

ARTICLE I

PURPOSES, INTENT, DEFINITIONS AND GENERAL PROVISIONS

1. **PURPOSES AND INTENT:** The purposes and intent of this ordinance are as follows:
 - A. To identify, designate, protect, preserve and encourage the restoration, rehabilitation, and adaptation for continued use of those properties and structures which represent or reflect the prehistoric, historic, cultural, artistic, social, economic, ethnic, or political heritage of the Nation, State of Illinois, or County of McHenry, or which may be representative of an architectural or engineering type inherently valuable for the study of style, period, craftsmanship, method of construction or use of indigenous materials;
 - B. To safeguard the county's historic, aesthetic, and cultural heritage, as embodied and reflected in such structures, landscape features, and areas as seen in such examples as houses, factories, mills, creameries, barns, silos, total farm sites, bridges, and iron fences;
 - C. To stabilize and improve the economic vitality and value of designated landmarks and preservation districts in particular and of the County of McHenry in general;
 - D. To educate the general public, government officials, and commercial and industrial interests of historic preservation which need to be fostered continually through the preservation ordinance;
 - E. To work with county and municipal zoning, planning and building departments in the development and application of a historic preservation program;
 - F. To encourage municipalities to adopt the county ordinance or to write and pass an ordinance of their own;
 - G. To foster civic pride in the technological accomplishments, beauty, and nobility of the past;
 - H. To protect and enhance the county's attraction to tourists and visitors, and to support and provide stimulus to business and industry;
 - I. To strengthen the economy of the County of McHenry; and,
 - J. To promote the use of historic districts, landmarks, and landscapes for the education, pleasure and welfare of the citizens of McHenry County.

2. **DEFINITIONS:** For the purposes of this ordinance, certain words, phrases and terms shall the following meanings:
 - A. Alteration: Any act or process that changes one or more historic, architectural or physical features of an area, site, landscape, place or structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure; the expansion or significant modification of agricultural activities; surface mining; and clearing, grading or other modification of an area, site or landscape that changes its current or natural condition.
 - B. Architectural Significance: Embodying the distinctive characteristics of a type, period, style or method of construction or use of indigenous construction, or representing the work of an

important builder, designer, architect, or craftsman who has contributed to the development of the community, County of McHenry, State of Illinois or the Nation.

- C. Archeological Significance: Importance as an area, site, place or landscape that has yielded or is likely to yield information concerning past patterns of human settlement, or artifacts or information concerning previous cultures in Illinois or previous periods of the present culture. Areas, sites or landscapes of archaeological significance may include, but are not limited to, aboriginal mounds, forts, earthworks, burial grounds, historic or prehistoric ruin, locations of villages, mine excavations or tailings.
- D. Area: A specific geographic division of McHenry County.
- E. Building: Any structure designed or constructed for residential, commercial, industrial, agricultural or other use.
- F. Certificate of Appropriateness: A certificate issued by the Commission, industrial, agricultural or other use.
- G. Certificate of Economic Hardship: A certificate issued by the Commission authorizing an alteration, construction, removal, or demolition even though a "certificate of appropriateness" has previously been denied or may be denied.
- H. Commission: The McHenry County Historic Preservation Commission hereinafter referred to as "Commission".
- J. Conservation Right: A term that includes easements, covenants, deed restrictions or any other type of less than full fee simple interest as that term is defined in Illinois Revised Statutes, Section 1 of "An Act relating to conservation rights in real property. Illinois Rev. Stat. 1989, Ch. 30, Par. 401 et. seq.
- K. Construction: The act of adding an addition to a structure or the erection of a new principal and/or accessory structure on a lot or property.
- L. Demolition: Any act or process, which destroys in part or in whole a landmark or building or structure within a preservation district.
- M. Demolition by Neglect: Neglect in the maintenance of any landmark and/or building or structure within a preservation district resulting in the deterioration of that building to the extent that it creates a hazardous or unsafe condition as determined by the McHenry County Building and Zoning Department or the McHenry County Department of Health.
- N. Design Criteria: Standards of appropriate activity that will preserve the historic, architectural, scenic or aesthetic character of a landmark or preservation district.
- O. Development Rights: The development rights of a landmark or of a property within a preservation district as defined in Section 11-48-2-1A of the Illinois Municipal Code. Illinois Rev. Stat. 1989, Ch. 24, Par 11-48.2-1A as amended from time to time.

- P. Development Rights Bank: A reserve for the deposit of development rights as defined in Section 11-48-2-1A of the Illinois Municipal Code. Ill. Rev. Stat. 1989, Ch. 24, Par. 11-48.2-1A as amended from time to time.
- Q. Economic Incentives: Any form of Federal, State Of Illinois or local assistance (whether in the form of financing property, tax relief, income tax advantages, grants or other forms of assistance) available to owners of designated landmarks or property within a designated preservation district.
- R. Exterior Architectural Appearance: The architectural character and general composition of the exterior of a building or structure, including but not limited to the kind, color, and texture of the building material and the type, design and character of all windows, doors, light fixtures, signs and appurtenant elements.
- S. Historic District: Preservation district.
- T. Historic Significance: Character, interest, or value as part of the development, heritage, or culture of the community, McHenry County, Illinois State, or the Nation; as the location of an important local, county, state or national event; or through identification with a person or persons who made important contributions to the development of the community, McHenry County, Illinois State, or the Nation.
- U. Landmark: A property or structure designated as a “landmark” by ordinance of the McHenry County Board, pursuant to procedures prescribed herein, which is worthy of rehabilitation, restoration, or preservation because of its historic, scenic or architectural significance.
- V. Landscape: A natural feature or group of natural features such as, but not limited to, valleys, rivers, lakes, swamps, marshes, forests, woods, hills, combination of natural features and buildings, structures, object, cultivated fields, or orchards in a predominantly rural setting.
- W. McHenry County Register of Historic Places: A list of sites, structures, and historic districts identified by the McHenry County Historic Preservation Commission and designated by the McHenry County Board as local landmarks.
- X. Nomination: A determination by the Commission at the preliminary review that an application merits further consideration for designation.
- Y. Object: Any tangible thing, including any items of personal property, including, but not limited to wagons, boats, and farm machinery, that may be easily moved or removed from real property.
- Z. Owner of Record: The person, corporation or other legal entity in whose name the property appears on the records of the McHenry County Recorder of Deeds.
- AA. Preservation District: An area designated as a “preservation district” by ordinance of the McHenry County board and which may contain, within definable geographic boundaries, one or more landmarks, and which may have within its boundaries, one or more landmarks, and which may have within its boundaries other properties, areas, sites, landscapes or structures which, while not of such historic or architectural or scenic significance to be designated as landmarks,

nevertheless contribute to the overall visual characteristics of the landmarks located within the district.

- BB. Property: The real property and any and all improvements, structures, objects or works of art situated on it.
- CC. Removal: Any relocation of a structure, object or artifact within or on the site or to another site.
- DD. Repair: Any change that is not construction, alteration, demolition, or removal and is necessary or useful for continuing normal maintenance and upkeep.
- EE. Scenic Significance: Important as a result of appearance or character that remains relatively unchanged from the embodies the essential appearance related to a culture from an earlier historic or prehistoric period; as result of a unique location, appearance, or familiar vista or visual feature; or as a geologic or natural feature associated with the development, heritage or culture of the community, McHenry County, Illinois State, or the Nation.
- FF. Secretary/Staff: The person(s) appointed by the McHenry County Board to undertake the responsibilities assigned by this ordinance, and to assist the McHenry County Historic Preservation Commission.
- GG. Site: The traditional, documented or legendary location of an event, occurrence, action or structure significant in the life or lives of a person, person, group, or tribe, including but not limited to, cemeteries, burial grounds, campsites, battlefields, settlements, estates, garden, groves, river crossings, routes, trails, caves, quarries, mines, or significant trees or other plant life.
- HH. Specific Standards for Review of Exterior Alteration: A set of guidelines and regulations interpreting and applying the standards in this ordinance to the exterior architectural appearance and significant historical or architectural features or designated landmark or preservation district.
- II. Structure: Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including (but without limiting the generality of the foregoing) houses, barns, smokehouses, advertising, signs, billboards, backstops for tennis courts, bridges, fences, pergolas, gazebos, radio and television antennae, solar collectors, microwave antennae, including supporting towers, roads, ruins, or remnants (including foundations), swimming pools or walkways.
- JJ. Substantial Alteration: Any act or process, which removes, obscures or irrevocably changes a significant historical or architectural feature and/or structure.
- KK. Survey: The systematic gathering of information on the architectural, historic, scenic, and archaeological significance of buildings, sites, structures, areas, or landscapes through visual assessment in the field and historical research, for the purpose of identifying landmarks or districts worthy of preservation.

- 3. GENERAL PROVISIONS:** The following are general provisions propounded to make more clear, matters relative to scope and jurisdiction of this ordinance:
- A. No provision herein shall supersede the powers of other local legislative or regulatory bodies or relieve any property owner from complying with the requirements of any other state statute, code or ordinance of the McHenry County, and any permit or license required hereunder shall be required in addition to any “certificate of appropriateness” or “economic hardship” which may be required hereunder; provided, however, that where a “certificate of appropriateness” or “economic hardship” is required, no such other permit or license shall be issued by any other agency under the jurisdiction of the McHenry County Board before a certificate has been issued by the commission as herein provided.
 - B. The use of property and improvements, which have been designated under this ordinance, shall be governed by the McHenry County Zoning Ordinance, as amended.
 - C. If any particular section of this ordinance is declared to be unconstitutional or void, only the particular section is affected, and all other sections of this ordinance shall remain in full force and effect. If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid as applied to a particular property, building or other structure, it is hereby provided that the application of such portion of the ordinance to other property, buildings or structures shall not be affected hereby.
 - D. For purposes of remedying emergency conditions determined to be dangerous to life, health or property, the Commission may waive the procedures set forth herein and reasons in writing for such approval and maintain a permanent file of such approvals.

ARTICLE II

THE HISTORIC PRESERVATION COMMISSION

1. ORGANIZATION

- A. Appointment: The McHenry County Board shall by, ordinance, appoint members to the McHenry County Historic Preservation Commission from recommendations submitted by the presiding officer of the McHenry County Board as per Illinois Rev. Stat. 1989, Ch. 34, Par. 5-30012.
- B. Composition: The Commission shall consist of nine (9) members. All members shall be residents of McHenry County. The presiding officer of the McHenry County Board shall make every reasonable effort to nominate to the Commission at least one attorney, one historian or architectural historian, one architect and/or engineer and one real estate professional knowledgeable in preservation. The other members shall be persons with a demonstrated interest in pre-history, or architecture.

In addition to the nine voting members, the Director of the McHenry County Department of Planning or a designee shall serve as an ex-officio, non-voting member of the Commission and shall be responsible for providing staff support, upon approval of, and as deemed appropriate by the Planning and Development Committee of the McHenry County Board. The Executive Director of the McHenry County Conservation District or a designee shall also serve as an ex-officio, non-voting member of the Commission.

- C. Terms: Terms of the initial members shall be staggered so that at least five serve respectively for the following terms:
- i. One for one year;
 - ii. One for two years;
 - iii. One for three years;
 - iv. One for four years; and
 - v. One for five years.

Any additional initial members shall also serve terms staggered in the same sequence. Successors to initial members shall serve for five-year terms. All ex-officio members shall serve term of their elected or appointed office. All members shall serve until their successors are appointed.

- D. Officers: One of the appointed members shall be appointed chairman by the McHenry County Board at the time of appointment and vice-chairman and secretary shall be elected by the Commission. The chairman shall preside over meetings. In the absence of the chairman, the

vice-chairman shall perform the duties of the chairman. If both the chairman and the vice-chairman are absent, a temporary chairman shall be elected by those present. The secretary shall ensure that the following duties are performed:

- i. The minutes are taken of each Commission meeting;
 - ii. That copies of the minutes, reports, and decisions of the Commission be published and distributed to the members of the Commission and the McHenry County Board;
 - iii. The McHenry County Board Chairman is advised of vacancies on the Commission and expiring terms or members; and,
 - iv. That there be prepared and submitted to the McHenry County Board a complete record of the proceedings before the Commission on any matters requiring McHenry County Board consideration.
 - v. That the notice of public hearings shall be in accordance with the Illinois Open Meetings Act.
- E. Vacancies: Vacancies shall be filled by the McHenry County Board from recommendations submitted by the presiding officer of the McHenry County Board. Any Commission member may be removed by the McHenry County Board for cause after a hearing and recommendation on the matter by the Planning and Development Committee to the McHenry County Board.
- F. Rules and Procedures: The McHenry County Historic Preservation Commission shall have the authority to develop and adopt rules and procedures necessary to carry out its functions under the provisions of this ordinance. These rules and procedures shall be reviewed by the McHenry County State's Attorney's Office and acknowledged by the McHenry County Board. A copy shall be kept on file in the McHenry County Clerk's office.
- G. Meetings: Meetings of the Commission shall be held no less than monthly, except in those months when no business is pending, and shall be held at such times and places within the county as the Commission shall decide. All meetings of the Commission shall be open to the public. The Commission shall keep minutes of its proceedings, showing a vote of each member upon every question, or if absent or failing to vote, and shall also keep records of its official actions. Such minutes and records shall be open to the public for inspection maintained at offices of the McHenry County Department of Planning. Notification of meeting dates and times will be in accordance with the Illinois Open Meetings Act.
- H. Compensation: The members shall serve without compensation, but they shall be reimbursed for their expenses necessarily incurred in the performance of their duties as such.
- I. Annual Report: The Commission shall submit an annual report of its activities to the McHenry County Board.

2. POWERS AND AUTHORITIES The Commission shall have the following powers and authorities:

- A. To conduct an ongoing survey of McHenry County, the identify buildings, structures, areas, sites, and landscapes that are of historic, archeological, architectural, or scenic significance, and therefore potential landmarks or preservation districts;
- B. To hold public hearings and recommend to the McHenry County Board the designation of landmarks or preservation districts identified in the survey;
- C. To compile information concerning and prepare descriptions of the landmarks or preservation districts identified and recommend for designation and the characteristics that meet the standards for designation;
- D. To prepare, keep current, and publish a map or maps showing the locations and exact boundaries of proposed and designated landmarks and preservation districts, and, if the Commission so chooses, the locations and boundaries of designated Illinois State or Federal landmarks or districts;
- E. To keep a register of all designated landmarks and preservation districts;
- F. To establish an appropriate system of markers or plaques for all designated landmarks and preservation districts, and for streets, roads, trails, and highways leading from one landmark or preservation district to another and to confer recognition upon the owners of landmarks or property within preservation districts by means of certificates, plaques or markers;
- G. To nominate landmarks and preservation districts to any Illinois State or Federal registers of historic places;
- H. To advise and assist owners of landmarks and property within preservation districts on physical and financial aspects of preservation renovation, rehabilitation and reuse, and on procedures for inclusion on any state or federal register of historic places;
- I. To inform and educate the citizens of the county concerning the historic, archaeological, architectural, or scenic heritage of the county by publishing appropriate maps, newsletters, brochures, and pamphlets, and by holding programs and seminars;
- J. To develop specific criteria and guidelines for the proper alteration, construction, demolition or removal of landmarks, or of property within preservation districts;
- K. To hold public hearings and to review applications for construction, alteration, removal, or demolition affecting landmarks or property within preservation districts and issue or deny “certificates of appropriateness” for such actions;
- L. To consider application for “certificates of economic hardship” that would allow the performance of work for which a “certificate appropriateness” has been denied;
- M. To review proposed amendments to zoning regulations, applications for special uses or applications for zoning variations that affect any landmark or preservation district. Proposed zoning amendments, applications for special use or zoning variations that affect any landmark or preservation district as defined in this ordinance shall be transmitted to the commission for

review and comment prior to the date of the hearing by the McHenry County Zoning Board of Appeals;

- N. To administer on behalf of the McHenry County Board any property, or full or partial interest in real property, including a conservation right, which the county may have or accept as a gift or otherwise, upon designation by the McHenry County Board;
- O. To accept and administer, on behalf of the McHenry County Board, gifts, grants, money or other personal property as may be appropriate for the purposes of this ordinance upon approval of acceptance by the McHenry County Board. Such money may be expended for publishing maps and brochures, for hiring staff or consultants or performing otherwise appropriate functions for the purpose of carrying out the duties and powers of the Commission and the purposes of this ordinance;
- P. To administer any system established by the McHenry County Board for the transfer of developments rights;
- Q. To call upon available county agencies and staff as well as other experts for technical advice;
- R. To retain specialists or consultants, or to appoint citizen, neighborhood or area advisory committees, as required from time to time;
- S. To testify before all boards and commissions including the McHenry County Regional Planning Commission and the McHenry County Zoning Board of Appeals, on any matter affecting potential or designated landmarks or preservation districts;
- T. To periodically review any county comprehensive plan and to develop a preservation component in any comprehensive plan of the McHenry County Regional Planning Commission and to recommend to the McHenry County Board;
- U. To periodically consult the McHenry County Zoning Enforcement Officer, review the McHenry County Zoning Ordinance and building codes and to recommend to the McHenry County Regional Planning Commission and the McHenry County Board any amendments appropriate for the protection and continued use of landmarks or property within preservation districts;
- V. To advise and/or testify on county behalf for Federal and Illinois State projects requiring cultural impact surveys;
- W. To periodically monitor designated landmarks and preservation districts for demolition by neglect; and,
- X. To undertake any other action or activity necessary or appropriate to the implementation of the purposes of this ordinance.

ARTICLE III

DESIGNATION OF LANDMARKS AND PRESERVATION DISTRICTS

1. SURVEYS AND RESEARCH:

The commission shall undertake an ongoing survey and research effort in the county to identify areas, sites, structures, and objects that have historical, cultural, community, architectural, archeological or aesthetic importance, interest, or value. As part of the survey, the Commission shall review and evaluate any prior surveys and studies by any unit government or private organization and compile appropriate descriptions, facts, and photographs.

Before the Commission shall on its own initiative nominate any landmark or district for designation, it shall first develop a plan and schedule for completion of a survey of the county to identify potential landmarks and districts. The Commission shall then make an effort to systematically identify potential landmarks and districts and adopt procedures to nominate them in groups based upon the following criteria:

- A. The potential landmarks or districts in one township or area;
- B. The potential landmarks associated with a particular person, event, or historical period;
- C. The potential landmarks of a particular architectural style or school, or of a particular architect, engineer, builder, designer, or craftsman;
- D. Such other criteria as may be adopted by the Commission to assure systematic survey and nomination of all potential landmarks and preservation districts within the county.

2. PRESERVATION PLAN

- A. The Commission shall, through the aforesaid surveys and research, become thoroughly familiarized with buildings, structures, objects, sites, districts, areas and lands within the county, which may be eligible for designation as historic landmarks or districts, and prepare a "Historic Landmark and District Preservation Plan."
- B. The preservation plan shall be presented to the McHenry County Board Planning and Development Committee for consideration and recommendation to the McHenry County Board for inclusion in the McHenry County Comprehensive Land Use Plan, as amended. At least annually, the Commission shall review the plan and insert in the commission minutes a report of such review and take appropriate action on any amendments to the plan deemed necessary.

3. NOMINATION OF LANDMARKS AND PRESERVATION DISTRICTS

The Commission or any person(s) may propose landmarks or preservation districts for designation by the McHenry County Board by filing a nomination for any properties and structures located in an incorporated area within the geographical boundaries of McHenry County.

Nomination forms shall be filed with the McHenry County Planning Department. Such forms shall be provided by the Commission and, when submitted, shall include or be accompanied by the following:

- A. The name and address, as shown on the tax assessor's rolls of the owner of the nominated party;
- B. The legal description and common street address of the
- C. A map delineating the boundaries and location of the property proposed for designation;
- D. A written statement describing the property and setting forth reasons in support of the proposed designation;
- E. In nominating an area for designation as an historic district, a list enumerating all properties and improvements previously designated, or currently pending designation, as a landmark by this Commission or listed on any Illinois State or Federal registers of historic places; and,
- F. Pay application fee, if any, to cover the cost of the review process, for submitting a nomination form to the Commission for designation of a landmark or preservation district.

4. CRITERIA FOR CONSIDERATION OF NOMINATION

The Commission may recommend to the McHenry County Board the designation of and marks, upon written proof of owner notification, and preservation districts, upon written proof of notification of all property owners whose property is located within the boundaries of the proposed district, after a thorough investigation results in a determination that a property, structure or alteration, or area so recommended meets one (1) or more of the following criteria:

- A. It has character, interest, or value, which is part of the development, heritage, or cultural characteristic(s) of a local community, the County of McHenry, State of Illinois, or the Nation;
- B. Its location is a site of a significant local, county, state, or national event;
- C. It is identified with a person or persons who significantly contributed to the development of the local community, County of McHenry, State of Illinois, or the Nation;
- D. It embodies distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;
- E. It is identified with the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the local area, County of McHenry, State of Illinois, or the Nation;
- F. It embodies elements of design, detailing, materials, or craftsmanship that render it architecturally significant;
- G. It embodies design elements that make it structurally or architecturally innovative;
- H. It has a unique location or singular physical characteristics that make it an established or

familiar visual feature;

- I. It has character which is a particularly fine or unique example of a utilitarian structure, including, but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance;
- J. It establishes a sense of time and place unique to a community and/or the County of McHenry;
- K. It is suitable for preservation or restoration;
- L. It is included in the National Register of Historic Places and/or the Illinois Register of Historic of Historic Places;
- M. It has yielded, or may be likely to yield information important to pre-history or other areas of archaeological significance;
- N. It is an exceptional example of a historic or vernacular style or one of few remaining in the County of McHenry.

5. INITIAL REPORT AND RECOMMENDATION OF COMMISSION

The Commission shall within thirty (30) days from receipt of a completed application for designation cause to be written an initial recommendation and report stating whether the nominated landmark or preservation district does or does not meet the criteria for designation as provided for in Article III, Section 4 herein. The report shall contain the following information:

- A. An explanation of the significance or lack of significance of the nominated landmark or preservation district as it relates to the criteria for designation;
- B. A description of the integrity or lack of integrity of the nominated landmark or preservation district;
- C. In the case of a nominated landmark found to meet the criteria for designation:
 - i. A description of the significant exterior architectural features of the nominated landmark that should be protected;
 - ii. A description of the types of construction, alteration, demolition, and removal, other than those requiring a building or demolition permit, that should be reviewed for appropriateness pursuant to the provisions of Article IV, Sections 2(C) throughout 2(D) of this ordinance;
- D. In the case of a nominated preservation district found to meet the criteria for designation;
 - i. A description of the types of significant exterior architectural features of the structure within the nominated preservation district that should be protected;
 - ii. A description of the types of alterations and demolitions that should be reviewed for appropriateness pursuant to the provisions of Article IV, Sections 2(C) through 2(D) of this ordinance;

- E. The relationship of the nominated landmark or preservation district to the ongoing effort of the Commission to identify and nominate all potential areas and structures that meet the criteria for designation;

The recommendation report shall be available to the public in the office of the McHenry County Department of Planning.

6. NOTIFICATION OF NOMINATION

The Commission shall, within thirty (30) days from completion of the initial report and recommendation as described above in Article III, Section 5, cause to be scheduled a public hearing on the nomination. Notice of the date, time, place and purpose of the public hearing and a copy of the completed nomination form shall be sent by certified mail to the owner(s) of record and to the nominators, as well as by regular mail to property owners adjoining the nominated landmark or preservation district at least fifteen (15) days, but not more than thirty (30) days, prior to the date of the hearing. Such notice shall also be published in a newspaper having general circulation in the area surrounding the nominated property or district at least (15) days, but not more than thirty (30) days prior to the date of the hearing. All notices shall state the street, address and permanent index number or legal description of a nominated landmark and the boundaries of nominated district.

7. HEARING

A public hearing shall be scheduled, and notification made thereof, pursuant to Article III, Section 6, above. Oral or written testimony shall be taken at the public hearing from any person or organization concerning the nomination. The Commission may solicit expert testimony or present its own evidence regarding the historic, archaeological, or scenic significance of a proposed landmark or of any property within a proposed preservation district relative to compliance with criteria for consideration set forth above in Section 4 of this article. The owner of any nominated landmark or of any property within a nominated preservation district shall be allowed reasonable opportunity to present evidence regarding historic, archeological, architectural or scenic significance and shall be afforded the right of representation by counsel and reasonable opportunity to cross-examine expert witnesses. The hearing shall be closed upon completion of testimony.

8. RECOMMENDATION OF COMMISSION

Within thirty (30) days following close of a the public hearing, the Commission shall make its determination upon the evidence whether the proposed landmark or preservation district does or does not meet the criteria for designation. A recommendation to the McHenry County Board that the proposed landmark or preservation district does or does not meet the criteria for designation and should or should not be designated shall be passed by resolution of the Commission. This recommendation shall be accompanied by a report stating the findings of the Commission concerning the historic, archaeological, or scenic significance of the proposed landmark or preservation district. The Commission shall forward copies of the resolution and report to the applicant and the owner of the subject property or representative for petitioners of the subject area.

9. DESIGNATION

The McHenry County Board, upon a recommendation from the Commission that the proposed landmark or preservation district should be designated, shall review the report and recommendations of the Commission. The McHenry County Board may schedule a public hearing, when they deem it necessary, concerning the proposed designation and shall provide notice of any public hearing in the

same manner as provided in Section 6 of this article. The McHenry County Board after reviewing the report and recommendation shall within sixty (60) days from receipt of the recommendation of the Commission take one of the following steps:

- A. Designate the landmark or preservation district by ordinance; or
- B. Refer the report and recommendation back to the Commission with suggestions for revisions stating its reason for such action.

10. NOTICE OF DESIGNATION

Notice of the action of the McHenry County Board including a copy of the ordinance designation the landmark or preservation district, shall be sent by regular mail to all persons of record, including but not limited to each owner of record of a landmark or property within a preservation district and to owners of adjacent and immediately surrounding properties affected by a proposed landmark designation. Further, as soon as is reasonably possible, the Chairman of the McHenry County Board shall cause to be notified the McHenry County Department of Planning, the McHenry County Building and Zoning Department, the McHenry County Recorder of Deeds, the McHenry County Clerk, and the McHenry County Collector by forwarding to each a copy of the designation ordinance. The recorder of deeds shall ensure that the designation be recorded on all directly affected parcels.

11. PUBLICATION OF MAP

A map showing the location of all designated landmarks and preservation districts shall be published and amended upon each designation. Copies of the map shall be available to the public at the office of the McHenry County Planning Department and at the same location as any county zoning map.

12. APPEALS

Adoption of an ordinance designated a landmark or preservation district by the McHenry County Board shall be a final action reviewable under Section 3-101 of the Illinois Administrative Review Law.

13. INTERIM CODE

No building permit shall be issued by the McHenry County Building and Zoning Department for alteration, construction, demolition, or removal of a nominated landmark or for any property or structures(s) within a nominated preservation district from the date of the meeting of the Commission at which a nomination form is first presented until the final deposition of the nomination by the McHenry County Board unless such alteration, removal, or demolition is necessary for public health, safety, or welfare. In no event shall the delay be more than one hundred fifty (150) days.

14. MARKING BY ATTACHMENT OF A PLAQUE

Each designated landmark, landmark site and preservation district may be marked by an appropriate plaque carrying a brief description and account of the historical significance of the property.

15. AMENDMENT AND RESCISSION OF DESIGNATION

The McHenry County Board, upon recommendation of the Commission, may amend or rescind designation by the same procedure and according to the same standards and considerations set forth for designation.

ARTICLE IV

ALTERATION, CONSTRUCTION, DEMOLITION AND MAINTENANCE

1. SCOPE

Work on property and improvements so designated pursuant to this ordinance shall be regulated as follows:

- A. Landmarks: No significant alterations, exterior construction, and/or exterior demolition may be performed on property and structures, which have been designated under this ordinance as landmarks or are in the process of being nominated for landmark status, except as shall be approved by a “certificate of appropriateness”.
- B. Preservation districts: No significant alterations, exterior construction, and/or exterior demolition may be performed on property and structures, which have been designated under this ordinance as a preservation district or are in the process of being nominated for a preservation district, except as shall be approved by a “certificate of appropriateness”.

2. CERTIFICATE OF APPROPRIATENESS

- A. A “certificate of appropriateness” from the Commission established pursuant to this ordinance shall be required before any significant alteration, construction, demolition or removal that affects pending or designated landmarks and preservation districts is undertaken. Such a certificate is required for all such actions from the date a nomination in proper form for designation is submitted to the Commission.
- B. **Application for Certificates of Appropriateness:** Every application submitted to the McHenry County Building and Zoning Department, for a permit wherein the applicant represents and/or delineates plans to commence any action as immediately described above in subsection (A) affecting any such property, improvements or areas therein described, shall be forwarded by the McHenry County Zoning Enforcement Officer to a representative or representatives of the Commission, within three (3) days following the receipt of said application by the McHenry County Building and Zoning Department. The McHenry County Building and Zoning Department shall not issue a building or demolition permit until a “certificate of appropriateness” has been issued by the Commission. Any applicant may request a meeting with the Commission before the application is sent by the McHenry County Zoning Enforcement Officer to the Commission or during the review of the application.

Application for review of construction, alteration, demolition, or removal not requiring a building permit but for which a “certificate of appropriateness” is required shall be made on a form prepared by the Commission and available at the McHenry County Department of Planning. The Commission may schedule, provide notice and conduct a public hearing concerning the application in the manner previously described in Article III Section 6 and 7.

If a public hearing is not scheduled, the commission may consider the completed application at its next regular meeting and may grant a “certificate of appropriateness” at that time. The Commission may further request staff support in reviewing and approving routine applications

for “certificates of appropriateness” when the proposed work is clearly appropriate and in accordance with the criteria set forth in Article IV, Section 2(C) and (D) below and the purposes of this ordinance.

The Commission shall act promptly and in a reasonable manner in its judgment of plans for new construction for alteration, removal, or demolition of structures in preservation districts that have little historic value and that are not shown on priority list, except where such construction, alteration, or demolition would seriously impair the historic or architectural value of surrounding structures or the surrounding area.

- C. **Design Guidelines:** The Commission shall consider the following factors in reviewing application for “certificates of appropriateness”.
- i. Height: compatible with the style and character of the landmark and with surrounding structures within a preservation district.
 - ii. Proportions of windows and doors: compatible with the architectural style and character of the landmark and with the surrounding structures within a preservation district.
 - iii. Relationship of building masses and spaces: compatible within a preservation district to open space between it and adjoining structures.
 - iv. Roof shape: compatible with the architectural style and character of the landmark and surrounding structures in a preservation district.
 - v. Landscaping: compatible with the architectural style and character of the landmark and surrounding structures in a preservation district.
 - vi. Scale: compatible with the architectural style and character of the landmark and surrounding structures in a preservation district.
 - vii. Directional expression: compatible with the dominant horizontal or vertical expression of surrounding structures and facades.
 - viii. Architectural Details: treated to make a landmark compatible with its original architectural style or character.
- D. **Standards for review:** The Commission in considering the appropriateness of any alteration, demolition, new construction, removal of any property or structures designated, or pending designation, as a landmark, or any area designated, or pending designation as a preservation district, shall be guided by the following general standards in addition to any design guidelines in the ordinance designating the landmark or preservation district, as well as conformance to applicable zoning classification, height and area limitation:
- i. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.

- ii. The distinguishing original qualities or character of a building structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible.
- iii. All buildings, structures and sites shall be recognized as products of their time.
Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.
- iv. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right and this significance shall be recognized and respected.
- v. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity.
- vi. 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 or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other building or structures.
- vii. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
- viii. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.
- ix. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alteration and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
- x. Wherever possible new additions or alterations to structures 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 structure would be unimpaired.

E. **Determination by Commission:** Within fifteen (15) days (Saturdays, Sundays, and legal holidays excluded) after support staff review, or from the date of the regular meeting, or from the close of a public hearing concerning an application for a “certificate of appropriateness”, or within such further time as the applicant for said certificate (and/or permit) approves in writing, the Commission shall determine whether:

- i. The proposed construction, removal or other modification will be appropriate to the preservation of the particular landmark or preservation district and a “certificate of

appropriateness” may be issued; or

- ii. Such proposed modification is inappropriate to the preservation of the particular landmark or preservation district a “certificate of appropriateness” may be denied.

Written notice of the approval or denial of the application for a “certificate of appropriateness” shall be provided the applicant, sent by certified mail with return receipt requested, and to the McHenry County Planning Department within seven (7) days (Saturdays, Sundays, and legal holidays excluded) following the determination and shall be accompanied by a “certificate of appropriateness” in the case of approval.

- F. **Denial of “Certificate of Appropriateness”:** A denial of a “certificate of appropriateness” shall be accompanied by a statement of the reasons for the denial. The Commission shall make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the Commission to reconsider its denial and shall confer with the applicant and attempt to resolve as quickly as possible the difference(s) between the applicant and the Commission. The applicant may resubmit an amended application or reapply for a building or demolition permit that takes into consideration the recommendations of the Commission.
- G. **Decision Binding on Zoning Enforcement Officer:** The McHenry County Zoning Enforcement Officer, shall be bound by the determination of the Commission and approve, if in conformance with other provisions of the building code, or disapprove any application for the proposed construction, alteration, removal of an exterior architectural feature, or demolition of any building or structure, in a preservation district or any landmark in accordance with said determination.
- H. **Demolitions:** Pursuant to Article IV, Section 2(C) and (D) above, the Commission may deny any application for a “certificate of appropriateness” where demolition is proposed upon a finding that such proposed action will adversely affect the historic, archaeological, architectural, or scenic significance of a landmark or preservation district. Upon receipt of an application for a “certificate of appropriateness” for demolition, the Commission shall as soon as possible make a determination, supported by written findings, whether one or more of the following criteria are met:
 - i. The structure, located within a preservation district, is of such interest or quality that it would reasonably meet national, state or local criteria for designation as an historic or architectural landmark on its own credentials.
 - ii. The structure is of such unusual or uncommon design, texture or materials that it could not be reproduced, or be reproduced only with great difficulty and expense.
 - iii. Retention of the structure would aid substantially in preserving and protecting another structure, which meets criteria (I) or (ii) above.

Where the Commission determines that one or more of these criteria are met, no “certificate of appropriateness” shall be issued and the application shall be denied.

Additionally, the Commission shall require the applicant to submit for review and consideration

post-demolition plans, to include drawings or sketches with sufficient detail to show, as far as they relate to exterior appearance, the architectural design of any and all improvements incorporated in such plans.

- J. **Compliance with Certificate:** A “certificate of appropriateness” will become void:
- i. If there is any change in the scope of work pursuant to the approved application subsequent to the issuance of the certificate; or
 - ii. if twelve (12) months have elapsed after the issuance of the certificate and no building permit has been issued or if twenty-four (24) months have lapsed after issuance of the last building permit and the project has not been completed.
- K. **Appeals:** A denial of a “certificate of appropriateness” is an administrative decision as defined in Section 3-101 of the Administrative Review Law, and it shall be subject to judicial review pursuant to provision of said Administrative Review Law and all amendments and modifications thereof, and the rules adopted thereto.

3. Economic Hardship

- A. The Commission shall issue a “certificate of economic hardship” upon determination that the failure to issue a “certificate of appropriateness” has denied or will deny, the owner of landmark or of a property within a preservation district all reasonable use of, or return on, the property. Application for a “certificate of economic hardship” shall be made on a form and in the manner as prescribed by the Commission. The Commission may schedule a public hearing concerning the application and provide notice in the same manner as prescribed in Article III, Section 6, of this ordinance and conduct the hearing in the same manner as prescribed in Article III, Section 7, of this ordinance.
- B. The Commission may adopt procedural rules concerning the types of information, evidence or expert testimony that it considers necessary to make a determination on an application for a “certificate of economic hardship”. The following may be included:
- i. An 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 recommendations of the commission for changes necessary for the issuance of a “certificate of appropriateness”;
 - ii. a report from a licensed engineer or architect, licenses in the State of Illinois, with experience in rehabilitation as to the structural soundness of any structures on the property for rehabilitation;
 - iii. estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition, or removal, after any changes recommended by the Commission; and, in the case of a proposed demolition, after renovation of the existing property for continued use;
 - iv. any substantial decrease in the fair market value of the property as a result of denial of the

“certificate of appropriateness” and any substantial decrease in the pre-tax owners of record or other investors in the property as a result of the denial of the “certificate of appropriateness”;

- v. in the case of a proposed demolition, an estimate from a licensed architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;
 - vi. amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer, and any consideration by the owner as to profitable adaptive uses for the property;
 - vii. 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 depreciation deduction and annual cash flow before and after debt service, if any, during the same period;
 - viii. remaining balance on any mortgage or other financing secured by the property and annual debt service, of any, for two (2) previous years, and all appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property;
 - ix. any listing of the property for sale or rent, price asked and offers received, if any, within the previous two (2) years;
 - x. assessed value of the property according to the two (2) most recent quadrennial assessments;
 - xi. real estate taxes for the previous two (2) years;
 - xii. form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other; and,
 - xiii. any other information, including the income tax bracket of the owner, applicant, or principal investors in the property considered necessary by the Commission to make a determination as to whether the property does yield or may yield a reasonable return to owners.
- C. Determination of Economic Hardship: Within one hundred and twenty (12) days from receiving a request for a “certificate of economic hardship”, the Commission, upon a determination that the denial of a “certificate of appropriateness” has denied, or will deny the owner of a landmark or of a property within a preservation district of all reasonable use of or return on, the property, shall undertake one or the other of the following actions:
- i. offer the owner of the property reasonable financing, tax or other incentives sufficient to allow a reasonable use of, or return on, the property; or,

- ii. offer to purchase the property at a reasonable price or institute eminent domain proceedings pursuant to Article VII of the Illinois code of Civil Procedure; or
- iii. issue a “certificate of appropriateness” for the proposed construction, alteration, demolition or removal. Written notice of the determination shall be provided in the same manner as required by Article IV, Section 2(E) of this ordinance.

D. **Appeals:** A denial of a “certificate of economic hardship” is an administrative decision as defined in Section 3-101 of the Administrative Review Law, and it shall be subject to judicial review pursuant to provisions of said law and amendments and modifications thereof, and the rules thereto. The McHenry county Board may receive comments on the contents of the record. Such appeal must be made within fifteen (15) days of final denial of “certificate of economic hardship”.

4. **Maintenance of Historic Properties**

Nothing in this article shall be construed to prevent the ordinary maintenance of any exterior elements of a property or structures designated or nominated as a landmark or located within a designated or nominated preservation district.

5. **Public Safety Exclusion**

None of the provisions of this ordinance shall be construed to prevent any measures of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any structure, other feature or part thereof, where such condition has been declared unsafe or dangerous by the McHenry County Zoning Enforcement Officer and/or the McHenry County Health Department or fire protection district and where the proposed measures have been declared necessary, by such department(s) or agency to correct the said condition; provided, however, that only such work as is reasonably necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event any structure or other feature shall be damaged by fire or other calamity, or by public enemy, to such an extent that, in the opinion of the aforesaid department(s) or agency, it cannot reasonably be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws.

ARTICLE V

ENFORCEMENT, PENALTIES AND EQUITABLE RELIEF

1. ENFORCEMENT

The McHenry County Building and Zoning Department shall give written notification, sent by certified mail, return receipt requested, of any violation of this ordinance to the owner of record, lessor, the trustee or other legally responsible party for such property, stating in such notification that they have inspected the property and have found violation and shall state in clear and precise terms a description or explanation of the violation. The property owner of record, trustee, lessor, or legally responsible party shall have thirty (30) days from the date he receives the notice in which to correct such violation or to give satisfactory evidence that he has taken steps that will lead to correcting such violation within a stated period of item, which time must be agreeable to the McHenry County Building and Zoning Department as being fair and reasonable.

Upon the recommendation of the Commission, the McHenry County Board may petition the Circuit Court of McHenry County to restrain and/or enjoin any construction, removal, alteration, or demolition in violation of this act and may request the removal in whole or part of any exterior architectural feature existing in violation of this ordinance which may be necessary or desirable to redress any alteration or demolition in said violation.

2. PENALTIES

Any person found to be in violation of any provision of this ordinance shall be guilty of a separate offense for each day or portion thereof during which such violation is committed, continued or permitted, and each offense may be punishable by a fine of not more than two hundred dollars (\$200.00), or to imprisonment in the county jail for a period of not more than six (6) months, or both, at the discretion of the court.

- A. Any person, firm or corporation who alters, repairs, relocates or demolishes by neglect any landmark or any structure within a preservation district without complying with the provisions of this ordinance shall be required to restore the building or structure and its site to its appearance prior to the violation. Any action to enforce this section shall be brought by the McHenry State's Attorney, a designee or by designated representative of the McHenry County Building and Zoning Department. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty contained in this section.
- B. In the case of an unauthorized demolition of a landmark or any property within a designated preservation district, the McHenry County Building and Zoning Department will refuse to issue a building permit for the subject property for a period of five (5) years after the date of the demolition.

3. EQUITABLE RELIEF

In addition to other remedies by law, McHenry County may institute any appropriate action or proceeding to prevent, restrain, abate or correct a violation of this ordinance, including, but not limited to, requiring the restoration of property and improvements to its appearance prior to the violation.