

**Chapter 12**

**HISTORIC PRESERVATION**

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**Section 12.100. Findings.**

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 Village of Downers Grove by:

- A. Providing a mechanism to identify and preserve the historic and architectural characteristics of the Village which represent elements of the Village's cultural, social, economic, political and architectural history;
- B. Promoting civic pride in the beauty and noble accomplishments of the past as represented in the Village's landmarks and historic districts;
- C. Stabilizing and improving the economic vitality and value of Downers Grove's landmarks and historic areas;
- D. Protecting and enhancing the attractiveness of the Village to home buyers, visitors and shoppers and thereby supporting business, commerce, industry and providing economic benefit to the Village;
- E. Fostering and encouraging preservation and restoration of structures, areas and neighborhoods and thereby preventing future urban blight.
- F. Encouraging the completion of historic building surveys to identify buildings, structures and sites that are potential landmarks or potential historic districts which may contain potential contributing, potential non-contributing or potential significant buildings.
- G. Implementing the policies and goals contained within the Comprehensive Plan and other officially adopted plans of the Village.

(Ord. 5519, Amended, 12/15/2015; Ord. 4881, Add, 07/03/2007)

**Section 12.200. Definitions.**

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For the purposes of this Chapter, the following words and phrases shall have the meanings ascribed to them as follows. Words that are not expressly defined in Chapter 1 of the Municipal Code or this Historic Preservation Ordinance have the meaning given in the latest edition of *Merriam-Webster's Unabridged Dictionary*.

*Addition.* Any act or process which changes one or more of the exterior architectural features of a structure by adding to, joining with or increasing the size or capacity of the structure.

*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 relocation of any structure.

*Architectural Integrity.* The authenticity of a building or structure's historic identity, evidenced by the survival of physical characteristics that existed during the building or structure's historic period.

*Board.* The Downers Grove Architectural Design Review Board.

*Building.* Any structure with a permanent roof, separated on all sides from adjacent open areas by walls, built for shelter or enclosure of persons, animals, personal property or property of any kind.

*Building Survey.* A written report conducted by an Illinois licensed architect or other qualified third party professional identifying at a minimum the architectural style, historical status and condition of all structures and properties within a proposed historic district.

*Certificate of Appropriateness.* A certificate issued by the Board pursuant to Section 12.500 of this Chapter.

*Certificate of Economic Hardship.* A certificate issued by the Board pursuant to Section 12.600 of this Chapter authorizing an addition, alteration, construction, relocation or demolition even though a Certificate of Appropriateness has previously been denied.

*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 or the alteration, repair or rehabilitation to a building, site or structure.

*Contributing Building.* A building, site or structure that is part of a historic district that is at least fifty (50) years old and possesses a moderate to good degree of architectural integrity of location, setting, feeling and association and a majority of its architectural features and elements as designated by resolution of the Council.

*Council.* The Village Council of the Village of Downers Grove.

*Demolition.* Any act or process that destroys in part or in whole a building, structure or accessory structure, excluding demolition associated with routine maintenance and repair.

*Department.* The Department of Community Development.

*Design Guideline.* A standard of appropriate activity that will preserve the historic and architectural character of a structure or area.

*Director.* The Director of the Department of Community Development.

*Exterior Architectural Appearance/Feature.* The architectural character and style and general composition of the exterior of a structure, including, but not limited to, the kind and texture of the building material and the type, design and character of all windows, doors, light fixtures, signs, and other appurtenant elements.

*Exterior Modification.* Any alteration, addition, construction, demolition, rehabilitation, relocation or repair.

*Facade, Primary.* The portion of the facade that abuts or is nearest to a street yard and is visible from a street.

*Facade, Rear.* The portion of a facade that abuts or is nearest to a rear yard and is not a primary or secondary facade.

*Facade, Secondary.* The portion of a facade that abuts or is nearest to a side yard and abuts a primary facade.

*Historic District.* A contiguous historic district or a thematic historic district.

*Historic District, Contiguous.* A specific geographic area containing two (2) or more contiguous properties designated by resolution of the Council.

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*Historic District, Thematic.* An area designated as a "thematic historic district" by resolution of the Council composed of two (2) or more definable significant geographical areas, or properties, that are spatially discrete from one another or from other areas, or properties, and not part of an established "contiguous historic district" as defined elsewhere in this Ordinance. A thematic district is organized by "context" or "property type". The context could be historic events, significant persons (such as an architect), or architectural style or characteristic. The property type of a group of buildings or structures included in such a district would be common physical and associative attributes (such as ranch style and residential).

*In-kind.* The repair or replacement of existing materials or features using the same material type, design, dimension, texture, detailing and exterior appearance.

*Landmark.* Any building, structure or site which has been designated as a landmark by resolution of the Council.

*National Register Landmark.* A building, structure or site that is listed in the National Register of Historic Places.

*Non-Contributing Building.* A building, structure or site that is part of a historic district that has not been designated as a contributing or significant building by resolution of the Council.

*Owner Consent Form.* A form provided by the Village identifying the owner(s) of record and their consent to landmark or historic district designation.

*Owner(s) of Record.* The person(s), corporation, or other legal entity listed on the records of the County Recorder of Deeds.

*Potential Contributing Building.* A building, site or structure that was identified in a building survey that is at least fifty (50) years old and possesses a moderate to good degree of integrity and a majority of its architectural features and elements.

*Potential Historic District.* A specific geographic area containing two (2) or more contiguous properties ("contiguous historic district") or an area composed of two (2) or more definable significant geographical areas, or properties, that are spatially discrete from one another or from other areas ("thematic historic district"), or properties that have been identified in a building survey as possessing characteristics that could qualify the area as a contiguous historic district or a thematic historic district.

*Potential Landmark.* Any building, structure or site which has been identified in a building survey that may meet the requirements to be a landmark.

*Potential Non-Contributing Building.* A building, structure or site that was identified in a building survey which may be part of a historic district but does not possess individual historic, architectural, archaeological significance, or architectural integrity that would not qualify as a potential contributing building or a potential significant building.

*Potential Significant Building.* A building, site or structure that was identified in a building survey that is at least fifty (50) years old and possesses a high majority of its architectural features and elements typical to its form and style and a high degree of integrity of location, setting, feeling and association.

*Rehabilitation.* The process of returning a property to a state of utility, through repair or alteration of the exterior of the property, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

*Relocation.* Any relocation of a structure on its site or to another site.

*Repair.* Any external change that does not require a building permit or that is not construction, relocation or alteration.

*Significant Building.* A building, site or structure that is at least fifty (50) years old and possesses a high majority of its architectural features and elements typical to its form and style and a high degree of integrity of location, setting, feeling and association as designated by resolution of the Council.

*Street.* For the purpose of this Ordinance only, a private or public thoroughfare, including road, highway, drive, lane, avenue, place, boulevard and any other thoroughfare (excluding alleys) that affords the principal means of access to a property.

*Structure.* Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but not limited to buildings, fences, gazebos, advertising signs, backstops for

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tennis courts, radio and television antennae, including supporting towers, swimming pools, satellite dishes, solar panels and wind generation devices.

*Structural Change.* Any change or repair in the supporting members of a building, structure, roof or exterior walls or which would expand, reduce, or otherwise substantially modify the building in height, width or bulk.

*Supplementary Listing Record.* A form provided by the Village and substantiating documentation provided by the applicant to modify or add to a landmark or active landmark nomination.

*Yard, Rear.* See Section 28.15.280 of the Municipal Code.

*Yard, Side.* See Section 28.15.280 of the Municipal Code.

*Yard, Street.* See Section 28.15.280 of the Municipal Code.

(Ord. 5648, Amended, 10/03/2017; Ord. 5519, Amended, 12/15/2015; Ord. 4881, Add, 07/03/2007)

### **Section 12.300.ART. Landmarks.**

(Ord. 5519, Add, 12/15/2015)

### **Section 12.301. Landmark Designation Procedures.**

- A. An application for landmark designation may be submitted by the owner(s) of record of the property on which the proposed landmark is located or the owner of record's authorized representative. A filing fee may be required as identified in the User-Fee, License and Fine Schedule.
- B. A complete application for landmark designation must be filed with the Department. An application for landmark designation shall be deemed to be complete only if the application is accompanied by an owner consent form containing the signatures of all owners of record of a property on which the proposed landmark is located.
- C. From the date that a complete application for landmark designation is filed to the date that the application is granted, denied or expires, whichever comes first, no exterior architectural feature of the proposed landmark may undergo alteration, construction, or demolition if such alteration, construction, or demolition would be subject to the issuance of a Certificate of Appropriateness pursuant to the provisions of Section 12.500 after designation. Nothing in this paragraph shall prohibit any work that would not be subject to the issuance of a Certificate of Appropriateness or any work that is necessary to prevent or correct an imminently dangerous or hazardous condition as described in Section 12.700.
- D. Within thirty (30) days of the receipt by the Department of a complete application for landmark designation, the Board shall schedule a public hearing on the application, said hearing shall be held no more than sixty (60) days after such receipt.
  1. Notice of the required public hearing on a landmark application shall be published in accordance with Section 28.12.010.F of the Municipal Code.
  2. Failure to provide any form of courtesy notice that is not required by State law or any defect in such courtesy notice does not invalidate, impair or otherwise affect any application, public hearing or decision rendered in respect to the matter under consideration.
  3. During the public hearing, the Board shall review and evaluate the application according to the criteria set forth in Section 12.302. A majority vote of the Board shall be necessary to make a recommendation to the Council regarding the application.

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4. Within thirty (30) days following the date of the closing of the public hearing, the Board shall prepare its written evaluation, recommendation and all available information for submission to the Council. Within ninety (90) days of receipt of the Board's findings and recommendation, the Council may act to approve or deny the landmark application. A resolution passed by majority vote of the Council is necessary for approval of a landmark. If the Council approves or denies the application, a notice shall be sent to the property owner(s) of record via certified mail and filed with the Village Clerk's office.
5. If the Council approves the application, the Village shall:
  - a. Cause the approved landmark designation to be recorded with the County Recorder of Deeds within thirty (30) days.
  - b. Place such designation on the Village's official Zoning Map.
6. If the Council denies the application, such denial shall constitute a final administrative decision subject to administrative review as provided by State law. If an application is denied, the owner(s) of record may not reapply for landmark status for the same property for two (2) years from the date of the denial by the Council.
7. Landmark designation may be amended by the same procedure and according to the same criteria set forth herein for designation.
8. Landmark designation or nomination may be amended or added to by submitting a Supplementary Listing Record. An additional public hearing is not required before the Board nor Council. At the next regularly scheduled meeting, the Board will evaluate the Record according to the same criteria set forth herein for designation, and if determined to meet the criteria, shall be added to the official designation or nomination.

(Ord. 5648, Amended, 10/03/2017; Ord. 5519, Renumbered, 12/15/2015; Ord. 4881, Add, 07/03/2007)

### **Section 12.302. Landmark Designation Criteria.**

The following criteria shall be utilized by the Board in determining the designation of landmarks:

- A. The proposed landmark is either over fifty (50) years old, in whole or in part, or is under fifty (50) years of age and possesses exceptional importance such as might be recognized immediately for its reflection of an extraordinary event or architectural innovation; and
- B. That one or more of the following conditions exist:
  1. The property has significant value as part of the historic, heritage or cultural characteristics of the community, county, State or Nation;
  2. The property was owned or occupied by a person or persons of historic significance to the community, county, State or Nation;
  3. The property represents the distinguishing characteristics of an architectural period, style, type, method of construction or use of indigenous materials;
  4. The property represents notable work of a master builder, designer, architect or artist whose individual work has influenced the development of the community, county, State or Nation;
  5. An area that has yielded or may be likely to yield, information important in history or prehistory.
  6. A source of civic pride or identity for the community.
  7. The property is included in the National Register of Historic Places.

(Ord. 5519, Renumbered, 12/15/2015; Ord. 4881, Add, 07/03/2007)

### **Section 12.400.ART. Historic Districts.**

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(Ord. 5519, Add, 12/15/2015)

### Section 12.401. Historic District Designation Procedures.

- A. An application for the designation of a historic district may be submitted by property owner(s) of record within a proposed historic district or an authorized representative of a property owner(s) of record within a proposed historic district. A filing fee may be required as identified in the User-Fee, License & Fine Schedule.
- B. A complete application for designation of a historic district must be filed with the Department. An application for historic district designation shall be deemed to be complete only if the application is accompanied by:
1. *Thematic historic district* - an owner consent form containing the signatures of one hundred percent (100%) of all owners of record of the properties within the proposed thematic historic district.  
*Contiguous historic district* - an owner consent form containing the signatures of at least fifty-one percent (51%) of all owners of record of the properties within the proposed contiguous historic district.  
For purposes of condominium developments, an affirmative vote of the condominium board shall be considered as owner consent for the condominium development.
  2. A written statement by the owner(s) of record included on the owner consent form indicating that they have received copies of this Ordinance and acknowledge its requirements.
- C. From the date that a complete application for a historic district designation is filed to the date that the application is granted, denied or expires, whichever comes first, no exterior architectural feature of any building within the proposed historic district may undergo alteration, construction, or demolition if such alteration, construction, or demolition would be subject to the issuance of a Certificate of Appropriateness pursuant to the provisions of Section 12.500 after designation. Nothing in this paragraph shall prohibit any work that would not be subject to the issuance of a Certificate of Appropriateness or any work that is necessary to prevent or correct an imminently dangerous or hazardous condition as described in Section 12.700.
- D. A preliminary public hearing concerning the application for a proposed contiguous historic district shall be scheduled by the Board within thirty (30) days of the receipt by the Department of a complete application. The hearing shall be held no later than sixty (60) days after the date of receipt by the Department of a complete application.
1. Notice of the required preliminary public hearing on a proposed contiguous historic district application shall be published in accordance with Section 28.12.010.F of the Municipal Code.
  2. Failure to provide any form of courtesy notice that is not required by State law or any defect in such courtesy notice does not invalidate, impair or otherwise affect any application, public hearing or decision rendered in respect to the matter under consideration.
  3. During the preliminary public hearing, the Board shall review and evaluate the application according to the criteria established by Section 12.402 and shall make a preliminary determination by majority vote regarding designation of the proposed historic district. Such preliminary determination shall be sent via certified mail to all owners of record within the proposed historic district.
- E. The Board shall, within thirty (30) days of receipt by the Department of a complete application

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for a proposed thematic historic district or the preliminary determination for a proposed contiguous historic district, schedule a public hearing on the application, said hearing to be held no more than sixty (60) days after such receipt.

1. Notice of the required public hearing on a proposed historic district application shall be published in accordance with Section 28.12.010.F of the Municipal Code.
2. Failure to provide any form of courtesy notice that is not required by State law or any defect in such courtesy notice does not invalidate, impair or otherwise affect any application, public hearing or decision rendered in respect to the matter under consideration.
3. During the public hearing, the Board shall review and evaluate the application according to the criteria established by Section 12.402. A majority vote of the Board shall be necessary to make a recommendation to the Council regarding the application.
4. Within thirty (30) days following the date of the closing of the public hearing, the Board shall prepare its written evaluation, recommendation and all available information for submission to the Council. Within ninety (90) days of receipt of the Board's findings and recommendation, the Council may act to approve or deny the historic district application. A resolution passed by majority vote of the Council is necessary for approval of a historic district. If the Council approves or denies the application, a notice shall be sent to the property owner(s) of record via certified mail and filed with the Village Clerk's office.
5. If the Council approves the historic district application, the Village shall within thirty (30) days:
  - a. Cause the approved historic district designation to be recorded with the County Recorder of Deeds; and
  - b. Place such historic district designation on the Village's official Zoning Map.
6. If the Council denies the historic district application, such denial shall constitute a final administrative decision subject to administrative review as provided by State law. If an application is denied, the owner(s) of record may not reapply for historic district status for two (2) years from the date of the denial by the Council.

(Ord. 5519, Renumbered, 12/15/2015; Ord. 4881, Add, 07/03/2007)

### **Section 12.402. Historic District Criteria.**

The following criteria shall be utilized by the Board in determining the designation of historic districts:

- A. Not less than fifty-one percent (51%) of properties within the proposed historic district must be over fifty (50) years old; and
- B. That one or more of the following conditions exists:
  1. The proposed historic district has a sense of cohesiveness expressed through a similarity or evolution of architectural style, time period, method of construction or use of indigenous materials that reflect a significant aspect of the architectural heritage of the Village;
  2. Some architectural or land use characteristics are prevalent within the proposed historic district in a manner which distinguishes it from the rest of the Village and which is relevant to the historical development of the Village;
  3. The proposed historic district establishes a sense of time and place unique to the Village of Downers Grove; or
  4. The proposed historic district is listed in the National Register of Historic Places.

(Ord. 5519, Renumbered, 12/15/2015; Ord. 4881, Add, 07/03/2007)

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### **Section 12.500.ART. Certificate of Appropriateness.**

(Ord. 5519, Add, 12/15/2015)

### **Section 12.501. Certificate of Appropriateness - Not Required.**

A Certificate of Appropriateness is not required for the following items:

- A. Secondary or Rear Façade: Any work (e.g. addition, demolition, alteration, change in material, repair or rehabilitation) performed on the secondary or rear façade of the principal building or structure if such work will result in no change to the exterior architectural appearance or feature of the building or structure that is visible from a street measured by a line of sight perpendicular to the primary façade(s).
- B. Detached garages: New detached garages or changes to existing detached garages, including demolition (unless the garage has been deemed a landmark or significant building via resolution by the Council).
- C. Rear yard improvements: Any accessory building or structure (e.g. shed, rear deck, rear porch, patio or trellis) located behind the principal building or structure.
- D. Driveways and sidewalks: new construction, repair or replacement.
- E. Fences: Any fence altered or constructed in compliance with fence regulations in Section 28.10.010 of the Municipal Code.
- F. Reversible Appurtenances: air conditioning units, gutters, downspouts, antennas, satellite dishes and mail boxes.
- G. Painting.
- H. Landscaping.
- I. Repairing damaged architectural features to their original state.
- J. Replacement of roof materials.
- K. Routine maintenance and cleaning.
- L. Installation, repair or removal of storm doors.
- M. Replacement of aluminum clad or vinyl clad windows not original to the structure or contributing to the historic significance as defined in a Council resolution.
- N. Replacement of aluminum or vinyl siding when associated with a structure not contributing to the significance as defined in a Council resolution.
- O. Signs and graphics.

(Ord. 5519, Renumbered, 12/15/2015; Ord. 4881, Add, 07/03/2007)

### **Section 12.502. Certificate of Appropriateness - Required.**

A Certificate of Appropriateness shall be required before any addition, alteration, construction, demolition, rehabilitation, relocation or repair requiring a building permit from the Village that affects the primary façade(s) exterior architectural features of any designated landmark, contributing building or significant building within a historic district.

- A. Certificate of Appropriateness – Minor Exterior Modification
  - 1. The Director may issue a Certificate of Appropriateness for proposed minor exterior modifications. Minor exterior modifications include the following work performed on the primary façade(s) of the principal building or structure or where such a projection of the work would be visible from a street measured by a straight line of sight perpendicular to the primary façade(s):
    - a. Doors: In-kind replacement with use of wood or original material.
    - b. Windows: In-kind replacement with use of wood or aluminum clad wood.



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- c. Exterior Building Materials: In-kind replacement of fifty percent (50%) or more of the primary façade(s) with use of original material or fiber cement board in place of wood.
- d. Porches: In-kind replacement in whole or replacement of porch columns with use of wood, plaster or cement materials; porch flooring with use of wood or composite decking materials; or other porch components with use of wood or original material.

### B. Certificate of Appropriateness – Major Exterior Modification

- 1. The Board may issue a Certificate of Appropriateness for proposed major exterior modifications. If the proposed work does not fall within the categories as set forth in Sections 12.501 or 12.502.A, then the proposed work shall be considered a major exterior modification. Major exterior modifications include, but are not limited to, the following work performed on the primary façade(s) of the principal building or structure or where such a projection of the work would be visible from a street measured by a straight line of sight perpendicular to the primary façade(s) that is visible from a street and any building plane that connects the primary façade and the projecting plane that is visible from a street:
  - a. Demolition of principal structure.
  - b. Additions.
  - c. Attached garages.
  - d. New primary facades.
  - e. Roofs: Any work that will result in a change in height or pitch; or use of material other than asphalt, wood or original material.

(Ord. 5519, Add, 12/15/2015)

### **Section 12.503 Certificate of Appropriateness Application and Procedure.**

- A. An application for a Certificate of Appropriateness shall be on a form provided by the Department and shall be submitted to the Department. A filing fee may be required as identified in the User-Fee, License & Fine Schedule.
- B. The Director shall determine whether or not the proposed work is minor or major, in accordance with Section 12.502. The Director shall review any work not listed in Sections 12.501 and 12.502 to determine whether a Certificate of Appropriateness shall be required and what type of review is required. An appeal of the Director's decision shall be made in accordance with the procedures described in Section 12.507.
- C. If the proposed work is not identified in Section 12.501 (Certificate of Appropriateness - Not Required) or Section 12.502.A (Certificate of Appropriate - Minor Exterior Modification) as set forth above, then the proposed work shall be considered a major exterior modification and the consideration of the Certificate of Appropriateness shall be by the Board as follows:
  - 1. Within thirty (30) days from the receipt by the Department of a complete application for a Certificate of Appropriateness, the Board shall schedule a public hearing on the application, such hearing shall be held not more than sixty (60) days after such receipt.
  - 2. Notice of the required public hearing on a Certificate of Appropriateness application shall be published in accordance with Section 28.12.010.F of the Municipal Code.
  - 3. Failure to provide any form of courtesy notice that is not required by State law or any defect in such courtesy notice does not invalidate, impair, or otherwise affect any application, public hearing or decision rendered in respect to the matter under consideration.

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4. During the public hearing, the Board shall review and evaluate the application according to the criteria set forth in Sections 12.504 and 12.505. A simple majority vote of the Board shall be necessary for the approval of a Certificate of Appropriateness.
5. The Board shall notify the applicant of its decision in writing within fifteen (15) days of the date of the hearing. If approved, the Director shall issue the Certificate of Appropriateness. If denied, the notice shall state the reasons for such denial.
6. The Certificate of Appropriateness shall remain valid for one year or until a building permit is issued, whichever is less. If substantial changes to the plans submitted with the application for the Certificate of Appropriateness are required, a new Certificate of Appropriateness shall be required.
7. Applicant(s) denied the issuance of a Certificate of Appropriateness may appeal the decision of the Board to the Council as provided by Section 12.506 or apply for a Certificate of Economic Hardship as provided by Section 12.600. Either application must be completed within thirty (30) days from the date of mailing of the notice of the decision of the Board.
8. All permits involving the issuance of a Certificate of Appropriateness shall be subject to a Certificate of Appropriateness compliance inspection. Such inspection shall be completed by the Department prior to the issuance of any Certificate of Occupancy.

(Ord. 5519, Renumbered, 12/15/2015; Ord. 4881, Add, 07/03/2007)

### **Section 12.504. Reviewing Criteria for Certificate of Appropriateness.**

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

- A. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site environment;
- B. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided;
- C. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken;
- D. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved;
- E. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity;
- F. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities, and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence;
- G. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of the structures, if appropriate, shall be undertaken using the gentlest means possible;
- H. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken;
- I. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment;
- J. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

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(Ord. 5519, Renumbered, 12/15/2015; Ord. 4881, Add, 07/03/2007)

### **Section 12.505. Design Guidelines for a Certificate of Appropriateness.**

Design guidelines for applying the criteria for review of Certificates of Appropriateness shall, at a minimum, consider the following architectural criteria:

- A. Height - the height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures in a historic district;
- B. Proportions of Windows and Doors - The proportions and relationships between doors and windows should be compatible with the architectural style and character of the landmark;
- C. Relationship of Building Masses and Spaces - The relationship of a structure within a historic district to the open space between it and adjoining structures should be compatible;
- D. Roof Shape - The design of the roof, fascia, and cornice should be compatible with the architectural style and character of the landmark;
- E. 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;
- F. 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. Directional expression of a landmark after alteration, construction or partial demolition should be compatible with its original architectural style and character;
- G. Architectural Details - Architectural details including types of materials, colors, and textures should be treated so as to make the landmark compatible with its original architectural style and character of a landmark or historic district;
- H. New Structures - New structures in a historic district shall be compatible with the architectural styles and design in said districts.

(Ord. 5519, Renumbered, 12/15/2015; Ord. 4881, Add, 07/03/2007)

### **Section 12.506. Appeal of Denial of a Certificate of Appropriateness.**

- A. When a minor Certificate of Appropriateness is denied for either a landmark or a structure within a historic district, the applicant may, within thirty (30) days of the date of the decision, appeal the Director's decision to the Board. Notice of such appeal shall be in writing to the Director, who shall notify the Board. The Department shall prepare the record and forward it to the Board. The Board shall consider the findings of fact of the Director and shall determine whether the Certificate of Appropriateness should be approved or denied.
- B. When a major Certificate of Appropriateness is denied for either a landmark or a structure within a historic district, the applicant may, within thirty (30) days, appeal the Board's decision to the Council. Notice of such appeal shall be in writing to the Village Manager, who shall notify the Department. The Department shall prepare the record and forward it to the Council. The Council may receive comments on the contents of the record but no new material may be considered by the Council. The Council may affirm or overturn the decision and may also send the application back to the Board with recommended changes. Decisions of the Council shall constitute final administrative decisions subject to administrative review as provided by State law.

(Ord. 5519, Renumbered, 12/15/2015; Ord. 4881, Add, 07/03/2007)

### **Section 12.507. Appeal of Director's Decision.**

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- A. The Board is authorized to hear and decide appeals where it is alleged there has been an error in any order, requirement, decision or determination made by the Director in the administration, interpretation or enforcement of this Ordinance.
- B. Appeals of the Director's decision may be filed by any person aggrieved by the Director's decision or action. The Board is authorized to make determinations about whether individuals filing appeals are "aggrieved" by the decision or action.
- C. Complete applications for appeals of the Director's decision must be filed with the Director.
- D. Appeals of the Director's decision must be filed within thirty (30) days of the date of the decision being appealed.
- E. The filing of a complete notice of appeal stays all proceedings in furtherance of the action appealed, unless the Director certifies to the Board, after the appeal is filed, that, because of facts stated in the certification, a stay would cause immediate peril to life or property, in which case the proceedings will not be stayed unless by a restraining order, which may be granted by the Board or by a court of record based on due cause shown.
- F. Upon receipt of a complete application of appeal, the Director whose decision is being appealed must transmit to the Board all papers constituting the record upon which the action appealed is taken.
- G. Notice of the required public hearing must be published in accordance with Section 28.12.010.F of the Municipal Code.
- H. The Board must hold a public hearing on the appeal within sixty (60) days of the date that the appealed is filed.
- I. Within forty-five (45) days of the close of the public hearing, the Board must take action on the appeal. The Board's decision must be in writing and be supported by written findings of fact.
- J. In exercising the appeal power, the Board has all the powers of the Director from whom the appeal is taken. The Board may affirm or may, upon the concurring vote of at least four (4) members, reverse, wholly or in part, or modify the decision being appealed.
- K. In acting on the appeal, the Board must grant to the Director's decision a presumption of correctness, placing the burden of persuasion of error on the appellant.
- L. All decisions of the Board shall constitute final administrative decisions subject to administrative review as provided by State law.
- M. An appeal may be sustained only if the Board finds that the Director erred.  
(Ord. 5519, Add, 12/15/2015)

### **Section 12.600. Certificate of Economic Hardship.**

- A. Following denial of a Certificate of Appropriateness by the Board or by the Council on appeal, the owner(s) of record or designated representative may apply for a Certificate of Economic Hardship by submitting to the Board a completed application for a Certificate of Economic Hardship.
- B. Within thirty (30) days of the receipt by the Department of a complete application for a Certificate of Economic Hardship, the Board shall schedule a public hearing on the application, said hearing to be held no more than sixty (60) days after such receipt.
  - 1. Notice of the required public hearing on a Certificate of Economic Hardship shall be published in accordance with Section 28.12.010.F of the Municipal Code.
  - 2. Failure to provide any form of courtesy notice that is not required by State law or any defect in such courtesy notice does not invalidate, impair, or otherwise affect any application, public hearing or decision rendered in respect to the matter under consideration.
  - 3. At the public hearing, the Board shall take testimony presented by the owner(s) of record and any other interested parties concerning the effect of the proposed alteration, construction, relocation or demolition of a landmark or relocation or demolition of a

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contributing or significant building, structure or improvement within a historic district based upon the criteria set forth in Sections 12.600.C and 12.600.D of this Chapter.

### C. Standards For Board Decision And Factors To Be Considered:

1. The Board shall issue a Certificate of Economic Hardship only if the Board finds that the subject property cannot be put to any reasonably beneficial use or that the owner(s) of record/applicant will suffer a substantial economic loss thereon without the alteration, construction, relocation or demolition being sought by the owner(s) of record/applicant and that the owner(s) of record/applicant is not responsible in any way for the hardship from which he or she is seeking relief. The factors to be considered by the Board and the Council on the issue of economic hardship shall include, but are not limited to, the following:
  - a. A substantial decrease in the fair market value of the property as a result of the denial of the Certificate of Appropriateness;
  - b. A substantial decrease in the pretax or after-tax return to owner(s) of record or other investors in the property as a result of the denial of the Certificate of Appropriateness;
  - c. The cost of the proposed construction, alteration, relocation or demolition, and an estimate of any additional cost that would be incurred to comply with the recommendations of the Board for changes necessary for the issuance of a Certificate of Appropriateness;
  - d. The structural soundness of any structures on the property and their suitability for rehabilitation;
  - e. The economic feasibility of rehabilitation or reuse of the existing structure or improvement on the property in the case of a proposed demolition;
  - f. The owner(s) of record/applicant's purchase of the subject property after a Council resolution designating the property as a landmark or contributing significant structure within a historic district without making said purchase contingent upon the owners(s) of record/applicant first obtaining necessary Council and/or Board approvals under this Ordinance shall be deemed to be conclusive evidence of the fact that the applicant is responsible for his or her own economic hardship, if any.

### D. The Board may solicit expert testimony. The owner(s) of record/applicant may be required to submit evidence at the hearing to support any of the factors, including those listed above, which the owner(s) of record/applicant believes to have contributed to the economic hardship which the applicant alleges he or she would suffer if the owner(s) of record/applicant is not granted a Certificate of Appropriateness. Specific information and documentation which should be presented by the owner(s) of record/applicant as competent evidence at the hearing shall include, but not be limited to, the following:

1. The amount paid for the property, the date of purchase and the party from whom the property was purchased (including description of the relationship, if any, between the owner(s) of record and the person from whom the property was purchased);
2. The assessed value of the land and improvements thereon according to the two (2) most recent assessments;
3. Real estate taxes for the previous two (2) years;
4. Remaining balance on mortgage, if any, and annual debt service, if any, for the previous two (2) years;
5. All appraisals obtained within the previous two (2) years by the owner(s) of record/applicant in connection with his 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(s) of record/applicant as to profitable adaptive uses for the property;

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8. If the property is income-producing, the annual gross income from the property for the previous two (2) years, itemized operating and maintenance expenses for the previous two (2) years, and annual cash flow, if any, during the same period;
  9. Any executed construction agreements or proposals;
  10. Engineering or architectural reports on the structural integrity of the building or structure upon which work is being proposed;
  11. Any other relevant information, including, without limitation, income tax bracket of the owner(s) of record/applicant or principal investors in the landmark or property in the designated historic district, reasonably necessary for a determination as to whether the building can be reasonably sold or yield a reasonable return to present or future owners;
  12. In the event that any of the required information is not reasonably available to the owner(s) of record/applicant and cannot be obtained by the owner(s) of record/applicant, the owner(s) of record/applicant shall provide to the Board a statement of the information which cannot be obtained and describe the reasons why such information cannot be obtained.
- E. Issuance or Denial of Certificate Of Economic Hardship
1. If the Board finds that the owner(s) of record/applicant has not established that the owner(s) of record/applicant will suffer a demonstrable economic hardship as a result of the denial of a Certificate of Appropriateness, then the Board shall deny the owner(s) of record's/applicant's application for a Certificate of Economic Hardship.
  2. If the Board makes an initial determination that the owner(s) of record/applicant has presented a case which may establish that without approval of the proposed work all reasonable use of, or return from, a landmark or contributing or significant building, structure, or improvement within a historic district will be denied an owner(s) of record/applicant, but the Board finds that reasonable alternatives may exist which should be addressed by the owner(s) of record/applicant, then the application shall be delayed for a period of no more than sixty (60) days following the finding.  
  
During this period of delay, the Board shall investigate plans and make recommendations to the Council to allow for a reasonably beneficial use or a reasonable economic return, or to otherwise preserve the landmark or property within the historic district. Such plans and recommendations may include, without limitation, a relaxation of the provisions of this Ordinance, financial assistance, or other appropriate relief.  
  
If, at the end of this sixty (60) day period, after reviewing its initial finding and its subsequent proposals and the owner(s) of record's/applicant's response thereto, the Board finds that without approval of the proposed work the property cannot be put to any reasonable use or the owner(s) of record/applicant cannot obtain a reasonable economic return therefrom, then the Board shall issue a Certificate of Economic Hardship approving the proposed work. If the Board finds otherwise, it shall deny the application for a Certificate of Economic Hardship. The Board shall notify the applicant of its decision in writing within fifteen (15) days of the date of the decision.
  3. The Certificate of Economic Hardship shall remain valid for one (1) year or until a building permit is issued, whichever is less. If substantial changes to the plans submitted with the application for a Certificate of Economic Hardship are required, a new certificate shall be required.
- F. When a Certificate of Economic Hardship is denied for either a landmark or a contributing or significant building within a historic district, structure or improvement within a historic district,

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the applicant may, within thirty (30) days of the date of the decision, appeal the Board's decision to the Council. Notice of such appeal shall be in writing to the Village Manager, who shall notify the Department. The Department shall prepare the record and forward it to the Council. The Council may receive comments on the contents of the record but no new material may be considered by the Council. The Council may affirm or overturn the decision and may also send the application back to the Board with recommended changes. Decisions of the Council shall constitute final administrative decisions subject to administrative review as provided by State law.

(Ord. 5519, Add, 12/15/2015)

### **Section 12.700. Remedying of Dangerous Conditions.**

- A. In the event that a condition on a landmark or contributing or significant building, structure or site located within a historic district or on a building, structure or site designated as a landmark, presents an imminent danger to the public health, safety, or welfare or requires immediate construction, reconstruction, repair, alteration, or demolition as ordered by a court of competent jurisdiction or as determined by a representative of the Village, then such work may be performed without a Certificate of Appropriateness. Work performed under such circumstances shall be the minimum necessary in order to render the improvement safe, after which any additional construction, reconstruction, alteration or demolition shall be processed in accordance with the provisions of Section 12.500 of this Chapter.
- B. Under the circumstances described in Section 12.700.A, the owner(s) of record of the property shall notify the Director in writing prior to performing the work necessary to make the property safe. If advance notification is not practical due to the emergency nature of the situation, the owner(s) of record shall provide written notification to the Director within seven (7) calendar days of commencement of such work. In either case, the written notice shall include the following:
  - 1. A detailed description of the dangerous condition in question;
  - 2. The time frame needed to complete the work; and
  - 3. The specific actions to be taken in the performance of such work.

(Ord. 5519, Add, 12/15/2015)

### **Section 12.800. Demolition by Natural Causes.**

- A. For the purposes of this Section, natural demolition shall occur when a landmark or contributing or significant building within a historic district is damaged by fire, explosion or other casualty or act of God as defined in Section 28.15.040 of the Municipal Code.
- B. In the case of demolition by natural causes of all or part of a landmark or a contributing or significant building located within a historic district, the owner(s) of record shall obtain a Certificate of Appropriateness prior to the reconstruction when required under the provisions of this Ordinance.

(Ord. 5519, Add, 12/15/2015)

### **Section 12.900. Penalties.**

- A. Demolition occurring under the provisions of Sections 12.700 and 12.800 of this Chapter shall not be considered illegal demolition for the purposes of this Ordinance, provided that the Director is properly notified in writing as provided in Sections 12.700.B and 12.800.B of this Chapter.

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- B. It shall be unlawful to demolish any portion of any landmark or contributing or significant building structure, improvement or site located within a historic district unless specifically permitted through a Certificate of Appropriateness issued for that property.
- C. It shall be unlawful to complete any construction or alteration to any landmark or contributing or significant building, structure, improvement or site located within a historic district unless specifically permitted through the Certificate of Appropriateness provisions in Sections 12.501 or 12.502 of this Chapter.
- D. Any person who violates any provision of this Ordinance shall be guilty of an offense subject to the general penalties for ordinance violations pursuant to Section 1.15. of the Downers Grove Municipal Code.

(Ord. 5519, Renumbered, 12/15/2015; Ord. 4881, Add, 07/03/2007)