

CHAPTER 24: HISTORIC PRESERVATION

SECTION

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Sec. 24.001 Title.

This Chapter shall be known, referred to and cited as “The Highland Park Historic Preservation Ordinance.”

Sec. 24.002 Purpose of Ordinance.

The purpose of this Chapter is to promote the educational, cultural, economic and general welfare of the community by:

- (1) Providing a mechanism to identify and preserve the distinctive historic, architectural, and/or landscaping characteristics of Highland Park which represent elements of the City’s cultural, social, economic, political, and architectural history;
- (2) Fostering 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 property value of the City’s landmarks and historic districts;
- (4) Protecting and enhancing the attractiveness of the City to its home buyers, homeowners, residents, tourists, visitors, and shoppers, and thereby supporting and promoting business, commerce, industry, and providing economic benefit to the City; and
- (5) Fostering and encouraging preservation, restoration and rehabilitation in accordance with the Environmental Policy of Highland Park, when applicable (Ord. 78-02, J. 28, p. 553-556, passed 12/9/02)

Sec. 24.005 Definitions.

For purposes of this Chapter, and for purposes of Section 170.040 of the Building Code, the following words and phrases shall have the following meanings:

Alteration:

(1) Any act or process that requires a building permit and changes one or more of the features of a Regulated Structure including, without limitation, the erection, Construction, reconstruction or Relocation of all or any part of a Regulated Structure;

(2) Any act or process that, while not requiring a building permit, significantly changes the interior or exterior of a Regulated Structure so as to change a feature that relates to the Regulated Structure's status as a Landmark or Contributing Regulated Structure; or

(3) Any act or process that significantly modifies or changes a contributing Landscape of Significance.

Applicant: A person or entity submitting an application for issuance of a Certificate of Appropriateness or Certificate of Economic Hardship.

Area: A specific geographic division of the City.

Certificate of Appropriateness: A certificate issued by the Commission pursuant to the applicable provisions of Sections 24.030, 24.035, 24.040, and 24.050 of this Chapter authorizing Regulated Activity involving a Landmark or a Contributing Regulated Structure within a Historic District.

Certificate of Economic Hardship: A certificate issued by the Commission pursuant to the applicable provisions of Sections 24.045 and 24.050 of this Chapter authorizing Regulated Activity involving a Regulated Structure even though a Certificate of Appropriateness has previously been denied.

Commission: Highland Park Historic Preservation Commission.

Commissioners: The members of the Commission. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

Construction: The act of adding an addition to an existing Structure; erecting a new Structure, or placing an object on, or creating, a Landscape of Significance.

Contributing Regulated Structure: Any Regulated Structure that is located within a Historic District and that (a) is a designated Landmark; (b) meets the criteria for a Landmark but has not been officially designated as a Landmark; or (c) does not meet the criteria for a Landmark, but nevertheless contributes to the overall special characteristics of the Historic District or the Landmarks or Contributing Regulated Structures located within an Historic District.

Demolition: Any act or process within the control of the Owner of any Regulated Structure within a Historic District that results in the removal or destruction of the Regulated Structure in whole or in part to the extent of 50 percent or more of the structure or building as existed prior to the commencement of such act or process. (Ord. 34-02, J. 28, p. 266-279, passed 5/28/02; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

Design Criterion: A standard of appropriate activity that will preserve the historic, visual, aesthetic, cultural, archaeological and/or architectural character of a Landmark or Contributing Regulated Structure.

Exterior Architectural Appearance: The architectural character and general composition of the exterior of a Structure, including, without limitation, the kind, color and texture of the building material and the type, design and character of all windows, doors, light fixtures, ornamental details, signs and appurtenant elements.

Historic District: An area designated as a “Historic District” by ordinance of the City Council according to the criteria and pursuant to the procedures prescribed in this Chapter, and which may contain one or more Landmarks; and which may have within its boundaries one or more Contributing Regulated Structures that contribute to the overall historic, visual, aesthetic, cultural, archaeological, and/or architectural characteristics of the Landmark or Landmarks and/or other Contributing Regulated Structures within the district despite not being of such historic, visual, aesthetic, cultural, archaeological, and/or architectural significance as to be designated as Landmarks. A Historic District may have within its boundaries Non-contributing Regulated Structures that do not contribute to the overall historic, visual, aesthetic, cultural, archaeological, and/or architectural characteristics of the Landmark(s) or the Contributing Regulated Structures within the district. A Historic District may also have within its boundaries thematically related resources, including, without limitation, buildings, structures, or landscaping, that are non-contiguous. (Ord. 2-98, J. 24, p. 451-454, passed 1/12/98; Ord. 48-00, J. 26, p. 181-206, passed 8/14/00; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

Historic Significance: A characteristic of a building, Structure, or landscape evidenced by any one or combination of the following:

- (1) Having been designed by or associated with a notable architect, architectural firm, or builder;
- (2) Being a significant example of a particular style in terms of detail, material, and/or workmanship, including without limitation, those buildings or Structures designed in the Federalist, Swiss Gothic, or Prairie styles of architecture (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05);
- (3) Being one of a contiguous grouping of buildings or Structures having a sense of cohesiveness of design expressed through a similarity of characteristics of a style, scale, period, or method of construction and accenting the contextual significance of the whole neighborhood; and/or (Ord. 2-98, J. 24, p. 451-454, passed 1/12/98; Ord. 48-00, J. 26, p. 181-206, passed 8/14/00)

(4) Having important associations with a person or persons who significantly contributed to the development of the City, county, state, or country. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

Landmark: A Regulated Structure that is designated as a “Landmark” by ordinance of the City Council, according to the criteria and pursuant to the procedures prescribed in this Chapter. (Ord. 2-98, J. 24, p. 451-454, passed 1/12/98; Ord. 48-00, J. 26, p. 181-206, passed 8/14/00; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

Landscape of Significance: A landscape that is significant in its own right as landscape architecture and not merely as a complementary setting for a Structure or a group of Structures.

Non-contributing: A designation applied to a Regulated Structure within a Historic District indicating that it is not representative of the qualities that give the district historic, visual, aesthetic, cultural, archaeological, and/or architectural significance as embodied in the criteria for designating a Historic District.

Object: Anything constructed, fabricated or created, the use of which does not require permanent or semi-permanent location on or in the ground, and can be moved from one location to another, including, without limitation, ships, boats, railroad cars, automobiles, wagons, tractors, statues, and works of art.

Owner: The person, corporation, or other legal entity that has a fee simple interest in a Property, Structure, Object, or Landscape of Significance, as evidenced by the name that appears on the title records in the office of the Lake County Recorder. The definition of “Owner” shall be modified by, and subject to, the specific provisions, rules, and regulations governing ownership set forth in Section 24.020 of this Chapter. (Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

Park Board: The board governing the Park District of Highland Park.

Property: Land and improvements identified as a separate legal lot of record for purposes of the City’s subdivision and zoning regulations. (Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

Regulated Activity: Any act or process involving the erection, Construction, reconstruction, Rehabilitation, repair, Relocation, Alteration, or Demolition of a Regulated Structure.

Regulated Structure: Any Property, Structure, Area, Object, or Landscape of Significance that is subject to the provisions of this Chapter or the provisions of Section 170.040 of the Building Code because it (a) is a Landmark, (b) is located within a Historic District, (c) has been recommended by the Commission for preliminary Landmark designation pursuant to Section 24.025(A) of this Chapter, or (d) is located within an Area that has been recommended by the Commission for Historic District designation pursuant to Section 24.026(A) of this Chapter. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

Rehabilitation: The process of returning a Regulated Structure to a state of utility, through repair or Alteration, which makes possible an efficient contemporary use while preserving those portions and features of the Regulated Structure which are significant to its historic, visual, aesthetic, cultural, archaeological, and/or architectural values.

Relocation: Any relocation of a Structure on its site or to another site.

Repair: Any change that is not Construction, Relocation or Alteration.

Structure: Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, without limitation, advertising signs, billboards, backstops for tennis courts, gazebos, radio and television antennae (including supporting towers), satellite sending or receiving dishes, cellular antenna facilities and towers, walks, walls, steps, sidewalks, works of art, and swimming pools.

Sec. 24.010 Highland Park Historic Preservation Commission Created.

There is hereby created the Highland Park Historic Preservation Commission. All provisions governing said Commission are contained in Article XVII, entitled "Historic Preservation Commission," of Chapter 33, entitled "Boards and Commissions," of this Code. (Ord. 65-98, J. 24, p. 839-852, passed 9/28/98; Ord. 52-01, J. 27, p. 233-270, passed 8/27/01)

Sec. 24.015 Criteria for Landmark Designation.

The following is a list of the criteria to be considered in the designation of a Property, Structure, Area, Object, or Landscape of Significance as a Landmark:

- (1) It demonstrates character, interest or value as part of the development, heritage or cultural characteristics of the City, county, state or country;
- (2) It is the site of a significant local, county, state or national event;
- (3) It is associated with a person or persons who significantly contributed to the development of the City, county, state or country;
- (4) It embodies distinguishing characteristics of an architectural and/or landscape style valuable for the study of a specific time period, type, method of construction or use or indigenous materials;
- (5) It is identifiable as the work of a notable builder, designer, architect, artist, or landscape architect whose individual work has influenced the development of the City, county, state, or country;
- (6) It embodies, overall, elements of design, detailing, materials, and/or craftsmanship that renders it architecturally, visually, aesthetically, and/or culturally significant and/or innovative;
- (7) It has a unique location or it possesses or exhibits singular physical and/or aesthetic characteristics that make it an established or familiar visual feature;

(8) It is a particularly fine or unique example of a utilitarian structure or group of such structures, including, but not limited to farmhouses, gas stations or other commercial structures, with a high level of integrity and/or architectural, cultural, historical and/or community significance; and/or

(9) It possesses or exhibits significant historical and/or archaeological qualities. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

Sec. 24.016 Criteria for Historic District Designation.

(A) Unified Historic Districts. All Historic Districts that do not contain non-contiguous Properties, Structures, Areas, Objects, or Landscapes of Significance must satisfy the following criteria.

(1) At least 50 percent of the Properties, Structures, Areas, Objects, or Landscapes of Significance in the Historic District must satisfy at least one of the criteria for Landmark designation set forth in Section 24.015 of this Chapter: and

(2) The Historic District must be geographically definable and reasonably compact in geographic size; and

(3) The Historic District must satisfy at least one of the following five criteria:

(a) The Properties, Structures, Areas, Objects, and Landscapes of Significance in the Historic District, taken together, shall convey or represent one or more architectural, cultural, economic, historic, social or other aspects particular to the heritage of the City, county, state or country;

(b) The Properties, Structures, Areas, Objects and Landscapes of Significance in the Historic District shall exhibit consistency or similarity of use, design, size, scale, style, orientation, materials, detailing, façade design, ornamentation, color, lighting, technology, and/or storefronts;

(c) The Properties, Structures, Areas, Objects and Landscapes of Significance in the Historic District must have been built, used, or have been significant during the same specified time period;

(d) The Properties, Structures, Areas, Objects and Landscapes of Significance in the Historic District must create, define or enhance the character of the Area for which Historic District designation is appropriate; and

(e) The Properties, Structures, Areas, Objects and Landscapes of Significance in the Historic District must be largely intact, particularly with respect to those qualities for which designation as a Historic District is sought; provided, however, that alterations or modifications to those Properties, Structures, Areas, Objects and Landscapes of Significance in the Area that comply with the United States Secretary of the Interior's Standards for Rehabilitation. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05; **Ord. 46-06, J. 32, p. 244-252, passed July**

(B) Non-Contiguous Historic Districts. All Historic Districts that contain non-contiguous Properties, Structures, Areas, Objects, or Landscapes of Significance must satisfy the following criteria:

(1) The elements of the Historic District must be thematically related;
and

(2) 100 percent of the Properties, Structures, Areas, Objects, or Landscapes of Significance in the Historic District satisfy at least one of the criteria for Landmark designation set forth in Section 24.015 of this Chapter.

(C) Minimum Size Requirements. There shall be not less than 10 Properties, Structures, Areas, Objects, or Landscapes of Significance in each Historic District; provided, however, that a Historic District may have less than 10 Properties, Structures, Areas, Objects or Landscapes of Significance if:

(1) At least 75 percent of the Properties, Structures, Areas, Objects, or Landscapes of Significance in the Historic District satisfy at least one of the criteria for Landmark designation set forth in Section 24.015 of this Chapter: and

(2) The number of Properties, Structures, Areas, Objects or Landscapes of Significance is limited by the presence of either geographic features or differing development patterns in the Historic District. **(Ord. 46-06, J. 32, p. 244-252, passed July 10, 2006)**

Sec. 24.020 Special Provisions Governing Ownership.

When the Property is in a land trust or is subject to a long term land lease, or when one or more persons, corporations, or other legal entities have an ownership interest in the Property (including beneficial interests and long term lessee interests), the rights afforded to, and obligations imposed on, Owners in this Chapter shall apply and be exercised as if there were only one Owner. Neither the City nor the Commission shall have any obligation to investigate or determine the legal relationship among the multiple Owners. It shall be deemed to be sufficient for the purposes set forth in this Chapter for any one Owner to act for and bind, the Property (which shall include, without limitation, the delivery and receipt of notice and the provision of written consent), unless the Commission receives, within the applicable time periods or any extended time periods as the Commission shall deem appropriate, clear and convincing evidence, as determined by the Commission, that such Owner does not have the exclusive authority to act for, and bind, the Property. Absent such a timely protest or objection, the Commission shall have the right to rely on representations made by any one Owner with respect to the exercise of the rights and obligations set forth in this Chapter. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

Sec. 24.025 Landmark Designation Procedures.

(A) Nomination. A Property, Structure, Area, Object, or Landscape of Significance may be nominated for Landmark designation by presentation to the Chairman of the Commission of a written nomination on a form prepared by the Commission and signed by any one of the following:

- (1) One or more Commissioners;
- (2) The Owner of the applicable Property, Structure, Area, Object, or Landscape of Significance (Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)
- (3) The City Council, by resolution duly adopted (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)
- (4) The City Manager (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)
- (5) An organization or individual with an interest in preservation, restoration, rehabilitation, local history, archaeology, modes of cultural or artistic expression, and/or neighborhood conservation or revitalization.

(B) Preliminary Recommendation

(1) Within 30 days following receipt of a nomination for Landmark Designation, the Chairman of the Commission shall initiate the Landmark Designation Process by scheduling a meeting of the Commission and by causing a written notice to be sent to the Owner of the Property that is the subject of consideration for Landmark designation, or to the Owner of the Property on which the Structure, Area, Object or Landscape of Significance that is the subject of consideration for preliminary Landmark designation. Such notice shall be sent by certified mail, return receipt requested not less than 15 or more than 30 days prior to the date of the meeting at which the Commission will first consider the Landmark designation, and shall specify the date, time, location, and purpose of such meeting. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(2) Provided that the Owner has been notified as required in Paragraph (B)(1) of this Section, the Commission may, by resolution duly adopted, make a preliminary Landmark designation recommendation if the Commission preliminarily determines that the nominated Property, Structure, Area, Object, or Landscape of Significance (a) meets two or more Landmark criteria set forth in Section 24.015 of this Chapter, and (b) has sufficient integrity of location, design, materials, and workmanship to make it worthy of preservation or Rehabilitation. If, prior to the adoption of the resolution, the Commission receives written notice from the Owner objecting to the proposed Landmark designation, the Commission shall not make a preliminary Landmark designation recommendation unless the Commission preliminarily determines that (i) the nominated Property, Structure, Area, Object, or Landscape of Significance meets three or more of the Landmark criteria set forth in Section 24.015 of this Chapter and (ii) either or both of Criterion No. 2 or Criterion No. 5 are among the three or more criteria determined to have been met. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(3) Upon adoption of the resolution making a preliminary landmark designation recommendation, and until provided otherwise in this Chapter, the nominated Property, Structure, Area, Object, or Landscape of Significance shall be a Regulated Structure. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(4) Within 30 days after the adoption of a resolution making a preliminary Landmark designation recommendation, the Commission shall send, by certified mail, return receipt requested, written notice of such recommendation to the Owner of the Regulated Structure. The Commission shall also notify all relevant City departments of its recommendation. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(5) No building permit shall be issued (a) for any Regulated Activity involving a Regulated Structure for which the Commission has adopted a preliminary Landmark designation resolution or (b) for any new construction on the Property on which such Regulated Structure is located (unless the Commission determines that such new construction will not be inconsistent with the purposes and intent of this Chapter), from the date of the Commission meeting at which that resolution is adopted until either (i) final disposition by the Commission resulting in no recommendation to the City Council or (ii) final disposition by the City Council on the Commission recommendation, unless such Regulated Activity is earlier authorized by formal resolution of the City Council as necessary for public health, welfare, or safety. (Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(C) Request for Planning Report

Upon adoption of a resolution making a preliminary landmark designation recommendation, the Commission shall request a report from the Director of Community Development that evaluates the relationship of the proposed designation to the City's Comprehensive Plan and the effect of the proposed designation on the surrounding neighborhood. The report shall be submitted to the Commission within 60 days of the request and the Commission shall make such modifications, changes, and alterations to the report concerning the proposed Landmark designation as it deems necessary in consideration of any recommendation of the City's Director of Community Development made in the report. If the Director of Community Development declines or fails to submit the report within the time provided herein, the Commission may proceed with the designation process. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(D) Request for Owner Consent.

(1) Within 15 days after the adoption of a resolution making a preliminary landmark designation recommendation, the Commission shall, by certified mail, return receipt requested, deliver to the Owner of the Property under review or the Owner of the Property on which the proposed Regulated Structure is located a written statement of the reasons for, and effects of, the proposed designation and request that the Owner consent in writing to the proposed designation. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(2) The Owner shall have the opportunity to respond in writing by consenting or objecting to the proposed Landmark designation within 45 days after the date on which the statement is delivered. However, the Owner may, within the 45-day response period, make a written request for an extension of time, not to exceed 120 days, to submit a response. (Ord. 10-86, J. 16, p. 324, passed 2/24/86; Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(3) If the Owner consents to designation, the Commission shall notify the Owner of the Commission's determination with respect to the proposed designation within 45 days after receipt of the Owner's consent and shall forward its recommendation to the City Council, unless the Commission decides not to make a recommendation on the proposed Landmark. (Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(4) If the Owner declines or fails to give written consent to the proposed designation within the time specified in this Section, the Commission shall schedule and hold a public hearing on the proposed designation in the manner set forth in Subsections (E) and (F) of this Section, and proceed with the designation process. (Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(E) Notice of Public Hearing.

Prior to conducting the public hearing required by Subsection (D)(4) of this Section, the Commission shall give written notice of the date, time, and place of the hearing to the Owner of the Property under review or to the Owner of the Property on which the proposed Regulated Structure is located. The Commission shall also cause to be posted, for a period of not less than 15 days immediately preceding the hearing, a notice stating the time, date, place, and matter to be considered at the hearing. The notice shall be prominently displayed on the Property or on the proposed Regulated Structure, or on the public ways abutting the Property. In addition, not less than 15 days prior to the hearing, the Commission shall cause a legal notice to be published in a newspaper of general circulation in the City of Highland Park setting forth the nature of the hearing, the property involved, and the date, time, and place of the scheduled public hearing. (Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(F) Public Hearing on Designation.

The Commission shall provide a reasonable opportunity for all interested persons to present testimony or evidence at the public hearing under such rules as the Commission may adopt governing the proceedings of such hearings. At the hearing each speaker shall state his name, address, and the interest(s) that he represents. The hearing may be continued to a date certain, and a record shall be kept of all proceedings. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(G) Commission Recommendation.

(1) Within 30 days after the conclusion of the public hearing required by Subsection (D)(4) of this Section, the Commission shall determine whether to recommend the proposed Landmark designation to the City Council. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(2) If the Commission makes a determination to recommend a Landmark designation to the City Council, it shall set forth its written recommendation, including findings of fact relating to the criteria for designation that constitute the basis for its

decision, and shall transmit its recommendation to the City Council, to the Owner, and to the parties appearing at the public hearing. (Ord. 17-03, J. 29, p. 77-79, 2/10/03; Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(3) If the Owner continues to oppose, or fails to give written consent to Landmark designation, the Commission may not recommend approval of the Landmark designation (a) without the affirmative vote of at least six members of the Commission, and (b) unless the Commission makes a determination that (i) the proposed Landmark designation meets three or more of the Landmark criteria set forth in Section 24.015 of this Chapter and (ii) either or both of Criterion No. 2 or Criterion No. 5 are among the three or more criteria determined to have been met. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(4) The Commission shall also transmit to the City Council the official record of its proceedings concerning the recommended designation. If an extension of time has been granted, the time allowed for submission under this section shall be extended by the same number of days. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(5) If the Commission determines not to make a recommendation for Landmark designation, or if the Commission does not, or cannot, make a recommendation for Landmark designation within the 30-day time period, as the same may be extended, such action or inaction shall be deemed to be the final disposition by the Commission, and the Landmark designation process shall be complete, and the Property, Structure, Area, Object or Landscape of Significance that had been the subject of the process shall, as of the last day of the 30-day period, no longer be a Regulated Structure. (Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(H) Failure to Act by Commission.

If the Commission does not, or cannot, act to either recommend or not recommend a Landmark designation to the City Council within 180 days after the date on which the Commission adopted its resolution making a preliminary Landmark designation pursuant to Section 24.025(B) of this Chapter (unless an extension of time has been granted, in which case this time period shall be extended by the same number of days), such inaction shall be deemed to be the final disposition by the Commission, and the Landmark designation process shall be complete, and the Property, Structure, Area, Object, or Landscape of Significance that had been the subject of the process shall, as of the last day of the 180-day period, no longer be a Regulated Structure. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(I) City Council Consideration of Designation.

(1) Review of Findings.

The City Council shall give due consideration to the findings, recommendations, and official record of the Commission in making its determination with respect to the proposed Landmark designation of any Regulated Structure. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(2) Approval of Recommendation.

The City Council may, by ordinance duly adopted, designate as a Landmark any Regulated Structure recommended for Landmark designation by the Commission, provided that the City Council finds and determines, based on the findings, recommendations, and official record of the Commission, that the Regulated Structure both (1) has sufficient integrity of location, design, materials, and workmanship to make it worthy of preservation or Rehabilitation, and (2) meets two or more of the Landmark criteria set forth in Section 24.015 of this Chapter; provided, however, that if the Owner continues to oppose, or fails to give written consent to, the Landmark designation, then the City Council may not designate the Regulated Structure as a Landmark without a determination by the City Council that (i) the Regulated Structure meets three or more of the Landmark criteria set forth in Section 24.015 of this Chapter and (ii) either or both of Criterion No. 2 or Criterion No. 5 are among the three or more criteria determined to have been met. The adoption of the Ordinance shall be deemed to be the final disposition on the Landmark designation by the City Council. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(3) Rejection of Recommendation.

The City Council may, by resolution duly adopted, reject the recommendation of the Commission and determine that a Regulated Structure does not meet the criteria for Landmark designation. The adoption of the resolution shall be deemed to be the final disposition on the proposed Landmark designation by the City Council, and the Property, Structure, Area, Object, or Landscape of Significance that had been the subject of the process shall, as of the date of adoption of such resolution, no longer be a Regulated Structure. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(4) Failure to Act by City Council.

In the event that the City Council does not, for any reason, within 90 days of the date of its receipt of the Commission recommendation, either (a) adopt an ordinance designating a Regulated Structure recommended by the Commission as a Landmark or (b) adopt a resolution rejecting the Commission recommendation, the City Council shall be deemed to have rejected the Commission's recommendation. Such inaction shall be deemed to be the final disposition on the proposed Landmark designation by the City Council, and the Property, Structure, Area, Object, or Landscape of Significance that had been the subject of the process shall, as of the last day of the 90 day time period, no longer be a Regulated Structure. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(J) Successive Applications. No proposed Landmark designation that fails to be approved pursuant to the provisions of this Section, and no proposed Landmark designation that is substantially the same as any such failed Landmark designation (collectively, "Failed Landmark"), shall be resubmitted or considered for a period of two years from the date of the final disposition of the Failed Landmark under the terms of this Section; provided, however, that a new Landmark designation nomination for the Failed Landmark may be submitted and considered at any time in the future so long as the Owner(s) of the Failed Landmark nominate the Failed Landmark for designation. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(K) Removal of Landmark Designation.

(1) Automatic Removal of Landmark Designation. The Landmark designation of a Property, Structure, Area, Object, or Landscape of Significance that has been demolished in accordance and compliance with all applicable City ordinances shall be deemed to have been automatically removed as of the date of demolition.

(2) Condition Precedent for City Council Removal of Landmark Designation. Under no circumstances shall the City Council remove the Landmark designation for any Property, Structure, Area, Object, or Landscape of Significance unless it finds that the reasons for which the Landmark designation was once appropriate are no longer present. Nothing herein shall be deemed or interpreted as requiring the City Council to remove the Landmark designation upon such a finding.

(3) Application for Removal of Landmark Designation.

(a) Application. The Owner of a Property, Structure, Area, Object, or Landscape of Significance that has been previously designated as a Landmark may file an application with the Chairman of the Historic Preservation Commission to remove the Landmark designation from the Property, Structure, Area, Object, or Landscape of Significance.

(b) Procedure. An application to remove the Landmark designation from a Property, Structure, Area, Object, or Landscape of Significance filed in accordance with this Section shall be processed and heard in the manner provided in Sections 24.025(E) through 24.025(J) of this Chapter.

(c) Ordinance Required. Except as provided for automatic removal of Landmark designation in Section 24.025(K)(1) of this Code, removal of a Landmark designation shall be effective only upon approval of the City Council, by ordinance duly adopted. **(Section 24.025 (K) added by Ord. 46-06, J. 32, p. 244-252, passed July 10, 2006)**

Sec. 24.026 Historic District Designation Procedures.

(A) Nomination. An area may be nominated for Historic District Designation by presentation to the Chairman of the Commission of a petition signed by not less than 25 percent of the Owners of the real property located within the proposed Historic District, and a written nomination on a form prepared by the Commission and signed by any one of the following:

- (1) One or more Commissioners;
- (2) The City Council;
- (3) The City Manager; or
- (4) An organization or individual with an interest in preservation,

restoration, rehabilitation, local history, archaeology, modes of cultural or artistic expression, and/or neighborhood conservation or revitalization. (Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05; **Ord. 46-06, J. 32, p. 244-252, passed July 10, 2006**)

(B) Preliminary Recommendation

(1) Within 30 days following receipt of a nomination for Historic District Designation, the Chairman of the Commission shall initiate the Historic District Designation Process by scheduling a meeting of the Commission and by causing a written notice to be sent to the Owner of each Property within the Area that is the subject of the nomination. Such notice shall be sent by certified mail, return receipt requested not less than 15 or more than 30 days prior to the date of the meeting at which the Commission will first consider the Historic District designation, and shall specify the date, time, location, and purpose of such meeting. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(2) Provided that the Owners of all applicable Properties have been notified as required in Paragraph (B)(1) of this Section, the Commission may, by resolution duly adopted, make a preliminary Historic District designation recommendation if the Commission determines that the proposed Historic District satisfies the criteria set forth in Section 24.016 of this Chapter. If the Commission does not pass this resolution within 60 days following receipt of a nomination for Historic District designation, then the proposed District shall have been deemed disapproved and the designation process shall be deemed to have been terminated. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(3) Upon adoption of the resolution making a preliminary Historic District designation recommendation, and until otherwise provided in this Chapter, all Properties, Structures, Objects, and Landscapes of Significance located within the nominated Area shall be Regulated Structures. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(4) Within 30 days after the adoption of a resolution making a preliminary Historic District designation recommendation, the Commission shall send, by certified mail, return receipt requested, written notice of such recommendation to the Owner of each Property within the Area that is the subject of the recommendation. The Commission shall also notify all relevant City departments. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(5) No building or Demolition permit shall be issued (a) for any Regulated Activity involving any Regulated Structure within a proposed Historic District for which the Commission has adopted a preliminary designation resolution or (b) for any new construction on any of the property on which any such Regulated Structure is located (unless the Commission determines that such new construction will not be inconsistent with the purposes and intent of this Chapter), from the date of the Commission meeting at which that resolution is adopted until the final disposition of the nomination process for the nominated District under the provisions of this Section, unless such Regulated Activity is earlier authorized by formal resolution of the City Council as necessary for public health, welfare, or safety. (Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(C) Request for Planning Report

Upon adoption of a resolution making a preliminary Historic District designation recommendation, the Commission shall request a report from the Director of Community Development that evaluates the relationship of the proposed designation to the City's Comprehensive Plan and the effect of the proposed designation on the surrounding neighborhood. The report shall be submitted to the Commission within 90 days of the request and the Commission shall make such modifications, changes, and alterations to the report concerning the proposed Historic District designation as it deems necessary in consideration of any recommendation of the City's Director of Community Development made in the report. If the Director of Community Development declines or fails to submit the report within the time provided herein, the Commission may proceed with the designation process. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(D) Public Hearing

(1) Within 60 days after the adoption of a resolution making a preliminary Historic District designation recommendation, the Chairman of the Commission shall schedule a public hearing concerning the proposed Historic District. At the public hearing, the Commission shall provide a reasonable opportunity for all interested persons to present testimony or evidence under such rules as the Commission may adopt governing the proceedings of such hearings. Each speaker shall state his or her name, address, and the interest that he or she represents. The hearing may be continued to a date certain, and a record shall be kept of all proceedings. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(2) Prior to conducting the public hearing, the Commission shall give written notice of the date, time, and place of the hearing to the Owners of all Property within the proposed Historic District. The Commission shall also cause to be posted, for a period of not less than 15 days immediately preceding the hearing, a notice stating the time, date, place, and matter to be considered at the hearing. The notice shall be prominently displayed on the Property or on the proposed Regulated Structure within the proposed Historic District or on the public ways abutting the Property within the proposed Historic District. In addition, not less than 15 days prior to the hearing, the Commission shall cause a legal notice to be published in a newspaper of general circulation in the City of Highland Park setting forth the nature of the hearing, the Area involved, and the date, time, and place of the scheduled public hearing. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(E) Notification and Canvas of Owners

(1) Within 30 days after the close of the public hearing, the Commission shall, by certified mail, return receipt requested, deliver to the Owner of each Property within the proposed Historic District a written statement of the reasons for, and effects of, the proposed Historic District designation. (Ord. 10-86, J. 16, p. 324, passed 2/24/86; Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(2) The written statement shall be accompanied by a written ballot form

prepared by the Commission on which the Owners of the Properties within the proposed Historic District shall have the opportunity to state their approval or disapproval of the contemplated designation of the proposed Historic District. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(3) Each Owner shall complete the ballot form and return it to the Commission, in the manner and at the location described on the ballot form, within 45 days after the date on which the Commission delivers the ballot form. No ballot form shall be counted unless it is received by the Commission on or before the date that is 45 days after date on which the Commission delivers the ballot form. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(4) Determining the Outcome of the Canvas.

(i) The Owners shall be deemed to have approved of the proposed Historic District designation if, within the 45 day period, a majority of the ballot forms that are returned to the Commission evidence a vote of "approval," and ballots are returned from a majority of the Properties located within the proposed Historic District within the 45 day period. (Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(ii) The Owners shall be deemed to have disapproved of the proposed Historic District designation if, within the 45 day period, a majority of the ballot forms that are returned to the Commission evidence a vote of "disapproval," or if ballots are not returned to the Commission from a majority of the Properties located within the proposed Historic District. If the Owners disapprove of the proposed Historic District designation as provided in this Subparagraph, then that disapproval shall be deemed to be the final disposition of the proposed designation, and the Historic District designation process shall be complete and the Regulated Structures located within the Area of the proposed District shall, as of the last day of the 45 day period, no longer be Regulated Structures. (Ord. 36-04, J. 30, p. 143-149, passed 6/14/04; Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(iii) Not more than one ballot form shall be counted or considered for any one Property within the proposed Historic District. Conflicting responses from multiple Owners of the same Property shall preclude all ballot forms for that Property from being counted or considered, and no ballots shall be deemed to have been returned for that Property. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(5) Announcing the Outcome of the Canvas.

Promptly upon determination of the outcome of the canvas, the Commission shall cause the results to be posted in the City Hall of the City, and to be delivered by first class mail to the Owner of each Property within the proposed Historic District. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(F) Commission Recommendation on Owner-Approved Historic Designation.

(1) Within 30 days after the conclusion of the canvas period and

announcement of the Owner approval of the proposed designation as provided in Subparagraph (E)(4)(i) of this Section, the Commission shall make its recommendation to the City Council on the proposed Historic District designation. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(2) If the Commission recommends approval of the proposed Historic District designation to the City Council, it shall set forth its written recommendation, including findings of fact relating to the criteria for designation that constitute the basis for its decision, and shall transmit its recommendation to the City Council, to the Owners of all Property within the proposed Historic District, and to the parties appearing at the public hearing. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(3) The Commission shall also transmit the official record of its proceedings concerning the recommended designation to the City Council. If an extension of time has been granted, the time allowed for submission under this Section shall be extended by the same number of days. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(4) If the Commission recommends against the proposed Historic District designation, then it shall set forth its written recommendation and shall transmit its recommendation to the City Council, to the Owners of all Property within the proposed Historic District, and to the parties appearing at the public hearing. If the Commission does not make any recommendation with respect to the proposed Historic District designation within the 30-day time period, as the same may be extended, such inaction shall be deemed to be a recommendation against the proposed Historic District designation and that recommendation shall be forwarded to the City Council, Owners, and other parties in accordance with the terms of this Subsection. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(G) Failure to Act by Commission.

If the Commission does not, or cannot, act to either recommend for or against a Historic District designation to the City Council within 180 days after the date on which the Commission adopted its resolution making a preliminary Historic District designation pursuant to Subsection 24.026(B) of this Chapter (unless an extension of time has been granted, in which case this time period shall be extended by the same number of days), such inaction shall be deemed to be a recommendation against the proposed Historic District designation and that recommendation shall be forwarded to the City Council in accordance with the terms of Paragraph F(5) of this Section. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(H) City Council Consideration of Designation.

(1) Review of Findings.

The City Council shall give due consideration to the findings, recommendations, and official record of the Commission in making its determination with respect to the proposed Historic District designation of any Regulated Structure. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(2) Approval of Recommendation.

The City Council may, by ordinance duly adopted, designate as a Historic District any Area for which it receives a recommendation from the Commission under the procedures set forth in Subsections 24.026(F) and (G) of this Chapter, provided that the City Council independently finds and determines that the proposed Historic District satisfies the criteria set forth in Section 24.016 of this Chapter. The adoption of the Ordinance shall be deemed to be the final disposition on the Historic District designation by the City Council. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(3) Rejection of Positive Commission Recommendation.

The City Council may, by resolution duly adopted, reject a positive recommendation of the Commission and determine that an Area does not meet the criteria for Historic District designation. The adoption of the resolution shall be deemed to be the final disposition on the proposed Historic District designation by the City Council, and the Regulated Structures located within the Area shall, as of the date of adoption of such resolution, no longer be Regulated Structures. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(4) Failure to Act by City Council.

In the event that the City Council does not, for any reason, within 90 days of its receipt of the Commission recommendation, either (a) adopt an ordinance designating a Historic District, or (b) adopt a resolution rejecting a proposed Historic District, the City Council shall be deemed to have rejected the nominated District. Such inaction shall be deemed to be the final disposition on the proposed Historic District designation by the City Council, and the Regulated Structures within the proposed Area shall, as of the last day of the 90 day time period, no longer be Regulated Structures. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(I) Successive Applications. No proposed Historic District designation that fails to be approved pursuant to the provisions of this Section, and no proposed Historic District designation that is substantially the same as any such Failed District (collectively, "Failed District"), shall be resubmitted or considered for a period of two years from the date of the final disposition of the Failed District under the terms of this Section; provided, however, that a new designation nomination for the Failed District may be submitted and considered at any time in the future so long as all of the Owners of the Failed District nominate the Failed District for designation. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

Sec. 24.030 Certificate of Appropriateness.

(A) Required. No Regulated Activity shall be allowed, and no permits shall be issued for any Regulated Activity, involving a Landmark or a Contributing Regulated Structure in a Historic District without the issuance of a Certificate of Appropriateness in accordance with the procedures set forth in Subsections (E) – (I) of this Section and the criteria set forth in Subsection (D) of this Section. No Construction of a new Structure within a Historic District that requires a building permit shall be undertaken without the prior issuance of a Certificate of Appropriateness in accordance with the procedures set

forth in Subsections (E) – (I) of this Section and the criteria set forth in Subsection (C) of this Section. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(B) Exemption. Certificates of Appropriateness shall not be required in connection with permits necessary for compliance with a lawful order of the City, including, without limitation, any permit necessary to correct what is determined by the City to be an immediate health or safety problem; provided, however, that such order shall expressly exempt the Regulated Activity from Certificate of Appropriateness procedures; and provided further that such order, to the extent feasible, shall be subject to appropriate conditions to advance the purpose and goals of this Chapter. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(C) Criteria for Certificate of Appropriateness for New Construction. An application for a Certificate of Appropriateness for Construction of new Structure within a Historic District shall conform to the standards set forth below:

(1) Height. The height of the proposed new Structure shall be visually compatible with properties, structures, sites, public ways, objects, and places to which it is visibly related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(2) Proportion of front façade. The relationship of the width to the height of the front elevation of the proposed new Structure shall be visually compatible with properties, structures, sites, public ways, objects, and places to which it is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(3) Proportion of openings. The relationship of the width to height of windows and doors of the proposed new Structure shall be visually compatible with properties, structures, sites, public ways, objects, and places to which the building is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(4) Rhythm of solids to voids in front facades. The relationship of solids to voids in the front façade of the proposed new Structure shall be visually compatible with properties, structures, sites, public ways, objects, and places to which it is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(5) Rhythm of spacing and structures on streets. The relationship of the proposed new Structure or object to the open space between it and adjoining structures or objects shall be visually compatible with the properties, structures, sites, public ways, objects, and places to which it is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(6) Rhythm of entrance porches, storefront recesses and other projections. The relationship of entrances and other projections of the proposed new Structure to sidewalks shall be visually compatible with the properties, structures, sites, public ways, objects, and places to which it is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(7) Relationship of materials and texture. The relationship of the materials and texture of the façade of the proposed new Structure shall be visually

compatible with the predominant materials used in the structures to which it is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(8) Roof shapes. The roof shape of the proposed new Structure shall be visually compatible with the structures to which it is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(9) Walls of continuity. Facades and property and site structures, such as masonry walls, fences, and landscape masses, shall, when it is a characteristic of the area, form cohesive walls of enclosure along a street, to ensure visual compatibility with the properties, structures, sites, public ways, objects, and places to which such elements are visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(10) Scale of a structure. The size and mass of the proposed new Structure in relation to open spaces, windows, door openings, porches, adjacent structures, and balconies shall be visually compatible with the properties, structures, sites, public ways, objects, and places to which they are visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(11) Directional expression of front elevation. The proposed new Structure shall be visually compatible with the properties, structures, sites, public ways, objects, and places to which it is visually related in its directional character, whether this be vertical character, horizontal character, or nondirectional character. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(12) Destruction or alteration of historic features. The distinguishing historic qualities or character of a Property, Structure, site or Object and its environment shall not be destroyed. The Alteration of any historic or material or distinctive architectural features should be avoided when possible. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(13) Archaeological and natural resources. Every reasonable effort shall be made to protect and preserve archaeological and natural resources affected by, or adjacent to any project. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(14) Archaeological compatibility. In considering new construction, the Commission shall not impose a requirement for the use of a single architectural style or period, though it may impose a requirement for compatibility. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(D) Criteria for All Other Required Certificates of Appropriateness. An Application for a Certificate of Appropriateness, other than for a Certificate of Appropriateness for Construction of a new Structure within an Historic District as set forth in Subsection (C) of this Section, shall conform to the standards set forth below:

(1) Height. The height of a Landmark, Regulated Structure, or a Contributing Regulated Structure shall be visually compatible with properties, structures, sites, public ways, objects, and places to which it is visibly related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(2) Proportion of front façade. The relationship of the width to the height of the front elevation of a Landmark, Regulated Structure, or a Contributing Regulated Structure shall be visually compatible with properties, structures, sites, public ways, objects, and places to which it is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(3) Proportion of openings. The relationship of the width to height of windows and doors of a Landmark, Regulated Structure, or a Contributing Regulated Structure shall be visually compatible with properties, structures, sites, public ways, objects, and places to which the building is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(4) Rhythm of solids to voids in front facades. The relationship of solids to voids in the front façade of a Landmark, Regulated Structure, or a Contributing Regulated Structure shall be visually compatible with properties, structures, sites, public ways, objects, and places to which it is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(5) Rhythm of spacing and structures on streets. The relationship of a Landmark, Regulated Structure, or a Contributing Regulated Structure or object to the open space between it and adjoining structures or objects shall be visually compatible with the properties, structures, sites, public ways, objects, and places to which it is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(6) Rhythm of entrance porches, storefront recesses and other projections. The relationship of entrances and other projections of the Landmark, Regulated Structure, or a Contributing Regulated Structure to sidewalks shall be visually compatible with the properties, structures, sites, public ways, objects, and places to which it is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(7) Relationship of materials and texture. The relationship of the materials and texture of the façade of a Landmark, Regulated Structure, or a Contributing Regulated Structure shall be visually compatible with the predominant materials used in the structures to which it is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(8) Roof shapes. The roof shape of a Landmark, Regulated Structure, or a Contributing Regulated Structure shall be visually compatible with the structures to which it is visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(9) Walls of continuity. Facades and Property and site structures, such as masonry walls, fences, and landscape masses, shall, when it is a characteristic of the area, form cohesive walls of enclosure along a street, to ensure visual compatibility with the properties, structures, sites, public ways, objects, and places to which such elements are visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(10) Scale of a structure. The size and mass of a Landmark, Regulated Structure, or a Contributing Regulated Structure in relation to open spaces, windows, door openings, porches, adjacent structures, and balconies shall be visually compatible with the

properties, structures, sites, public ways, objects, and places to which they are visually related. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(11) Directional expression of front elevation. A Landmark, Regulated Structure, or a Contributing Regulated Structure shall be visually compatible with the properties, structures, sites, public ways, objects, and places to which it is visually related in its directional character, whether this be vertical character, horizontal character, or nondirectional character. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(12) Destruction or alteration of the historic features. The distinguishing historic qualities or character of a Landmark Regulated Structure or Contributing Regulated Structure and its environment shall not be destroyed. The Alteration of any historic or material or distinctive architectural features should be avoided when possible. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(13) Archaeological and natural resources. Every reasonable effort shall be made to protect and preserve archaeological and natural resources affected by, or adjacent to any project. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(14) Architectural Compatibility. In considering new construction, the Commission shall not impose a requirement for the use of a single architectural style or period, though it may impose a requirement for compatibility. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(15) Use compatibility. Every reasonable effort shall be made to provide a compatible use for a Regulated Structure or Contributing Regulated Structure that requires minimal alteration of the Regulated Structure or a Contributing Regulated Structure and its environment, or to use a Regulated Structure or Contributing Regulated Structure for its originally intended purpose. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(16) Maintenance of Time Period Appearance. All Regulated Structures or Contributing Regulated Structures shall be recognized as products of their own time and so alterations that have no historical basis and which seek to create an earlier appearance than is properly attributable to the particular Regulated Structure or Contributing Regulated Structure that is being altered shall be discouraged. However, contemporary design for Alterations and additions to Regulated Structures or Contributing Regulated Structures shall not be discouraged when such Alterations and additions do not destroy significant historical, architectural, visual, aesthetic, archaeological or cultural material, and such design is compatible with the size, scale, color, material, and character of the Regulated Structure or Contributing Regulated Structure, neighborhood or environment. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(17) Significance of changes made in the course of time. Changes that may have taken place in the course of time are evidence of the history and development of Regulated Structure or Contributing Regulated Structure and their environments. These changes may have acquired significance in their own right, and this significance shall be recognized and respected. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(18) Sensitivity to distinct features. Distinctive stylistic features or

examples of skilled craftsmanship or artistry, which characterize a Regulated Structure or Contributing Regulated Structure, shall be treated with sensitivity. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(19) Repair to deteriorated features. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material need not be identical to but should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures; (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(20) Surface cleaning. The surface cleaning of Regulated Structure or Contributing Regulated Structure shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historically, visually, aesthetically, culturally or archaeologically significant materials used in such Landmark, Regulated Structure, or a Contributing Regulated Structure shall not be undertaken; (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(21) Wherever possible, additions or Alterations to a Regulated Structure or Contributing Regulated Structure shall be done in such manner that if such additions or Alterations were to be removed in the future, the essential form and integrity of the Landmark, Regulated Structure, or Contributing Regulated Structure would not be impaired. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(E) (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05; **Deleted by Ord. 46-06, J. 32, p. 244-252, passed 7/10/06**)

(F) (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05; **Deleted by Ord. 46-06, J. 32, p. 244-252, passed 7/10/06**)

(G) Application For Certificate of Appropriateness. An Applicant required to obtain a Certificate of Appropriateness under this Section shall submit for approval an application on a form prepared by the Commission. The application for a Certificate of Appropriateness shall contain, at a minimum, the following information and specifications:

- (1) Applicant's name;
- (2) Owner's name, if different from Applicant;
- (3) Street address and legal description of the Landmark or Contributing Regulated Structure;
- (4) An overall plan of the proposed Regulated Activity, including front, side, and rear elevation drawings related to the Regulated Structures impacted by the Activity;
- (5) A brief description of the Structures, sites, and landscapes and any

other significant features adjacent to and across from the Property on which the Regulated Activity will take place;

(6) A detailed description of the proposed Regulated Activity, together with any architectural drawings, sketches, and photographs indicating how and to what extent the Regulated Activity will affect any Landmarks and/or Contributing Regulated Structures. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(7) The names and addresses of the Owners of property adjacent to and across from the Property on which the Regulated Activity will take place; (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(8) A list and photographs of significant architectural features in relation to the Structures, sites, and landscapes on the Property previously designated by the Commission as being worthy of protections and preservation, if any; (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(9) Identification of any architect or developer involved in the proposed Regulated Activity; and (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(10) Such other relevant information as requested by the City or the Commission. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(H) Public Hearing Review.

(1) Public Hearing on Application. Following the proper filing of a complete application for a Certificate of Appropriateness, a public hearing on the application shall be set, noticed, and conducted in accordance with the provisions contained in this Subsection. The hearing shall be commenced not less than 30 days after the filing of a complete application and may be continued upon request of, or with the consent of, the Applicant. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05; **Ord. 46-06, J. 32, p. 244-252, passed 7/10/06**)

(2) Notice of Public Hearings.

(a) The Commission shall cause notice to be given of public hearings set pursuant to this Section in the form and manner and to the persons herein specified. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(b) The Commission shall give written notice of the date, time, and place of the hearing on the proposed Regulated Activity for which a Certificate of Appropriateness is sought to the Owner of the Property on which the Regulated Activity will take place. The Commission shall also cause to be posted, for a period of not less than 15 days immediately preceding the hearing, a notice stating the time, date, place, and matter to be considered at the hearing. The notice shall be prominently displayed on the Property on which the Regulated Activity will take place, or on the public way abutting the Property. In addition, not less than 15 days prior to the hearing, the Commission shall cause a legal notice to be published in a newspaper of general circulation in the City of Highland Park setting forth the nature of the hearing, the Property, Regulated Activity and

Regulated Structures involved, and the date, time, and place of the scheduled public hearing. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(3) Procedures for Conduct of Hearings.

(a) Any person may appear and testify at a public hearing conducted pursuant to this Section, either in person or by a duly authorized agent or attorney; provided, however, that the Commission may exclude irrelevant, immaterial, or unduly repetitious testimony. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(b) Any Person may at any time prior to the commencement of a hearing under this Section, or during such hearing, or within such time as may be allowed by the Commission following such hearing, submit written statements in support of or in opposition to any matter before the Commission. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(c) The Commission may at any time, on its own motion or at the request of any person, adjourn a hearing for a reasonable time and to a fixed date, time, and place, for the purpose of giving further notice, taking further evidence, gathering further information, deliberating further, or for such other reason as the Commission may deem appropriate. The Commission shall notify in writing all Commissioners, all parties to the hearing, and any other person designated on the vote of adjournment of the date, time, and place of the adjourned hearing. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(I) Decision of the Commission.

(1) If the application is approved without conditions, the Commission shall issue the Certificate of Appropriateness permitting the Building Commissioner to proceed with other required reviews and approvals. The Commission shall notify the Applicant of its decision within 30 days after the close of the public hearing. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(2) If the application is approved with conditions, the Commission shall notify the Applicant in writing, by certified mail, return receipt requested, within 30 days after the close of the public hearing and shall specify the conditions to be imposed and the reasons therefore in light of the criteria applicable to this Chapter. If the Applicant notifies the Commission in writing that the conditions are acceptable, or if the Applicant does not appeal the approval with conditions within the prescribed period of time, the Commission shall issue the Certificate of Appropriateness, subject to the conditions. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(3) If the application is denied, the Commission shall notify the Applicant in writing, by mail, return receipt requested, within 30 days after the close of the public hearing and shall specify the particular aspects in which the application is inconsistent with the criteria applicable to this Chapter. If the Commission denies the Certificate of Appropriateness, then no Regulated Activity shall be undertaken, and no permits shall be issued for the Regulated Activity, that involves the subject Landmark and/or Contributing Regulated Structure. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(4) A Certificate of Appropriateness shall be invalid (a) if the plans approved by the Commission or the City Council are changed in any material way, (b) if any conditions of the Certificate are not satisfied, or (c) if any building permit issued for the approved work becomes invalid. A Certificate of Appropriateness shall remain valid for a period of one year, unless the Regulated Activity is commenced with that year and diligently pursued thereafter until completed. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(5) Any interested party may appeal the decision of the Commission to the City Council by filing an appeal in writing with the Office of the City Manager within 15 days after the date of the Commission's decision. For the purpose of this Subsection, the term "interested party" shall mean and include any party who presents testimony at the public hearing before the Commission, as provided in Subsection (H) of this Section. The City Council may receive comments on the contents of the record, but no new matter may be considered by the City Council, unless such matter is new or was not known at the time of the hearing. After due consideration of the facts contained in the record submitted to the Council by the Commission and other authorized matter, the City Council (i) may affirm the decision in total, (ii) may approve changes, or (iii) may overturn the Commission's decision. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05; **Ord. 46-06, J. 32, p. 244-252, passed 7/10/06**)

Sec. 24.035 Certificates of Economic Hardship.

(A) Certificate. Notwithstanding any of the provisions of this Chapter to the contrary, the Commission may issue a Certificate of Economic Hardship to allow the performance of Regulated Activity for which a Certificate of Appropriateness has been denied. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(B) State Assistance. Applicants claiming economic hardship shall be required to apply to the State Historic Preservation Agency to determine eligibility for rehabilitation assistance. The eligibility for and availability of financial aid shall be considered by the Commission in making its decision. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(C) Application Requirements. An applicant for a Certificate of Economic Hardship shall submit an application, on a form prepared by the Commission, and shall provide, at a minimum, 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 Property and its improvements 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 or their lenders 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 and/or reuses 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) Evidence, if any, of any substantial decrease in the fair market value of the Landmark or Contributing Regulated Structure as a result of the denial of a Certificate of Appropriateness.

(11) Any substantial decrease in the pre-tax or after-tax return to the Owner(s) or other investors in the Landmark or Contributing Regulated Structure as a result of the denial of a Certificate of Appropriateness.

(12) Any additional cost of work necessary to comply with the standards and criteria for the issuance of a Certificate of Appropriateness as set forth in Subsections 24.040(C) and (D) of this Chapter, as the case may be.

(13) In the case of a proposed Demolition, the economic feasibility of Rehabilitation or reuse of the Landmark or Contributing Regulated Structure on its present site or elsewhere.

(14) Any other relevant information, including, without limitation, income tax bracket of the Owner, Applicant, or principal investors in the Landmark or Contributing Regulated Structure, reasonably necessary for a determination as to whether the Landmark or Contributing Regulated Structure can be reasonably sold or yield a reasonable return to present or future Owners.

(D) Public Hearing Review.

(1) Public Hearing on Application. Following the proper filing of a complete application for a Certificate of Economic Hardship, a public hearing on the application shall be set, noticed, and conducted in accordance with the provisions contained in this Subsection. The hearing shall be commenced not less than 45 days following the filing of a complete application and may be continued upon request or consent of the Applicant.

(2) Notice of Public Hearings.

(a) The Commission shall cause notice to be given of public hearings set pursuant to this Section in the form and manner and to the persons herein specified.

(b) The Commission shall give written notice of the date, time, and place of the hearing on the proposed Regulated Activity for which a Certificate of Economic Hardship is sought to the Owner of the Property on which the Regulated Activity will take place. The Commission shall also cause to be posted, for a period of not less than 15 days immediately preceding the hearing, a notice stating the time, date, place, and matter to be considered at the hearing. The notice shall be prominently displayed on the Property on which the Regulated Activity will take place, or on the public way abutting the Property. In addition, not less than 15 days prior to the hearing, the Commission shall cause a legal notice to be published in a newspaper of general circulation in the City of Highland Park setting forth the nature of the hearing, the Property, Regulated Activity and Regulated Structures involved, and the date, time, and place of the scheduled public hearing. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(3) Procedures for Conduct of Hearings.

(a) Any Person may appear and testify at a public hearing conducted pursuant to this Section, either in person or by a duly authorized agent or attorney; provided, however, that the Commission may exclude irrelevant, immaterial, or unduly repetitious testimony.

(b) Any Person may at any time prior to the commencement of a hearing under this Section, or during such hearing, or within such time as may be allowed by the Commission following such hearing, submit written statements in support of or in opposition to any matter before the Commission.

(c) The Commission may at any time, on its own motion or at the request of any person, adjourn a hearing for a reasonable time and to a fixed date, time, and place, for the purpose of giving further notice, taking further evidence, gathering further information, deliberating further, or for such other reason as the Commission may find to be sufficient. The Commission shall notify in writing all Commissioners, all parties to the hearing, and any other Person designated on the vote of adjournment of the date, time, and place of the adjourned hearing. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(E) Study Period. If the Commission finds that without approval of the proposed Regulated Activity the Landmark or Contributing Regulated Structure cannot be put to a reasonable beneficial use, or the Landmark or Contributing Regulated Structure cannot obtain a reasonable economic return therefrom, then the application shall be delayed for a period not to exceed 60 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 Landmark or Contributing Regulated Structure. Such plans and recommendations may include, without limitation, a relaxation of the provisions of this Chapter, a reduction in real property taxes,

financial assistance, building code modifications, and/or relief from zoning regulations. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(F) Decision. If, by the end of this 60 day period, the Commission has found that without approval of the proposed Regulated Activity, the Landmark or Contributing Regulated Structure cannot be put to a reasonable beneficial use, or the Owner cannot obtain a reasonable economic return therefrom, then the Commission shall issue a Certificate of Economic Hardship approving the proposed Regulated Activity and allowing the Applicant to obtain the applicable permits under the City Code for the Regulated Activity. If the Commission finds otherwise, it shall deny the application for a Certificate of Economic Hardship and the Commission shall so notify the applicant in writing, by certified mail, return receipt requested. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(G) Appeal. When a Certificate of Economic Hardship for a Landmark or Contributing Regulated Structure is denied, the Applicant may appeal the Commission's decision to the City Council by filing an appeal in writing to the City Manager within 15 days after the Applicant is served with notice by personal delivery or certified or registered mail of the Commission's decision. For the purposes of this Section, the date of mailing or delivery shall be the date of service. The City Council may receive comments on the contents of the record, but no new matter may be considered by the City Council, unless such matter is new or was not known at the time of the hearing. After due consideration of the facts contained in the record submitted to the Council by the Commission and other authorized matter, the City Council (i) may affirm the decision in total, (ii) may approve changes, or (iii) may overturn the Commission's decision. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(H) Natural Destruction or Demolition. In the case of partial or complete natural destruction or Demolition of a Landmark or Contributing Regulated Structure, the Owner shall be required to obtain a Certificate of Appropriateness from the Commission prior to reconstruction. Although exact duplication of the previous structure may not be required, the exterior design of the property shall be in harmony with the exterior design of the Landmark or Contributing Regulated Structure prior to the damage. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(I) Conditions of Validity. A Certificate of Economic Hardship shall be invalid (a) if the plans approved by the Commission or the City Council are changed in any material way, (b) if any conditions of the Certificate are not satisfied, or (c) if any building permit issued for the approved work becomes invalid. A Certificate of Economic Hardship shall remain valid for a period of one year, unless the Regulated Activity is commenced with that year and diligently pursued thereafter until completed. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

Sec. 24.040 Enforcement and Penalties for Violation

Any person who undertakes a Regulated Activity without first obtaining a Certificate of Appropriateness or a Certificate of Economic Hardship as required under this Chapter 24, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50 or more than \$5,000. Every day each such violation shall continue to exist shall constitute a separate violation. In addition to monetary penalties, and any other penalties and remedies that may be provided by law or in this Code, in the event of any unauthorized Regulated Activity, the City Council may direct the Corporation Counsel to seek injunctive and other equitable relief to cause the immediate cessation of any such unauthorized Regulated Activity. The City may also order that the Landmark, Regulated Structure, or Contributing Regulated Structure be returned to the condition it was in immediately prior to the unauthorized Regulated Activity. (Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)

(Chapter 24 added by Ord. 36-83, J. 15, p. 398, passed 8/8/83; amended in toto by Ord. 11-97, J. 24, p. 44-61, passed 2/10/97; amended in toto by Ord. 48-00, J. 26, p. 181-206, passed 8/14/00; Sections 24.015 and 24.020 repealed by Ord. 52-01, J. 27, p. 233-270, passed 8/27/01; amended in toto by Ord. 20-05, J. 31, p. 054-089, passed 4/11/05)