

## CHAPTER 35

### HISTORICAL PRESERVATION

#### KANKAKEE HISTORICAL PRESERVATION COMMISSION

##### **Sec. 35 01. Historical Preservation Commission - Creation and Purpose.**

**Section 35-01. Purpose.** The purpose of this ordinance is to promote the protection, enhancement, perpetuation and use of improvements of special character or historical interest or value in the interest of the health, prosperity, safety and welfare of the people of the City of Kankakee by:

1. Providing a mechanism to identify and preserve the historic and architectural characteristics of the City which represents elements of it's cultural, social, economic, political and architectural history;
2. To promote civic pride in the beauty and noble accomplishments of the past as represented in the City's landmarks and historic districts;
3. Stabilizing and improving the economic vitality and value of the City's landmarks and historic areas;
4. Protecting and enhancing the attractiveness of the City to have buyers, visitors and shoppers and thereby supporting business, commerce, industry, and providing economic benefit to the City; and,
5. Fostering and encouraging preservation, restoration of structures, areas, and neighborhoods and thereby preventing future urban blight.

(Ord. 2013-01; 1/22/13)

**Section 35-02. Definitions.** Unless specifically defined below, words or phrases in this ordinance shall be interpreted giving them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

1. Alteration - Any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction or removal of any structure.
2. Area - A specific geographic division within the City of Kankakee.
3. Addition - Any act or process which changes one or more of the "exterior architectural features" of a structure designated for preservation by adding to, joining with or increasing the size or capacity of the structure.
4. Building - Any structure created for the support, shelter or enclosure of persons, animals or property of any kind and which is permanently affixed to the land.
5. Certificate of Appropriateness - A certificate from the Historic Preservation Commission authorizing plans for alterations, construction, removal or demolition of a landmark or site.
6. City Council - The City Council of the City of Kankakee, Illinois.

7. Commission - The Historic Preservation Commission of the City of Kankakee, Illinois.
8. Commissioners - The voting members of the Historic Preservation Commission
9. Construction - The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.
10. Demolition - Any act or process that destroys in part or in whole a landmark or site within a historic district.
11. Demolition by neglect - Any willful neglect in the maintenance and repair of an individually designated landmark, site or structure, or a site or structure within a designated historic district, not including any appurtenances and environmental settings, that does not result from an owner's financial inability to maintain and repair such landmarks, sites, or structures, and which results in any of the following conditions: The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or The deterioration of the foundations, exterior walls, roofs, chimneys, doors, windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors, or windows.
11. Design Guideline - A standard of appropriated activity that will preserve the historic and architectural character of a structure or area.
12. Exterior Architectural Appearance - The architectural and general composition of the exterior of a structure, including, but not limited to the kind, color, and the texture of the building material and the type, design and character of all windows, doors, light fixtures, signs, and appurtenant elements.
13. Historic District - An area designated as a "historic district" by ordinance of the City Council and which may contain within definable geographic boundaries one or more landmarks and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.
14. Landmark - Any building, structure or site which has been designated as a "landmark" by ordinance of the City Council pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration and preservation because of its historic and/or architectural significance to the City of Kankakee.
15. Owner of Record - The person, corporation, or other legal entity listed as owner on the records of the Kankakee County Recorder of Deeds.
16. Rehabilitation - The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.
17. Removal - Any relocation of a structure on its site or to another site.
18. Repair - Any change that does not require a building permit, that is not construction, relocation or alteration.
19. 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, buildings, fences, gazebos, advertising signs, bill boards, backstops for tennis courts, radio and television antennae, including supporting towers, swimming pools, satellite dishes, solar panels and wind generation.

20. Structural Change - Any change or repair in the supporting members of a building, structure, roof or exterior walls which would expand the building in height, width or bulk of the building.

**Section 35-03. Appointment of Historic Preservation Commission.** Per Section 119-25 of the Kankakee County Code which states the following;

The Kankakee County Board shall by ordinance appoint members to the Kankakee County Preservation Commission from names submitted by the county board chairman.

(1) *Composition.* The preservation commission shall consist of nine members. All members shall be residents of Kankakee County. The county board chairman shall nominate to the preservation commission at least one attorney, one historian or architectural historian, one architect/engineer, and one real estate professional knowledgeable in preservation; the other members shall be persons with a demonstrated interest in prehistory, history, architecture, engineering, or preservation. In addition to the nine voting members, the director of the Kankakee County Planning Department or the director's designee shall serve as an ex-officio, nonvoting member of the commission and shall be responsible for providing staff support.

(2) *Terms.* Terms of the initial members shall be staggered so that at least five serve respectively for the following terms: one for one year; one for two years; one for three years; one for four years; 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 the term of their elected or appointed office. All members shall serve until their successors are appointed. Vacancies shall be filled by the Kankakee County Board from names submitted by the county chairman. Any commission member may be removed by the county board for cause after a public hearing.

(3) *Officers.* One of the appointed members shall be named chairman at the time of appointment and vice-chairman and secretary shall be elected by the preservation 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 planning director and his staff shall ensure that the following duties are performed:

a. That minutes are taken of each preservation commission meeting;

b. That copies of the minutes, reports, and decisions of the preservation commission be published and distributed to the members of the preservation commission.

c. The Kankakee County Board Chairman is advised of vacancies on the preservation commission and expiring terms of members; and

d. That there be prepared and submitted to the Kankakee County Board a complete record of the proceedings before the preservation commission on any matters requiring county board consideration. The Kankakee County Planning Department shall be the official keeper of the records.

**Section 35-04. Meetings.** Meeting dates and defined Quorum's are subject to section 119-27 of the Kankakee County Code which states the following;

Meetings of the preservation 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 and maintained at offices of the Kankakee County Planning Department.

(1) *Quorum*. A quorum shall consist of five members. The transaction of business shall be made by a majority vote of those members in attendance while a quorum is present, except that the adoption, modification or rescission of any rule or part thereof shall require the affirmative vote of five members.

**Section 35-05. Powers and Duties.** The Commission shall have the following powers and duties:

1. To adopt its own procedural regulations associated with Committee membership, meetings, appointments and reporting (Their authority is only to recommend, to the Kankakee City Council, for any action associated with physical structures/landmarks within the Municipal Boundaries of Kankakee);
2. To conduct an ongoing survey to identify historically and architecturally significant properties, structures and areas;
3. To investigate and recommend to the City Council the adoption of ordinances designating properties or structures having special historic, community, or architectural value as "landmarks";
4. To investigate and recommend to the City Council the adoption of ordinances designating properties or structures having special historic, community or architectural value as "historic districts"
5. To keep a register of all properties and structures that have been designated as landmarks or historic districts, including all information required for each designation.
6. 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 or historic district to another.
7. To advise owners of landmarks and property or structures within historic districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the State or National Register of Historic Places.
8. To inform and educate the citizens of the City of Kankakee concerning the historic and architectural heritage of the City by publishing appropriate maps, newsletters, brochures, and pamphlets and by holding programs and seminars;
9. To hold public hearings and to review applications for construction, alteration, removal, or demolition affecting proposed or designated landmarks and issue or deny Certificates of Appropriateness for such actions. Applicants shall be required to submit plans, drawings, elevations, specifications, and other information as may be necessary to make decisions.
10. To propose specific guidelines, to be enforced and administered by the City Planner, for the alteration, demolition, construction, or removal of identified historic landmarks.
11. To review proposed zoning amendments, applications for conditional/special use permits or variances that affect proposed or designated landmarks. Such review shall be made prior to the date of the hearing by the Planning Board.
12. To administer on the behalf of the City of Kankakee any property or full or partial interest in real property, including a conservation right as that term is used in Chapter 30, paragraph 401, et.seq., Illinois

Revised Statutes, which the City may have or accept as a gift or otherwise, upon designation by the City Council.

13. To accept and administer on behalf of the City of Kankakee, upon designation by the City Council, such gifts, grants and money as may be appropriate for the purpose of this ordinance.

14. To call upon available City staff members as well as other experts for technical advise.

15. To testify before all boards and commissions, including the Planning Board, on any matter affecting historically and architecturally significant property and landmarks.

16. To periodically review the City's Zoning Ordinance and recommend to the Planning Board and the City Council any amendments appropriate for the protection and continued use of landmarks or property and structures within historic districts.

**Section 35-06. Surveys and Research.** The Commission shall undertake an ongoing survey and research effort in the City of Kankakee to identify neighborhoods, areas, sites, structures, and objects that have historic, community, architectural, 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 of government or private organization and compile appropriate descriptions, facts, and photographs. The Commission shall identify potential landmarks and adopt procedures to nominate them in groups based upon the following criteria:

1. The potential landmarks in one identifiable neighborhood, district or geographical area of the City;
2. The potential landmarks associated with a particular person, event or historical period;
3. The potential landmarks of a particular architectural style or school, or of a particular architect, engineer, builder, designer or craftsman;
4. Such other criteria as may be adopted by the Commission to assure systematic survey and nomination of all potential landmarks within the City.

**Section 35-7. Criteria for Landmark Designation.**

A. Nominations shall be made to the Historic Preservation Commission on a form provided by the City Planner and approved by the Commission. A filing fee may be required.

B. The Commission shall, upon investigation as it deems necessary, make a preliminary determination as to whether a property, structure or area possesses the integrity of design, workmanship, materials, location, setting and feeling and meets one or more of the following criteria:

1. Significant value as part of the historic, heritage or cultural characteristics of the community, county, state or nation;
2. Its identification with a person or persons who significantly contributed to the development of the community, county, state or county;
3. Representative of the distinguishing characteristics of architecture inherently valuable for the study of a period, type, method of construction or use of indigenous materials;
4. Notable work of a master builder, designer, architect or artist whose individual work has influenced the development of the community, county, state or country.

5. Its unique location or singular physical characteristics that make it an established or familiar visual feature;
6. Its character as a particularly fine or unique example of a utilitarian structure, including but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance.
7. Area that has yielded or may be likely to yield, information important in history or prehistory.

A preliminary determination as to whether a property, structure, or area meets one or more of the foregoing criteria shall be made within fifteen (15) days of filing of a nomination with the Commission.

### **Section 35-8. Landmark Designation Procedures.**

- A. The Commission shall schedule a public hearing within sixty (60) days after the filing of an application with the City Planner.
  1. Any person, group of persons or association, including, but not limited to the Commission, may request a Historic Landmark designation for any structure, building or site within the boundaries of the City which may have historic or architectural significance as defined by the Ordinance. The City Planner shall supply, upon request, the application forms. Completed forms shall be submitted to the City Planner which shall be forwarded to the Commission for their consideration.
  2. Notice of date, time, place and purpose of the public hearing shall be sent by mail to owner(s) of record and to the nominator(s) as well as to the adjoining property owners, not less than fifteen (15) nor more than thirty (30) days prior to the date of the hearing. A public hearing notice also shall be published in a newspaper having general circulation in the City. The notice shall state the location of the property and a statement summarizing how the proposed landmark meets the criteria set forth in Subsection B under Criteria for Landmark Designation.
  3. Upon receipt of the application, the City Planner shall schedule a public hearing, to be held within forty-five (45) days after preliminary approval of application.
  4. During the public hearing, the Commission shall review and evaluate the application according to the criteria established by ordinance.
  5. If the Commission finds at the time that the application merits further consideration, then the Commission may table the request until its next regularly scheduled meeting.
  6. A Certificate of Appropriateness shall be required for alteration, construction, removal or demolition of a proposed landmark from the date when the nomination form is presented to the Commission until the final disposition of the request.
- B. A decision shall be made within thirty (30) days following the date of the closing of the public hearing.
  1. Following the public hearing, the City Planner shall prepare the Commission's evaluation, recommendation and all available information for submission to the City Council within thirty (30) days.
  2. If the Commission decides that the landmark should be designated, it shall do so by a resolution passed by a majority of the Commission.
  3. The owner(s) of record shall be notified promptly by a letter containing information of the Commission's decision.

4. A simple majority vote by the City Council is necessary for approval of a landmark designation. If the City Council approves the application for a designation, a notice will be sent to the property owner, the City Planner, the Building Inspector, the City Clerk's office, and recorded with the County Recorder of Deeds. If the City Council denies the petition, no petitioner or applicant may file for ninety (90) days to the Commission.
5. Buildings designated as Historic Landmarks shall be subject to issuance of Certificates of Appropriateness.

**Section 35-9. Criteria for Historic District Designation.**

- A. Nominations shall be made to the Commission on a form provided by the City Planner. A filing fee may be required.
- B. The following criteria shall be utilized by the Commission in determining the designation of Historic Districts:
  1. The District contains one or more landmarks along with such other buildings, places or areas within its definable geographic boundaries which, while not of such historic significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located in such District;
  2. A significant number of structures meeting any of the standards of Subsection B under Landmark Designation Criteria;
  3. Establishing a sense of time and place unique to the City of Kankakee, and/or;
  4. Exemplifying or reflecting the cultural, social, economic, political or architectural history of the nation, the state or the City.
- C. A preliminary determination as to whether a district or an area meets one or more of the foregoing criteria shall be made within sixty (60) days of the filing of a nomination with the Commission.

**Section 35-10. Historic District Designation Procedure.**

- A. Any person, group of persons, or association, including but not limited to the Commission, may present to the commission a petition requesting that a defined geographic area be designated as an Historic District.
  1. The City Planner shall supply, upon request, the application forms. Completed forms shall be submitted to the City Planner who shall forward them to the Commission for their consideration.
  2. The petition shall contain the names of no less than fifty-one (51%) percent of the property owners. Or, if lease holders, with a five (5) year or longer leasehold interest, are signatories to the petition then the petition shall contain no less than fifty-one (51%) percent of the property owners and/or leaseholders.
  3. Notice of date, time, place and purpose of the public hearing shall be sent by mail to owner(s) of record and to the nominator(s) as well as to the adjoining property owners, not less than fifteen (15) nor more than thirty (30) days prior to the date of the hearing. A public notice also shall be published in a newspaper having general circulation in the City of Kankakee. The notice shall state the location of the property and a statement summarizing how the proposed landmark meets the criteria set forth in Subsection B under Criteria for Historic Designation.
  4. Upon receipt of the application, the City Planner shall schedule a public hearing to be held within thirty (30) days from after preliminary approval of application.

5. During the public hearing the Commission shall review and evaluate the application according to the criteria established by ordinance.

6. If the Commission finds at the time that the application merits further consideration, then the Commission may table the request until its next regular scheduled meeting.

B. A decision shall be made within thirty (30) days following the date of the closing of the public hearing.

1. Following the public hearing, the City Planner shall prepare the Commission's evaluation, recommendation and all available information for submission to the City Council within thirty (30) days.

2. If the Commission decides that the proposed historic district should be designated, it shall do so by a resolution passed by a majority of the Commission.

3. The owner(s) of record shall be notified promptly by a letter containing information of the Commission's decision.

4. A simple majority vote by the City Council is necessary for approval of a Historic District. If the City Council approves, the application for a designation, a notice will be sent to the property owner, the Building Inspector, and the City Clerk's office. If the City Council denies the petition, no petitioner can file for a period of 12 months to the City Planner.

**Section 35-11. Applications for Nominations of Landmarks and Historic Districts.** Any person, group of persons or association, may apply to the Kankakee Historic Preservation Commission for the designation of a Landmark or Historic District. Applications for a nomination shall be filed at the office of the City Planner. Persons wishing guidance or advice prior to completing an application may contact the City Planner. At a minimum, the application shall include the following:

A. For a Landmark:

1. The name and address of the property owner.

2. The legal description and common street address of the property.

3. A written statement describing the property and setting forth reasons in support of the proposed designation.

4. Documentation that the property owner has been notified or consents to the application for designation.

5. A list of significant exterior architectural features that should be protected.

6. An overall site plan and photographs of the landmark. The plan shall also include a front, side and rear elevation drawing.

B. For a Historic District:

1. The names and addresses of the property owners.

2. A map delineating the boundaries of the area to be designated.

3. A written statement describing the area and properties within the historic district and setting forth reasons in support of the proposed designation.

4. A list and photographs of significant exterior architectural features of all properties in the district that should be protected.

**Section 35-12. Certificate of Appropriateness.** A Certificate of Appropriateness issued by the Commission shall be required before a building, moving or demolition permit is issued for any designated historic landmark or structure thereof. It is required if the building, structure or site will be altered, extended, or repaired in such a manner as to

produce a major change in the exterior appearance of such building or structure. Such major changes include, but are not limited to, the following:

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;
4. Any construction, alteration, demolition, or removal affecting a significant exterior architectural feature as specified in the ordinance designating the landmark.

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.

**Section 35-13. Application for Certificate of Appropriateness.** Every application for a demolition or a building permit, including plans and specifications, shall be forwarded by the City Planner to the Commission within fifteen (15) days following receipt of the application by the city Planner. The application for issuance of a Certificate of Appropriateness must include the following:

1. Street address of the property involved;
2. Legal description of the property involved;
3. Brief description of the present improvements situated on the property;
4. A detailed description of the construction, alteration, demolition or use proposed together with any architect drawings or sketches if those services have been utilized by the applicant and if not, a sufficient description of the construction, alteration, demolition, and use to enable anyone to determine what final appearance and use of the real estate will be;
5. Owner's name;
6. Developer's name, if different than owner;
7. Architect's name; and,
8. A filing fee may be required.

**Section 35-14. Standards for Certificate 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:

1. 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 and its site environment.
2. 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.
3. 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.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity.
6. 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.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of the structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. 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.

10. 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 35-15. Design Guidelines.** Design guidelines for applying the criteria for review of Certificates of Appropriateness shall at a minimum, consider the following architectural criteria:

1. 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 a historic district.

2. 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.

3. Relationship of Building Masses and Spaces - The relationship of a structure within a historic district to the open space between it and adjoining structures should be compatible.

4. Roof Shape - The design of the roof, fascia, and cornice should be compatible with the architectural style and character of the landmark.

5. Landscaping - Landscaping should be compatible with the architectural character and appearance of the landmark.

6. 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 a historic district.

7. Directional Expression - Facades in historic districts should blend with other structures with regard to directional expression. Structures in a historic district should be compatible with the dominant horizontal or vertical expression of surrounding structures. The directional expression of a landmark after alteration, construction, or partial demolition should be compatible with its original architectural style and character.

8. 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.

9. Compatibility - New structures in a Historic District shall be compatible with the architectural styles and design in said districts.

**Section 35-16. Hearing on Application.** Applications for a Certificate of Appropriateness are available from the office of the City Planner. Such applications shall be completed and submitted to the City Planner which shall be forwarded to

the Commission. The Commission shall schedule a public meeting for consideration of the application within fifteen (15) days of receipt of application. A public notice for consideration of the application shall be made not less than fifteen (15) days nor more than thirty (30) days before hearing, in a newspaper of general circulation published in the City of Kankakee. If the Commission finds at the time that the application merits further consideration, then the Commission may table the request until its next regularly scheduled meeting.

**Section 35-17 Issuance of a Certificate of Appropriateness.** The Commission shall notify the applicants of their decision within five (5) days after the public meeting. Upon approval of the application, the Commission shall direct the City Planner to issue a signed Certificate of Appropriateness to the applicant with copies forwarded to the Building Inspector. A Certificate of Appropriateness shall be invalid if changes in the plans review by the Commission are necessary in obtaining a building permit or if the building permit issued for the same work becomes invalid. The Certificate of Appropriateness remains valid for the same period of validity as the building permit.

**Section 35-18. Appeals for Denial of a Certificate of Appropriateness.** In the event of denial of an application for a Certificate of Appropriateness, the Commission shall notify the applicant in writing of the disapproval and the reasons therefore and shall recommend changes, if any, in the proposed action that would cause the Commission to reconsider its denial.

Within fifteen (15) days of receipt of the notification of disapproval, the applicant may resubmit an amended application that takes into consideration the recommendations of the Historic Preservation Commission. The application shall be considered to be withdrawn if no written modification on request for public hearing is received. Within fifteen (15) days of receipt of a written modification the Commission must either issue the Certificate of Appropriateness or hold a hearing.

**Section 35-19. Findings on Appeal.** The Commission shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the applicant by mailing notice of the hearing. Said mailing to be made at least ten (10) days prior to the date of the hearing.

Notice of the time and place of such public hearing shall be published at least once, not less than fifteen (15) days nor more than thirty (30) days before the hearing, in a newspaper of general circulation published in the City of Kankakee.

The Chairperson shall conduct the hearing and the Commission and the applicant shall have the right to introduce evidence and cross examine witnesses. A recorded or written transcript of the hearing shall be made and kept.

The Commission shall vote, announce its decision, make its recommendation, and notify the applicant within five (5) days after the conclusion of the public hearing, unless the time is extended by mutual agreement between the Commission and the applicant.

In the event of a denial of appeal by the Commission, the applicant may appeal the decision to the City Council, whose decision in this matter shall be final subject only to judicial review as provided by law.

**Section 35-20. Certificate of Economic Hardship.** Notwithstanding any of the provisions of the ordinance to the contrary, the Commission may issue a Certificate of Economic Hardship to allow the performance of work for which a Certificate of Appropriateness has been denied.

A. 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 relationship, if any, between the owner and the person from whom the property was purchased).
- (2) The assessed value of the land and improvements thereon according to the two most recent assessments

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

B. If the Commission finds that without approval of the proposed work, the property cannot obtain a reasonable economic return there from, then the application shall be delayed for a period not to exceed ninety (90) days. During this period of delay, the Commission shall investigate plans and make recommendations to the City Council to allow for a reasonably beneficial use or a reasonable economic return, or to otherwise preserve the subject property. Such plans and recommendations may include, but not be limited to:

- (1) A relaxation of the provisions of the ordinance;
- (2) A reduction in real property taxes, financial assistance, building code modifications; and/or,
- (3) Changes in zoning regulations.

C. If by the end of this ninety (90) days, the Commission has found that without approval of the proposed work, the property cannot be put to a reasonable beneficial use or the owner cannot obtain a reasonable economic return there from, then the Commission shall issue a Certificate of Economic Hardship approving the proposed work. If the Commission finds otherwise, it shall deny the application for a Certificate of Economic Hardship.

### **Section 35-21. Appeals**

A. When a Certificate of Appropriateness or a Certificate of Economic Hardship is approved or denied for either a landmark or a structure, the applicant or any interested party may, within thirty (30) days, appeal the Commission's decision to the City Council. The Council may receive comments on the contents of the record but no new matter may be considered by the Council. The City Council may affirm the decision or recommend changes by a majority vote of the Council after due consideration of the facts contained in the record submitted to the Council by the Commission. The Council may overturn the Commission's decision by a majority vote of a quorum of the Council. If the Council decides that a Certificate of Economic Hardship should be issued, the City Clerk shall notify the applicant and the Building Inspector within seven (7) days of the Council's decision and the Building Inspector then shall issue the permit within fifteen (15) days.

B. If the Council concurs with the Commission's decision not to issue a Certificate of Economic Hardship, the City

Clerk shall notify the applicant and the Building Inspector within seven (7) days.

**Section 35-22. Natural Destruction or Demolition.** In the case of partial or complete natural destruction or demolition of a site within a Historic District or of a Historic Landmark, the owner will 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 damage, and the character of the Historic District.

**Section 35-23. Demolition by Neglect**

- A. The Historic Preservation Commission shall prepare and maintain a list of Landmarks and buildings and structures in Historic Districts that are not being maintained in a safe and sanitary condition. The Commission shall request a meeting with the owners of the buildings or structures on the list in order to discuss ways to improve the condition of the property. When such meetings are held, the Commission shall report the results of these discussions to appropriate City officials.
- B. The Commission shall use the list to recommend treatments to address problems relating to the individual buildings or structures on the list that requires attention. The Chairman and the Historic Preservation Manager shall meet with the Building Official to review the recommended treatments. After this review, they shall ask the Building Official to initiate additional action, if appropriate under applicable City Codes, to ensure the perpetuation of the building or structure and to prevent its destruction by deterioration. The Commission may also seek to have defects corrected or repairs made, so that such endangered buildings or structures are protected and preserved in accordance with the purpose of this section and the appropriate City Code.

**Section 35-24. Fees and Penalties.** The Commission may establish an appropriate system of processing fees for the review of nominations and Certificates of Appropriateness. Any person who undertakes or causes an alteration, construction, demolition, or removal of any nominated or designated landmark or property within a nominated or designated landmark or designated historic district without a Certificate of Appropriateness shall be guilty of municipal code violation and upon conviction thereof shall be punished by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). Every day such violation shall continue to exist shall constitute a separate violation. The Commission may institute any appropriate action or proceeding in the name of the City of Kankakee to enjoin, correct or abate any violation of this ordinance.

(Ord. 2013-01; This ordinance shall be in full force and effect from and after its passage, approval and publication in accordance with the statute. Ord. No. 2013-01; 1/22/13

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