost of restoring the building or structure new, provided that if the owner of record chooses to restore such building or structure, such owner shall be required to obtain a Certificate of Appropriateness from the Commission prior to restoration. Although exact duplication of the previous structure may not be required, the exterior design shall be in harmony with the exterior design of the structure prior to the occurrence.

- (ii) A landmark building or structure that is destroyed or damaged by fire or other casualty or by act of God shall be rebuilt or restored if the cost of restoration to its condition prior to such occurrence does not exceed fifty percent (50%) of the cost of restoring the building or structure new, in which case the owner of record shall be required to obtain a Certificate of Appropriateness from the Commission prior to restoration. Although exact duplication of the previous structure may not be required, the exterior design shall be in harmony with the exterior design of the structure prior to such occurrence.

Section 21.48 Fees and Penalties. Any person who undertakes or causes an alteration, construction, demolition, or removal of any nominated or designated landmark without a Certificate of Appropriateness shall be guilty of a petty offense and upon conviction thereof shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00). Every day such violation shall continue to exist shall constitute a separate violation. In addition to such penalties, the City of Elmhurst may institute any appropriate action or proceeding to enjoin, correct or abate any violation of this ordinance.

SECTION 3. That all ordinances or parts of ordinances in conflict with this ordinance are hereby amended to the extent of the conflict.

SECTION 4. This ordinance shall be in full force and effect from and after passage and publication according to law.

Approved this _____ day of _____, 2006.

Thomas D. Marcucci, Mayor

Passed this ____ day of _____, 2006.

Ayes: _____ Nays: _____

Patty Spencer, City Clerk