



SAMPLE

HISTORIC PRESERVATION ORDINANCE

VILLAGE OF ANYTOWN, ILLINOIS

Many Illinois communities have adopted historic preservation ordinances to ensure the protection of local resources. These ordinances are as varied as the communities themselves, but most of the effective ordinances share common components. These components were incorporated by the Illinois Historic Preservation Agency (the State Historic Preservation Office [SHPO] of Illinois) into the basic ordinance requirements for participation in the Certified Local Government (CLG) and the Property Tax Assessment Freeze programs. For more detailed information, please refer to Section 20a of the CLG regulations, “Certification and Transfer of Local Share of Historic Preservation Fund Allocation,” at: <ftp://www.ilga.gov/JCAR/AdminCode/017/01704130sections.html> and <http://illinoishpc.org/wp-content/uploads/2013/05/CLG-Application-rules.pdf>.

The following is a sample ordinance that meets the State Historic Preservation Office’s requirements as specified in the CLG regulations. It includes highlights of the different parts of the ordinance, as well as explanations of what a community should consider when developing an ordinance. Communities that are interested in adopting a historic preservation ordinance should keep in mind that the ordinance should be tailored to meet the community’s needs. The explanatory footnotes that appear at the bottom of some pages do not need to be included in a ratified ordinance.

For other examples of historic preservation ordinances, please contact the Local Government Programs Coordinator at (217) 785-5031.

HISTORIC PRESERVATION ORDINANCE
OF
ANYTOWN, ILLINOIS

WHEREAS, movements and shifts of population and the changes in residential, commercial and industrial uses and customs threaten the destruction of areas, places, structures, works of art, and other objects having special historic, community, architectural or aesthetic importance, interest, or value and whose preservation and continued utilization are necessary and desirable for the enjoyment and beauty of the Village of Anytown and for the welfare of the citizens of Anytown; and

WHEREAS, the authority for these purposes is found in the Preservation of Historical and Other Special Areas Act (65 ILCS 5/11-48.2)* that have granted powers to the Mayor and Village Council of the Village of Anytown to provide for official landmark designation by ordinance of areas, places, buildings, structures, and other objects having a special, historical, community, architectural, or aesthetic interest or value, and in connection with such areas so designated by ordinance to impose regulations governing the construction, alteration, demolition and use, and to adopt other additional measures appropriate for their preservation, protection, enhancement, rehabilitation, reconstruction, perpetuation or use; and

WHEREAS, the Village of Anytown contains many structures and areas that embody a sense of time and place unique to the Village or which exemplify or reflect the cultural, social, economic, political or architectural history of the nation, the State of Illinois, or the Village; and

WHEREAS, the protection of the historic and architectural character and resources of the Village of Anytown is necessary for the promotion of its economic development and

* Enabling Legislation provides the legal basis for the local preservation program and should always be cited. Alternatively, it could be phrased as: “the Preservation of Historical and Other Special Areas Act Chapter 65, Section 5/11-13.1 and 5/11-48.2 et. seq. of the Illinois Compiled Statutes,” omitting the citation in parentheses as above.

NOW, THEREFORE, be it ordained by the Village Council of the Village of Anytown,
Who County, Illinois:

HISTORIC PRESERVATION

The purpose of this ordinance* is to promote the protection, enhancement, perpetuation, and use of improvements of special character or historical interest or value in the interest of the health, prosperity, safety, and welfare of the people of the Village of Anytown by:

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

DEFINITIONS †

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

* The statement of purpose should include the reasons for the establishment of the ordinance.

† Use definitions of terms to explain the language in the ordinance.

1. Alteration - Any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to the erection, construction, reconstruction, or removal of any structure.
2. Area - A specific geographic division of the Village of Anytown.
3. Addition - Any act or process which changes one or more of the “exterior architectural features” of a structure designated for preservation by adding to, joining with or increasing the size or capacity of the structure.
4. Building - Any structure created for the support, shelter or enclosure of persons, animals or property of any kind and which is permanently affixed to the land.
5. Certificate of Appropriateness - A certificate from the Historic Preservation Commission authorizing plans for alterations, construction, removal or demolition of a landmark or site within a designated historic district.
6. Commission - Anytown Historic Preservation Commission
7. Commissioners - Voting members of the Anytown Historic Preservation Commission
8. 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.
9. Council - The Village Council of the Village of Anytown.
10. Demolition - Any act or process that destroys in part or in whole a landmark or site within a historic district.
11. Design Guideline - A standard of appropriated activity that will preserve the historic and architectural character of a structure or area.
12. Exterior Architectural Appearance - The architectural and general composition of the exterior of a structure, including, but not limited to the kind, color, and the texture of the building material and the type, design and character of all windows, doors, light fixtures, signs, and appurtenant elements.
13. Historic District - An area designated as a “historic district by ordinance of the Village Council and which may contain within definable geographic boundaries one or more landmarks and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.

14. Landmark - Any building, structure or site which has been designated as a “landmark” by ordinance of the Village Council, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration, and preservation because of its historic and/or architectural significance to the Village of Anytown.
15. Owner of Record - The person, corporation, or other legal entity listed as owner on the records of the County Recorder of Deeds.
16. Rehabilitation - The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.
17. Removal - Any relocation of a structure on its site or to another site.
18. Repair - Any change that does not require a building permit or that is not construction, relocation or alteration.
19. Structure - Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing, buildings, fences, gazebos, advertising signs, bill boards, backstops for tennis courts, radio and television antennae, including supporting towers, swimming pools, satellite dishes, solar panels and wind generation.
20. Structural Change - Any change or repair in the supporting members of a building, structure, roof or exterior walls which would expand the building in height, width or bulk of the building.

COMPOSITION OF HISTORIC PRESERVATION COMMISSION

The Anytown Historic Preservation Commission shall consist of seven (7) voting members,* residents of the Village of Anytown, appointed by the Mayor and approved by the Village Council.

QUALIFICATIONS *

* The size of the commission often varies from 7-11. Keep in mind the availability of preservation professionals and committed volunteers when deciding on the number of members. A minimum of 5 members is recommended to allow for adequate community representation.

The members shall be appointed on the basis of expertise, experience or interest in the area of architectural history, building construction or engineering, finance historical and architectural preservation, neighborhood organizing or real estate.

TERMS

Members of the Commission shall be appointed for terms of three (3) years. Of those members first taking office, two (2) shall be appointed for one (1) year, three (3) for two (2) years, and two (2) for three (3) years.[†] No members shall serve more than two (2) successive three-year terms. Alternate members shall be appointed to serve in the absence of or disqualification of the regular members. Vacancies shall be filled for the inexperienced term only. Members shall serve without compensation.

OFFICERS

Officers shall consist of a chairman, vice-chairman, and a secretary elected by the Preservation Commission who shall be serve a term of one (1) year and shall be eligible for re-election, but no members shall serve as an officer for more than two (2) consecutive years. The chairman shall preside over meetings. In the absence of the chairman, the vice-chairman shall perform the duties of the chairman. If both are absent, a temporary chairman shall be elected by those present. The secretary to the Preservation Commission shall have the following duties:

1. Take minutes of each Preservation Commission meeting;
2. Be responsible for publication and distribution of copies of the minutes, reports, and decisions of the Preservation commission to the members of the Preservation Commission;
3. Give notice as provided herein or by law for all public hearings conducted by the Preservation Commission;
4. Advise the Mayor of vacancies on the Preservation Commission and expiring terms of members; and

* Wherever possible, commission members should show a demonstrated interest in preservation (i.e. having a degree in History, Planning, Law, rehabilitating their own historic home, etc.). Some ordinances specify required representation (architect, realtor, etc.). However, be careful not to lock yourself into a required position if the pool of potential members is limited.

[†] Stagger terms to allow for continuity in the composition of the commission.

5. Prepare and submit to the Village Council a complete record of the proceedings before the Preservation Commission on any matter requiring Council consideration.

MEETINGS

A quorum shall consist of a majority of the members. All decisions or actions of the Historic Preservation Commission shall be made by a majority vote of those members present and voting at any meeting where a quorum exists. Meetings shall be held at regularly scheduled times to be established by resolution of the Commission at the beginning of each calendar year or at any time upon the call of the Chairman. There shall be a minimum of four (4) meetings per year.

No member of the Historic Preservation commission shall vote on any matter that may materially or apparently affect the property, income or business interest of that member. No action shall be taken by the Commission that could in any manner deprive or restrict the owner of property in its use, modification, maintenance, disposition, or demolition until such owner shall first have had the opportunity to be heard at public meeting of the Preservation Commission, as provided herein. The Chairman, and in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Preservation Commission shall be open to the public. The Preservation Commission keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Preservation Commission and shall be a public record.

POWERS AND DUTIES *

1. To adopt its own procedural regulations;
2. To conduct an ongoing survey to identify historically and architecturally significant properties, structures and areas;
3. To investigate and recommend to the Village Council the adoption of ordinances designating properties or structures having special historic, community, or architectural value as "landmarks";

* State the responsibilities of the commission. Use the powers enumerated in the enabling legislation.

4. To investigate and recommend to the Village Council the adoption of ordinances designating properties or structures having special historic, community or architectural value as “historic districts”;
5. To keep a register of all properties and structures that have been designated as landmarks or historic districts, including all information required for each designation;
6. To determine an appropriate system of markers and make recommendations for the design and implementation of specific markings of the streets and routes leading from one landmark or historic district to another;
7. To advise owners of landmarks and property or structures within historic districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the State or National Register of Historic Places;
8. To inform and educate the citizens of Anytown concerning the historic and architectural heritage of the village by publishing appropriate maps, newsletters, brochures, and pamphlets, and by holding programs and seminars;
9. To hold public hearings and to review applications for construction, alteration, removal, or demolition affecting proposed or designated landmarks or structures or historic districts and issue or deny Certificates of Appropriateness for such actions. Applicants shall be required to submit plans, drawings, elevations, specifications, and other information as may be necessary to make decisions;
10. To develop specific guidelines for the alteration, demolition, construction, or removal of landmarks or property and structures within historic districts;
11. To review proposed zoning amendments, applications for special use permits or variances that affect proposed or designated landmarks and historic districts. Such review shall be made prior to the date of the hearing by the Village Planning Commission or the Zoning Board of Appeals;
12. To administer on the behalf of the Village of Anytown any property or full or partial interest in real property, including a conservation right as that term is used in Chapter 30, paragraph 401, et.seq., Illinois Revised Statutes, which the village may have or accept as a gift or otherwise, upon designation by the Village Council;

13. To accept and administer on behalf of the Village of Anytown, upon designation by the Village Council, such gifts, grants and money as may be appropriate for the purpose of this ordinance;
14. To call upon available village staff members as well as other experts for technical advise;
15. To testify before all boards and commissions, including the Village Planning Commission and the Zoning Board of Appeals, on any matter affecting historically and architecturally significant property and landmarks;
16. To periodically review the Anytown Zoning Ordinance and to recommend to the Village Planning Commission and the Village Council any amendments appropriate for the protection and continued use of landmarks or property and structures within historic districts.

SURVEYS AND RESEARCH *

The Historic Preservation Commission shall undertake an ongoing survey and research effort in the Village of Anytown to identify neighborhoods, areas, sites, structures, and objects that have historic, community, architectural, or aesthetic importance, interest, or value. As part of the survey, the Historic Preservation Commission shall review and evaluate any prior surveys and studies by any unit of government or private organization and compile appropriate descriptions, facts, and photographs. The Historic Preservation Commission shall identify potential landmarks and adopt procedures to nominate them in groups based upon the following criteria:

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

* Survey is an essential part of a commission's duties. Commissions should use surveys of their local cultural resources, compiled by knowledgeable experts to develop designations, publications, preservation plans, etc.

CRITERIA FOR THE RECOMMENDATION OF LANDMARK DESIGNATION *

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

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

1. Significant value as part of the historic, heritage or cultural characteristics of the community, county, state or nation;
2. Its identification with a person or persons who significantly contributed to the development of the community, county, state or county;
3. Representative of the distinguishing characteristics of architecture inherently valuable for the study of a period, type, method of construction or use of indigenous materials;
4. Notable work of a master builder, designer, architect or artist whose individual work has influenced the development of the community, county, state or country;
5. Its unique location or singular physical characteristics that make it an established or familiar visual feature;
6. Its character as a particularly fine or unique example of a utilitarian structure, including but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance;
7. Area that has yielded or may be likely to yield, information important in history or prehistory.

* List the criteria which you feel will reflect what is historically or architecturally significant in your community.



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

APPLICATIONS FOR LANDMARKS AND HISTORIC DISTRICTS NOMINATIONS

Any person, group of persons or association, may apply to the Anytown Historic Preservation Commission for the designation of a Landmark or a Historic District.* Applications for a nomination shall be filed at the Planning Office. Persons wishing guidance or advice prior to completing an application may contact the Staff of the Planning Commission. At a minimum, the application shall include the following:

For a Landmark:

1. The name and address of the property owner.
2. The legal description and common street address of the property.
3. A written statement describing the property and setting forth reasons in support of the proposed designation.
4. Documentation that the property owner has been notified, or consents to the application for designation.
5. A list of significant exterior architectural features of the property.
6. An overall site plan and photographs of the landmark. The plan shall also include a front, side and rear elevation drawing.

For a Historic District:

1. The names and addresses of the property owners.

* State those persons who can nominate properties and the information that is needed to do so.

2. A map delineating the boundaries of the area to be designated.
3. A written statement describing the area and properties within the historic district and setting forth reasons in support of the proposed designation.
4. A list and photographs of significant exterior architectural features, delineating whether they are contributing or non-contributing for each property in the district.

LANDMARK DESIGNATION PROCEDURES *

The Commission shall schedule a public hearing within sixty (60) days after the filing of an application to the Planning Department.

1. Any person, group of persons or association, including, but not limited to the Anytown Historic Preservation Commission, may request a Historic Landmark designation for any structure, building or site within the boundaries of the Village of Anytown which may have historic or architectural significance as defined by the Ordinance. The Planning Department shall supply, upon request, the application forms. Completed forms shall be submitted to the Planning Department which shall be forwarded to the Commission for their consideration.
2. Notice of date, time, place and purpose of the public hearing shall be sent by mail to owner(s) of record and to the nominator(s) as well as to the adjoining property owners, not less than fifteen (15) nor more than thirty (30) days prior to the date of the hearing.[†] A public hearing notice also shall be published in a newspaper having general circulation in the Village of Anytown. The notice shall state the location of the property and a statement summarizing how the proposed landmark meets the criteria set forth in Subsection B under Criteria for Landmark Designation.
3. Upon receipt of the application, the secretary of the Commission shall schedule a public hearing, to be held within forty-five (45) days after preliminary approval of application.[‡]
4. During the public hearing, the Commission shall review and evaluate the application according to the criteria established by ordinance.

* Clearly state the procedures for designating historic properties. Illinois enabling legislation does not require owner consent for local designations. Designation should be based on listed criteria only.

[†] Be sure to allow the Commission and staff enough time to consider and process the nomination.

[‡] Allow for public participation and due process when considering nominations and reviewing permits. Persons affected by designation must have the opportunity to state their opinion.

5. If the Historic Preservation Commission finds at the time that the application merits further consideration, then the Commission may table the request until its next regularly scheduled meeting.
6. A Certificate of Appropriateness shall be required for alteration, construction, removal or demolition of a proposed landmark from the date when the nomination form is presented to the Commission until the final disposition of the request.

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

1. Following the public hearing, the Secretary of the Commission shall prepare the Commission's evaluation, recommendation and all available information for submission to the Village Council within thirty (30) days.
2. If the Commission decides that the landmark should be designated, it shall do so by a resolution passed by a majority of the Commission.
3. The owner(s) of record shall be notified promptly by a letter containing information of the Commission's decision.
4. A simple majority vote by the Village Council is necessary for approval of a landmark designation.* If the Village Council approves the application for a designation, a notice will be sent to the property owner, the Planning Department, the Building Inspector, the Village Clerk's office, and recorded with the County Recorder of Deeds. If the Village Council denies the petition, no petitioner or applicant can file for ninety (90) days to the Secretary of the Commission.
5. Buildings designated as Historic Landmarks shall be subject to issuance of Certificates of Appropriateness.

CRITERIA FOR HISTORIC DISTRICT DESIGNATION

Nominations shall be made to the Historic Preservation Commission on a form provided by the Commission. A filing fee may be required. The following criteria shall be utilized by the Anytown Historic Commission in determining the designation of Historic Districts:

* Landmarks and Historic Districts should be designated by ordinance, otherwise the commission will have no legal authority to protect them.

1. The Historic District contains one or more landmarks along with such other buildings, places or areas within its definable geographic boundaries which, while not of such historic significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located in such District;
2. A significant number of structures meeting any of the standards of Subsection B under Landmark Designation Criteria;
3. Establishing a sense of time and place unique to the Village of Anytown, and/or;
4. Exemplifying or reflecting the cultural, social, economic, political or architectural history of the nation, the state, or the community.

A preliminary determination as to whether a district or an area meets one or more of the foregoing criteria shall be made within sixty (60) days of the filing of a nomination with the Commission.

HISTORIC DISTRICT DESIGNATION PROCEDURES

The following procedure shall be used for the preliminary determination regarding the designation of historic districts:

1. Any person, group of persons, or association, including but not limited to the Anytown Historic Commission, may present to the commission a petition requesting that a defined geographic area be designated as an Historic District. The Planning Department shall supply, upon request, the application forms. Completed forms shall be submitted to the Planning Department which shall forward them to the Commission for their consideration;
2. The petition shall contain the names of no less than 51% of the property owners.* Or, if lease holders, with a five (5) year or longer leasehold interest, are signatories to the petition then the petition shall contain no less than 51% of the property owners and/or leaseholders;
3. Notice of date, time, place and purpose of the public hearing shall be sent by mail to owner(s) of record and to the nominator(s) as well as to the adjoining property owners,

* Designation should be based upon meeting the criteria only. If you decide to include such a provision, be sure to use a reasonable percentage for approval.

not less than fifteen (15) nor more than thirty (30) days prior to the date of the hearing. A public notice also shall be published in a newspaper having general circulation in the Village of Anytown. The notice shall state the location of the property and a statement summarizing how the proposed landmark meets the criteria set forth in Subsection B under Criteria for Historic Designation;

4. Upon receipt of the application, the Secretary of the Commission shall schedule a public hearing to be held within thirty (30) days from after preliminary approval of application;
5. During the public hearing the Commission shall review and evaluate the application according to the criteria established by ordinance;
6. If the Historic Preservation Commission finds at the time that the application merits further consideration, then the Commission may table the request until its next regular scheduled meeting.
7. Within thirty (30) days following the public hearing, the Commission shall make a final decision on designation and prepare the Commission's evaluation, recommendation, and all available information for submission to the Village Council.
 - a. If the Commission decides that the proposed historic district should be designated, it shall do so by a resolution passed by a majority of the Commission.
 - b. The owner(s) of record shall be notified promptly by a letter containing information of the Commission's decision.
 - c. A simple majority vote by the Village Council is necessary for approval of a historic preservation designation. If the Village Council approves, the application for a designation, a notice will be sent to the property owner, the Planning Department, the Building Inspector, the Village Clerk's office and recorded with the County Recorder of Deeds that the area has been designated as such and that buildings located within the boundaries of the historic district shall be subject to issuance of Certificate of Appropriateness. If the Village Council denies the petition, no petitioner can file for ninety (90) days to the Secretary of the Commission.

CERTIFICATE OF APPROPRIATENESS *

A Certificate of Appropriateness (COA) issued by the Commission shall be required before a building permit, moving permit, or demolition permit is issued for any designated historic landmark or any building, structure, or site or part thereof in the historic district. A COA is required if the building, structure or site will be altered, extended, or repaired in such a manner as to produce a major change in the exterior appearance of such building or structure. Such major changes include, but are not limited to:[†]

1. Major changes by addition, alteration, maintenance, reconstruction, rehabilitation, renovation or repair;
2. Any new construction and demolition in whole or in part requiring a permit from the Village of Anytown;
3. Moving a building;
4. Any construction, alteration, demolition, or removal affecting a significant exterior architectural feature as specified in the ordinance designating the landmark or historic district.

An exception to the COA shall be made if the applicant shows to the Commission that a failure to grant the permit will cause an imminent threat to life, health, or property.

APPLICATION FOR CERTIFICATE OF APPROPRIATENESS

Every application for a Certificate of Appropriateness, including demolition permit or building permit application, plans and specifications, shall be forwarded by the Planning Department to the Historic Preservation Commission within fifteen (15) days following receipt of the application by the Planning Department. The application for issuance of a COA must include:[‡]

1. Street address of the property involved.

* Commissions should develop procedures for reviewing any proposed changes to locally designated properties to ensure that the landmarks and structures within historic districts receive some protection. This ordinance is an example of a binding review. Review which is advisory only, in which the property owner receives the commission's recommendations on any proposed alterations but are not required to follow them, are ineffective and will result in a finding of ineligibility for the Certified Local Government program and the federal Tax Incentives. These programs require that the COA process is binding, so that owners of designated property must conform to the commission's recommendations.

[†] State the actions which merit the commission's review.

[‡] Explain what is needed from the applicant.

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

STANDARDS FOR CERTIFICATES OF APPROPRIATENESS

In making a determination whether to approve or deny an application for a COA, the Anytown Historic Preservation Commission shall be guided by the Secretary of the Interior's "Standards for Rehabilitation", as follows:[†]

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site environment;
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided;
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken;
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved;
5. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity;

* Local governments can set their own fees.

[†] The "Standards" are a nationally accepted set of criteria for the proper rehabilitation of historic properties.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities, and, where possible materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence;
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of the structures, if appropriate, shall be undertaken using the gentlest means possible;
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken;
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment;
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

DESIGN GUIDELINES *

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

1. Height - the height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures in a historic district;
2. Proportions of windows and doors - The proportions and relationships between doors and windows should be compatible with the architectural style and character of the landmark;
3. Relationship of Building Masses and Spaces - The relationship of a structure within a historic district to the open space between it and adjoining structures should be compatible;

* Commissions may wish to adopt additional guidelines that are tailored to address local preservation concerns.

4. Roof Shape - The design of the roof, fascia, and cornice should be compatible with the architectural style and character of the landmark;
5. Landscaping - Landscaping should be compatible with the architectural character and appearance of the landmark;
6. Scale - The scale of the structure after alteration, construction, or partial demolition should be compatible with its architectural style and character and with surrounding structures in a historic district;
7. Directional Expression - Facades in historic districts should blend with other structures with regard to directional expression. Structures in a historic district should be compatible with the dominant horizontal or vertical expression of surrounding structures;
8. The direction expression of a landmark after alteration, construction, or partial demolition should be compatible with its original architectural style and character;
9. Architectural Details - Architectural details including types of materials, colors, and textures should be treated so as to make landmark compatible with its original architectural style and character of a landmark or historic district;
10. New structures in a Historic District shall be compatible with the architectural styles and design in said districts.

HEARING ON COA APPLICATIONS *

Applications for a Certificate of Appropriateness are available from the Planning Department. Such applications shall be completed and submitted to the Planning Department which shall be forwarded to the Anytown Historic Preservation Commission. The Commission shall schedule a public meeting for consideration of the application within fifteen (15) days of receipt of application.[†] A public notice for consideration of the application shall be made not less than fifteen (15) days nor more than thirty (30) days before hearing, in a newspaper of general circulation published in the Village of Anytown.

* State the procedures of the design review process.

[†] *Be sure to include provisions for procedural due process.*

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

ISSUANCE OF A CERTIFICATE OF APPROPRIATENESS

The Anytown Historic Preservation Commission shall notify the applicants of their decision within five (5) days after the public meeting. Upon approval of the application, the Commission shall direct the Planning Department to issue signed COA to the applicant with copies forwarded to the Building Inspector.

A COA shall be invalid if changes in the plans review by the Commission are necessary in obtaining a building permit or if the building permit issued for the same work becomes invalid. The Certificate of Appropriateness remains valid for the same period of validity as the building permit (one year).

DENIAL OF A CERTIFICATE OF APPROPRIATENESS

In the event of denial of an application for a COA, the Commission shall notify the applicant in writing of the disapproval and the reasons therefore and shall recommend changes, if any, in the proposed action that would cause the Commission to reconsider its denial.

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

The process for the resubmission of a modified COA is as follows:

1. The Anytown Historic Preservation Commission shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the applicant by mailing

* This is an example of the strongest protection for historic resources. There are other measures that commissions can take, such as delaying the issuance of a certificate. Some communities opt to have the applicants of denied COAs appeal to the courts and not the Village Council.

notice of the hearing. Said mailing is to be made at least ten (10) days prior to the date of the hearing.

2. Notice of the time and place of such public hearing shall be published at least once, not less than fifteen (15) days nor more than thirty (30) days before the hearing, in a newspaper of general circulation published in the Village of Anytown.
3. The Chairperson shall conduct the hearing and the Anytown Historic Preservation Commission and the applicant shall have the right to introduce evidence and cross examine witnesses. A recorded or written transcript of the hearing shall be made and kept.
4. The Commission shall vote, announce its decision, make its recommendation, and notify the Planning Department and the applicant within five (5) days after the conclusion of the public hearing, unless the time is extended by mutual agreement between the Commission and the applicant.
5. In the event of a denial of appeal by the Anytown Preservation Commission, the applicant may appeal the decision of the Village Council, whose decision in this matter shall be final subject only to judicial review as provided by law.

CERTIFICATE OF ECONOMIC HARDSHIP *

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

Applicants claiming economic hardship shall be required to apply to the Redevelopment Division to determine eligibility for rehabilitation assistance. The eligibility for and availability of financial aid shall be considered by the Commission in making its decision.

An applicant for a Certificate of Economic Hardship may submit any or all of the following information in order to assist the Commission in making its determination on the application:

* This process enables the Commission to determine whether the property owner will lose all reasonable use of the property if the Certificate of Appropriateness is denied. It is an important finding when claims of a "taking of private property without just compensation" (US Constitution) are made.

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

If the Commission finds that without approval of the proposed work, the property owner cannot obtain a reasonable economic return therefrom, then the application shall be delayed for a period not to exceed three (3) months. During this period of delay, the Commission shall investigate plans and make recommendations to the Village Council to allow for a reasonably beneficial use or a reasonable economic return, or to otherwise preserve the subject property. Such plans and recommendations may include, but not be limited to:

1. A relaxation of the provisions of the ordinance; and/or
2. A reduction in real property taxes; and/or
3. Financial assistance; and/or

4. Building code modifications; and/or
5. Changes in zoning regulations.

If by the end of this three (3)-month period, the Commission has found that without approval of the proposed work, the property cannot be put to a reasonable beneficial use or the owner cannot obtain a reasonable economic return therefrom, then the Commission shall issue a Certificate of Economic Hardship approving the proposed work. If the Commission finds otherwise, it shall deny the application for a Certificate of Economic Hardship.

APPEALS

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

If the Council concurs with the Commission's decision not to issue a Certificate of Economic Hardship, the Secretary shall notify the applicant and the Inspection Division within seven (7) days.

NATURAL DESTRUCTION OR DEMOLITION

In the case of partial or complete natural destruction or demolition of a site within a Historic Preservation District or of a landmark, the owner will be required to obtain a Certificate of Appropriateness from the Commission prior to reconstruction. Although exact duplication of the previous structure may not be required, the exterior design of the property shall be in harmony with:

1. The exterior design of the structure prior to damage, and
2. The character of the Historic Preservation District.

FEES AND PENALTIES *

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

PUBLICATION

A full, true, and complete copy of this ordinance shall be published once within thirty (30) days after adoption in pamphlet form by authority of the Village Council.

EFFECTIVE DATE

All ordinances, resolutions and orders, or parts thereof, in conflict herewith, be and the same are hereby repealed and this ordinance be in full force and effect immediately and forthwith upon its adoption, approval and publication as provided by law.

PASSED by the Village Council, Village of Anytown, this 1st day of January, 2013.

* These are recommended to ensure that the ordinance is upheld.