

CHAPTER 1478: HISTORIC PRESERVATION

Part Fourteen, Chapter 1478

Section

- [1478.01](#) Purpose
- [1478.02](#) Historic Preservation Commission establishment; composition; duties
- [1478.03](#) Definitions
- [1478.04](#) Criteria for designation of historic landmarks and interior historic landmarks
- [1478.05](#) Nomination and preliminary determination of eligibility for designation as a historic landmark or interior historic landmark
- [1478.06](#) Designation hearing
- [1478.07](#) Designation of historic landmarks and interior historic landmarks
- [1478.08](#) Recognition of existing Historic Districts
- [1478.09](#) Local designation of a Historic District
- [1478.10](#) Work requiring the issuance of a certificate of appropriateness or a certificate of economic hardship
- [1478.11](#) Zoning and subdivision actions affecting any nominated, eligible or designated historic landmarks or designated Historic Districts
- [1478.12](#) Acquisition or use of public property
- [1478.13](#) Review criteria for certificate of appropriateness and certificate of advisory review
- [1478.14](#) Procedures for certificate of appropriateness
- [1478.15](#) Procedures for certificate of economic hardships
- [1478.16](#) Appeals

- [1478.17](#) Reserved
- [1478.18](#) Prevention of demolition by neglect
- [1478.19](#) Hazardous structures and public nuisances
- [1478.20](#) Handicapped accessibility provisions
- [1478.21](#) Judicial review of final decision
- [1478.99](#) Penalty

 **§ 1478.01 PURPOSE.**

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

- (A) Providing a municipal process to identify, preserve, protect and enhance the distinctive historic and architectural heritage of the city representing elements of the city’s cultural, social, economic, political and architectural history;
- (B) Conserving and improving the value of properties designated as historic landmarks or located within Historic Districts;
- (C) Enhancing the attractiveness of the city to homeowners, visitors, tourists and shoppers and, thereby, supporting business, commerce and industry in the city and providing economic benefits to the city;
- (D) Fostering civic pride in the accomplishments of the past as manifested in properties, structures, improvements and areas of historical and architectural significance within the city;
- (E) Fostering and encouraging the preservation, restoration and rehabilitation of properties, structures, improvements and areas and, thereby, preventing deterioration, dilapidation and blight; and
- (F) Establishing a Historic Preservation Commission.

(Ord. 06-50, passed 11-28-2006; Ord. 11-04, passed 1-25-2011)

 **§ 1478.02 HISTORIC PRESERVATION COMMISSION ESTABLISHMENT; COMPOSITION; DUTIES.**

- (A) There is hereby established in and for the city a commission to be known as the Berwyn Historic Preservation Commission.

(B) The Commission shall consist of seven members, including a Chairperson, to be appointed by the Mayor with the consent of the City Council. Appointment shall be on a staggered basis for terms of three years, beginning on April 1, except that all initial appointments made after the enactment of this chapter will be for such period, not to exceed three years, as is necessary to cause the terms of no more than three members and no fewer than two members to expire in any given year. Members may be re-appointed at any time.

(C) All members of the Commission shall have demonstrated expertise in at least one of the disciplines of history, architectural history, art history, architecture, architectural history, historic architecture, engineering, planning, law, real estate, historic preservation or a related field. "Demonstrated expertise" must include at least one of the following:

(1) A graduate degree in one of the enumerated disciplines; or

(2) A bachelor's degree in one of the enumerated discipline plus at least two years of full-time experience in research, writing, teaching, management, or other demonstrable professional activity within an academic institution, historical organization or agency, museum, government agency, or private corporation; or

(3) At least five years of full-time employment experience in one of the enumerated disciplines; or

(4) At least two years in a leadership role in a local, state or national preservation organization, museum, historical society, arts organization, or related organization.

(D) The Commission shall have the following duties:

(1) To conduct an ongoing survey and inventory for the purpose of identifying those historic landmarks within the city that exemplify the architectural, social, cultural, economic and political history of the city, state or nation;

(2) To receive or make nominations for the designation of historic landmarks and Historic Districts; to review and recommend designation criteria to the City Council; to hold public hearings; and to recommend to the City Council those designations;

(3) To recommend to the City Council the adoption of specific guidelines, based upon the Secretary of the Interior's Standards, to be used in the application of the city's Historic Preservation Ordinance to the alteration, construction, relocation, removal or demolition of the historic landmarks or of properties and/or improvements within Historic Districts;

(4) Upon referral from the Director of Buildings, assist the review of permit applications for alteration, construction, relocation, removal or demolition affecting historic landmarks, and properties and/or improvements in Historic Districts and to request the presentation of the drawings (floor plans, elevations and details), specifications and other information as may be necessary to review those applications;

- (5) To approve, modify or deny applications for certificates of appropriateness and certificates of economic hardship for historic landmarks, in accordance with these Codified Ordinances, and to respond to appeals of the decision to the City Council;
- (6) Upon referral from the Director of Buildings, assist in the review of proposed zoning amendments, applications for special use permits including planned use developments, subdivisions and applications for zoning variances that affect nominated, proposed or designated historic landmarks and Historic Districts, and may present evidence at public hearing in support or opposition or make recommendations thereon to the Zoning Board of Appeals and City Council;
- (7) To recommend to the City Council the adoption of an appropriate system of historically and architecturally compatible streetscape elements, including but not limited to paving materials, curbs, sidewalks, streetlights, street and Historic District signage, and to make recommendations for the design and implementation of the streetscape elements;
- (8) To advise the City Council, all city departments, any commission or other agency on matters affecting nominated, proposed or designated historic landmarks or Historic Districts;
- (9) To provide general guidance to interested parties on technical and financial aspects of historic preservation and to indicate to the parties that they may only rely upon independent professional advice and consultation as a basis for final decision with regard to these matters;
- (10) To advise and assist interested parties on procedures for inclusion in the National and State Registers of Historic Places;
- (11) To nominate properties and/or structures, improvements or areas to the National Register of Historic Places;
- (12) To encourage the library to maintain preservation-related documents and to keep the materials available for public use;
- (13) To inform and educate the citizens of the city concerning the historic and architectural heritage of the city;
- (14) To call upon assigned city staff members as well as other expert volunteers for technical advice and assistance;
- (15) To request the City Council to retain the specialists or consultants and to request the City Council to appoint the citizen advisory committees as may be required from time to time;
- (16) To investigate, review and recommend to the City Council the acceptance of any gifts of property, transferred to the city, or property leased, or owned by the city for the purpose of preserving or enhancing the historically significant aspect of properties, improvements or areas;

(17) To recommend and assist in the application for funds on behalf of the city from federal, state and private sources with the City Council's prior approval, to further the goals of historic preservation herein set forth;

(18) To confer recognition, from time to time, as appropriate, upon owners of historic landmarks or property or structures within Historic Districts by means of award certificates, plaques or markers;

(19) To assume whatever responsibilities and duties may be delegated to it by the City Council with regard to the certified local government provisions of the National Historic Preservation Act of 1966, being 16 U.S.C. § 470, as amended;

(20) To perform, in a timely and thorough manner, all of the duties delegated to the Commission under the Historic Preservation Ordinance set forth in the city code; and

(21) To recommend to the Council adoption of the Commission's Rules and procedures or amendments thereto.

(Ord. 06-50, passed 11-28-2006; Ord. 11-04, passed 1-25-2011; Ord. 11-19, passed 4-26-2011)

§ 1478.03 DEFINITIONS.

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them herein below; and words and phrases used in the context of this chapter but not defined herein shall have the meanings ascribed to them in the city code, other than adopted by reference therein. All other words and phrases used in the context of this chapter shall have the commonly understood meanings normally ascribed to them.

ALTERATION. Any act or process that changes one or more of the exterior architectural features of property which has been designated as a historic landmark, or in a Historic District under this chapter, or any interior architectural feature of any structure when the interior has been specifically designated as an interior historic landmark.

BUILDING PERMIT. Any permit required by the Department of Buildings of the city.

CERTIFICATE OF APPROPRIATENESS. A certificate issued by the Commission indicating its approval of plans for the alteration, or construction, or relocation of a historic landmark, or the removal or of demolition of a historic landmark or a building, structure or improvement within a Historic District.

CERTIFICATE OF ECONOMIC HARDSHIP. A certificate issued by the Commission, after denying a certificate of appropriateness, which authorizes the performance of alterations, construction or relocation with regard to historic landmarks, or the removal or demolition of a historic landmark or a building, structure or improvement within a Historic District when the historic landmarks, or properties within a Historic District, cannot be put to a reasonably

beneficial use or the owner cannot obtain a reasonable economic return thereon without the proposed alteration, construction, relocation, removal or demolition.

COMMISSION. The Berwyn Historic Preservation Commission.

COMMISSION STAFF. An employee of the city assigned by the Mayor as staff to the Commission.

CONSTRUCTION. Any act or process which requires a building permit, including the act of adding to a structure by an addition, or the erection of a new principal or accessory structure on a lot or property.

DAY. A calendar day, except where otherwise specified herein.

DEMOLITION. Any act or process which destroys in part or in whole a landmark or site within a Historic District.

ELIGIBLE HISTORIC LANDMARK. Any property and/or improvement nominated for designation as a historic landmark which has been determined by the Commission, after notice and an opportunity to be heard for the owner(s), nominators and other interested parties in accordance with § [1478.07](#) herein, to be eligible for designation by resolution and recommendation of the Commission to the City Council, but which has not yet been so designated by the City Council.

EXTERIOR ARCHITECTURAL FEATURES. The architectural character and general composition of the exterior of a structure or improvement, including the kind and texture of all the building materials and the type, design and character of all architectural details, including but not limited to windows, walls, roofs, doors, light fixtures, fences, signs and appurtenant elements.

HISTORIC DISTRICT. An area with geographically definable boundaries, possessing a significant concentration, linkage or continuity of properties and/or improvements united by past events or aesthetically by plan or physical development that has been designated as Berwyn **HISTORIC DISTRICT** pursuant to city ordinance. A district may include properties and/or improvements which are individually designated as historic landmarks under this chapter and may also contain other properties and/or improvements which, while not of the individual historical and/or architectural value to be designated historic landmarks, nevertheless contribute to the overall special character or value of the landmark or landmarks located within the District.

HISTORIC LANDMARK. Any property and/or improvement which has special character or significant historical, cultural, architectural, archeological, community or aesthetic value as part of the heritage of the city, the state or the United States which has been designated as a Berwyn **HISTORIC LANDMARK** pursuant to this chapter and shall include all designated interior historic landmarks.

IMPROVEMENT. Any visible building feature constituting a physical addition or any part of the addition to a property, including any building, structure, bridge, work or art, place, parking facility, fence, gate, wall, landscaping or paving.

INTERIOR ARCHITECTURAL FEATURES. The architectural character and general composition of the interior of a structure, including the room design and configuration, color and texture of materials, and the type, pattern and character of all architectural details and elements, including but not limited to staircases, doors, hardware, molding, trim, plaster work, light fixtures and wall coverings.

INTERIOR HISTORIC LANDMARK. An interior, or part thereof, which is normally open or accessible to the public and which as a significant historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the city, state or United States and which has been designated as an interior landmark pursuant to the provisions of this chapter.

NOMINATED HISTORIC LANDMARK. A property and/or improvement nominated by an interested party for consideration by the Commission for designation as a historic landmark prior to determination by the Commission that it is eligible for historic landmark designation.

NON-CONTRIBUTING RESOURCE. A property and/or improvement located within a Historic District that does not represent significant historical characteristics, which qualify that District as a Historic District under this chapter.

OWNER. Owner of record as determined by the office of the Cook County Recorder of Deeds, except where otherwise specified herein.

PROPERTY. Land and improvements identified as a separate lot for purposes of the zoning regulations of the city.

PUBLIC WORKS PROJECTS. Work carried out by the city for public use or service, including but not limited to the installation, major repair or improvements to the street, curbs and gutters, alleys, sidewalks, public utilizes, streetlights, signs, banners and traffic signals.

RELOCATION. Any repositioning of an improvement on the same property upon which it was originally located.

REMOVAL. Any moving of an improvement from the property upon which it was originally located.

REPAIR. Minor work, which does not require a building permit and which does not affect the architectural feature of an improvement.

REVIEW. The process of examining the plans and documents prepared by an owner of property and/or an improvement designated as a historic landmark which describe proposed work on the landmark, which will lead to the decision to grant or deny a certificate of appropriateness or a certificate of economic hardship.

REVIEW SUBCOMMITTEE. Subcommittee of no less than three members of the Commission, appointed by the Chairperson to review documents for certificates of advisory review which shall be issued by the Commission, based upon the Subcommittee’s review of the documents and recommendations to the owner. Section [1478.14\(C\)](#) of this chapter authorizes the Commission to recommend and City Council to adopt amended rules and regulations which would expand Subcommittee and/or Commission staff authority to minimal types of construction and alteration work requiring a certificate of appropriateness.

SECRETARY OF THE INTERIOR’S STANDARDS. The *Secretary of the Interior’s Standards for Guidelines for Rehabilitating Historic Buildings*, revised 1990, U.S. Department of the Interior, National Park Service, Preservation Assistance Division, Washington, D.C.

SITE. The location of an event, activity, building, structure or improvement.

STRUCTURE. Anything constructed or erected the use of which requires permanent or semi-permanent location on or in the ground.

WORK. Any construction, alteration, repair, relocation, removal or demolition of an improvement.

(Ord. 06-50, passed 11-28-2006; Ord. 11-04, passed 1-25-2011; Ord. 11-19, passed 4-26-2011)

 **§ 1478.04 CRITERIA FOR DESIGNATION OF HISTORIC LANDMARKS AND INTERIOR HISTORIC LANDMARKS.**

(A) The Commission, in determining whether to recommend for designation, and the City Council, in determining whether to approve designation of particular sites, structures or improvements as historic landmarks, shall consider the following criteria:

<i>Historical And/or Cultural Importance</i>	
(1)	Significance as an example of the architectural, cultural, economic, historic or social development or heritage of the city, the state or the United States. "Significance" means the relative importance of the property when viewed in the property's architectural, cultural, economic, historic or social context.
(2)	Location as a site of a historic event, with a significant effect on the city, the state or the United States. "Significant" means the relative importance of the effect of the event on the city, the state or the United States.
(3)	Identification with a person or persons who significantly contributed to the architectural, cultural, economic, historic or social heritage, or other aspect of the city, the state or the United States

(4)	Existence in the National Register of Historic Places
(5)	Embodiment of those distinguishing characteristics of significant architectural type, or style, or engineering specimen. "Significant" means the relative importance of the architectural type, or style, or engineering specimen.
(6)	Identification as the work of a builder, designer, architect, craftsman, engineer or landscape architect whose individual work is significant in the development of the city, the state or the United States. "Significant" means the relative importance of the builder, designer, architect, craftsman, engineer or landscape architect.
(7)	Contains design elements, detail, material or craftsmanship that make the property or building structurally or architecturally innovative, rare or unique
(8)	Representation of an architectural, cultural, economic, historic or social theme, style or period, expressed in distinctive areas, districts, places, buildings or structures that may or may not be contiguous

(B) Principles for evaluating the historical and/or cultural importance of proposed historic landmarks by the Commission. The Commission, in evaluating all properties for designation as historic landmarks pursuant to any of the criteria above, should apply and be guided by the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, effective September 29, 1983 and revised from time to time thereafter, which are prepared under the authority of sections 101(f), (g), and (h), and section 110 of the National Historic Preservation Act of 1966, as amended, including, but not limited to, the following principles:

(1) Evaluation requires adequately developed historic contexts, including sufficient information about the appearance, condition and associative values of the property to be evaluated in order to classify it as to property type; compare its features or characteristics with those expected for its property type; and define the physical extent of the property and accurately locate the property.

(2) Evaluation must distinguish between facts and analysis, and must include identification and description of pertinent historical contexts; description of the property and its significance in the historical context; and analysis of the integrity of the property relative to that needed to represent the context.

(3) Where the Commission deems it necessary and feasible, Commissioners should consult with other individuals experienced in applying the relevant criteria; for example, the State Historic Preservation Officer.

(4) Evaluation should not be undertaken using documentation that may be out of date. Prior to proceeding with evaluation the current condition of the property should be determined and previous analyses evaluated in light of any new information.

(5) If the Commission determines that it does not have all the information it needs to conduct an adequate evaluation, it may undertake its own research in order to supplement the nomination to the extent necessary. In cases in which needed information is not obtainable, for example, where historical records have been destroyed, the Commission should acknowledge what information was not obtainable and how that missing information may affect the reliability of the evaluation.

(C) Integrity.

(1) In order for the Commission to nominate any site, structure or improvement that meets one or more of the above criteria as a historic landmark, the Commission must additionally determine that it has sufficient integrity of location, design, material and workmanship to make it worthy of preservation or restoration.

(2) "Integrity" means the authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic period.

(3) The integrity of the property in its current condition, rather than its likely condition after a proposed treatment, should be evaluated. Factors such as structural problems, deterioration, or abandonment should be considered in the evaluation only if they have affected the integrity of the significant features or characteristics of the property.

(D) All properties must be designated by ordinance upon the approval of the City Council in order to be deemed local historic landmarks.

(Ord. 06-50, passed 11-28-2006; Ord. 11-19, passed 4-26-2011)

§ 1478.05 NOMINATION AND PRELIMINARY DETERMINATION OF ELIGIBILITY FOR DESIGNATION AS A HISTORIC LANDMARK OR INTERIOR HISTORIC LANDMARK.

(A) *Submission of nominations.* Historic landmark and interior historic landmark nominations may be submitted to the Commission by any person, group of persons or association, including any member of the Commission, on a nomination form provided by the Commission. The nomination form shall include or be accompanied by the following:

(1) The name and address of the owner of the property proposed for designation, including the names of the beneficial owners of the property held in a land trust, where possible;

(2) The legal description and common street address of the property proposed for designation;

(3) An indication of whether or not the owner is in favor of the proposed designation and whether the owner is the nominating party;

(4) A written statement fully describing the property and setting forth reasons in support of the proposed designation;

(5) Photographs of the property or selected properties;

(6) Other information as may be required by the Commission; and

(7) Fee of \$500 waived if submitted by the Commission or at the Commission's discretion.

(B) *Commission action.*

(1) The Commission shall, upon receipt of a properly completed nomination, immediately notify the office of the City Clerk and City Code Administration Department of the Commission's receipt of the nomination and shall deliver copies of same to the City Clerk's office and Code Administration as soon thereafter as is possible and shall make a preliminary determination of eligibility within 15 days of the receipt of the nomination, or by the Commission's next regularly scheduled meeting, whichever occurs later. A determination by the Commission of preliminary eligibility must be based upon or finding(s) by the Commission that there is a likelihood that a nominated historic landmark will meet one or more of the criteria for designation set forth in § [1478.04](#) of this chapter.

(2) If a majority of the Commission members determines that there is not likelihood that the nominated historic landmark may meet at least one of the criteria for designation, it shall enter a formal denial of the nomination and so notify the party making the nomination, in writing. A denial shall be the final administrative decision. The Commission may not reconsider the preliminary eligibility of a historic landmark for at least one year following the submission of the original nomination and then only upon further evidence of qualification. The Commission may waive the one-year period if the Commission deems that such action is warranted due to new circumstances or new evidence of eligibility.

(3) If a preliminary determination is made that there is a likelihood that the nominated historic landmark may meet one or more criteria, the Commission shall schedule a designation hearing(s) to be held within 45 days of the preliminary determination and shall send the owner of record written notice of same no less than 15 days in advance of a hearing by regular and certified mail or via some other delivery service that documents receipt, properly addressed to the owner of record as shown in the records of the Recorder of Deeds or Registrar of Titles, whichever is appropriate, and with sufficient postage affixed thereto. If the nominating party is the owner of record, the Commission shall schedule the designation hearing to take place at its next regularly scheduled meeting. Failure to receive notice shall not invalidate the proceedings of the Commission.

(Ord. 06-50, passed 11-28-2006; Ord. 11-04, passed 1-25-2011; Ord. 11-19, passed 4-26-2011)

§ 1478.06 DESIGNATION HEARING.

(A) Following a preliminary determination by the Commission that there is likelihood that a proposed historic landmark may be eligible for designation, the Commission shall conduct hearing(s) and shall notify the party making the nomination and the owner(s) of record of the proposed historic landmark by regular mail, as well as the adjoining property owners, no less than 15 days prior to the date of the hearing. All other parties affected by the proposed historic landmark will be notified by public notice posted at City Hall and on the City of Berwyn's website as to the date, time, place and purpose of the public hearing(s). The Commission's notice to the owners of records of the proposed historic landmark shall also include a copy of the nominating petition, any supporting documentation submitted therewith and a form for use by the owner entitled the "Owner(s) of Record Statement of Position" form indicating the owner's support for or opposition to the proposed designation and a brief statement of the reasons therefor. The form shall provide a return address for the Commission and shall direct the owner to return the completed form to the Commission no less than seven days prior to the scheduled hearing. The form shall further indicate that the owner's failure to respond shall be presumed by the Commission to indicate the owner's support for the proposed designation. The owner may rebut this presumption by appearing at the hearing and testifying in opposition to the proposed designation. The Commission shall make every reasonable effort to contact personally or by telephone owner(s) of record who have not returned an executed owner(s) form to explain the designation process and to encourage the return of the signed form.

(B) At the hearing the Commission shall take testimony and receive evidence from the nominators, owner(s) of records, and any other interested parties who wish to be heard and/or present evidence on the application of the criteria for designation, set forth herein above in § [1478.04](#), to the proposed historic landmark. The Commission shall hear testimony and receive evidence in accordance with the procedural rules as the Commission may, from time to time, propose and the City Council may from time to time adopt for the purpose of governing the conduct of the hearings before the Commission. The procedural rules set forth in Exhibit B attached to Ordinance 06-50 and incorporated herein by reference, are hereby adopted as the rules of procedure governing the conduct of hearings before the Commission which rules shall be subject to amendment by action of the Commission and the City Council as set forth above.

(Ord. 06-50, passed 11-28-2006; Ord. 11-04, passed 1-25-2011; Ord. 11-19, passed 4-26-2011)

§ 1478.07 DESIGNATION OF HISTORIC LANDMARKS AND INTERIOR HISTORIC LANDMARKS.

(A) Within 45 days following completion of the public hearing(s), the Commission shall determine, based on the criteria and evaluation guidelines set forth hereinabove in § 1478.04, whether to recommend designation of a historical landmark to the City Council and shall deliver to the nominator, the City Council, the City Clerk, the Code Enforcement Department and to the owner(s) of records, a resolution and report recommending designation if a determination has been made by the Commission. The resolution shall require an affirmative vote of a majority of the full Commission to recommend designation to the City Council. The resolution shall be

accompanied by a written report summarizing the evidence presented at the hearing, setting forth findings of fact based thereon, and explaining the basis for the Commission's recommendation. A decision by the Commission not to recommend designation is final and will terminate the designation process. The Commission shall give a reason for denial. The Commission shall notify the owner and nominators of its decision not to recommend designation within 45 days of the completion of the public hearing.

(B) Within 60 days after receiving the resolution and report containing the recommendation for designation from the Commission, the City Council shall take a vote to either designate the historic landmark or reject the nomination by simple majority vote of the full Council. In making this determination, the City Council shall apply the designation standards set forth in § [1478.04](#) above and shall give due consideration to the record of the public hearing(s), and findings and recommendations of the Commission set forth in the Commission's resolution and report and may take public testimony with regard to same. Upon a majority vote of the City Council to approve designation, the City Council shall enact an ordinance designating the historic landmark, which ordinance shall provide that the newly designated historic landmark shall be subject to the provisions of [Chapter 1478](#) of these Codified Ordinances.

(C) If the City Council does not take a vote to either designate the historic landmark or reject the nomination within 60 days after receiving the resolution, then the nomination will be deemed to have expired and will be considered denied.

(D) For any nomination that is deemed to have expired and is thus considered denied pursuant to division (C) above, either the nominating party or the Commission may renew the nomination within 30 days by presenting a renewed resolution to City Council as provided for in division (A) above. The nominating party and/or the Commission may present up to three consecutive renewed resolutions to City Council for the same nomination. After that number, a new nomination must be prepared, subject to the terms of § [1478.05](#)(B)(2) above.

(E) Upon designation of a historic landmark by the City Council, the Commission shall provide written notification by regular mail to the owner(s) of record of the designated historic landmark which notifications shall include a certified copy of the ordinance designating same. The city shall file with the Recorder of Deeds or Registrar of Title of the county, whichever is appropriate, a certified copy of the designation ordinance for each historic landmark designated. A copy of the designation ordinance shall be sent to the City Code Administration Department, the City Clerk's office and the Department of Community Development.

(F) Designations may be amended or rescinded by the same procedure and according to the same criteria set forth herein for an original designation.

(Ord. 06-50, passed 11-28-2006; Ord. 11-04, passed 1-25-2011; Ord. 11-19, passed 4-26-2011)

§ 1478.08 RECOGNITION OF EXISTING HISTORIC DISTRICTS.

Those districts designated as LaVergne Historic District and North Berwyn Historic District by Ordinance 95-21 of the City of Berwyn adopted June 13,1995 are hereby recognized and reaffirmed as honorary Historic Districts within the city. These districts must be designated under the provisions of § 1478.06 to be considered Historic Districts under this chapter.

(Ord. 06-50, passed 11-28-2006; Ord. 11-04, passed 1-25-2011; Ord. 11-19, passed 4-26-2011)

§ 1478.09 LOCAL DESIGNATION OF A HISTORIC DISTRICT.

(A) *Criteria for Historic District designation.*

(1) In addition to the criteria and evaluation procedures set forth in § [1478.04](#) above, the following additional criteria shall be utilized by the Berwyn Historical Commission in determining whether to designate a Local Historic District.

(a) The Historic District contains one or more landmarks along with other buildings, places or areas within its definable geographic boundaries which, while not of historic significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located in the Districts;

(b) A significant number of structures meeting any of the standards of § [1478.04](#) under landmark designation criteria;

(c) Establishing a sense of time and place unique to the city;

(d) Exemplifying or reflecting the cultural, social, economic, political or architectural history of the nation, the state or the city.

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

(B) *Historic District designation procedure.*

(1) *Petition.*

(a) Any person, group of persons or association, including but not limited to the Historical Commission, may present to the Commission a petition requesting that a defined geographic area be designated as a Historic District. Nominations shall be made to the Historic Preservation Commission on a form provided by the Commission. A filing fee of \$500 is required, but is waived if submitted by the Commission or at the Commission's discretion.

(b) The petition shall contain the signatures of no less than 51% of the property owners in the defined geographic area; or, if leaseholders, with a five-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.

(2) *Denial.* If a majority of the Commission members determines that there is not likelihood that the nominated Historic District may meet at least one of the criteria for designation, it shall enter a formal denial of the nomination and so notify the party making the nomination, in writing. A denial shall be the final administrative decision. The Commission may not reconsider the preliminary eligibility of a Historic District for at least one year following the submission of the original nomination and then only upon further evidence of qualification. The Commission may waive the one-year period if the Commission deems that such action is warranted due to new circumstances of new evidence of eligibility.

(3) *Preliminary determination.* If a preliminary determination is made that there is a likelihood that the nominated Historic District may meet one or more criteria, the Commission shall schedule designation hearing(s) to be held within 45 days of the preliminary determination and shall send the applicant or nominator of record a written notice of same no less than 15 days in advance of the hearing by regular and certified mail or via another delivery service that documents receipt. Failure to receive notice shall not invalidate the proceedings of the Commission. A public notice shall be posted at City Hall and on the City of Berwyn's website. The notice shall state the date, time, place and purpose of the public hearing along with the location of the proposed district and a statement summarizing how the proposed district meets the criteria for historic designation.

(4) *Designation hearing.* At the hearing the Commission shall take testimony and receive evidence from the nominators, owner(s) of record, and any other interested parties who wish to be heard and/or present evidence on the application of the criteria for designation, set forth herein above in division (A) above, to the proposed Historic District. The Commission shall hear testimony and receive evidence in accordance with the procedural rules as the Commission may, from time to time propose and the City Council may from time to time adopt for the purpose of governing the conduct of such hearings before the Commission. The procedural rules set forth in Exhibit B attached to Ordinance 06-50 and incorporated herein by reference, are hereby adopted as the rules of procedure governing the conduct of hearings before the Commission, which rules shall be subject to amendment by action of the Commission and the City Council as set forth above.

(5) *Designation of a Historic District.* Procedures for the designation of a Historic District will follow procedures established in § [1478.07](#) changing references of landmarks to districts.

(Ord. 06-50, passed 11-28-2006; Ord. 11-04, passed 1-25-2011; Ord. 11-19, passed 4-26-2011)

§ 1478.10 WORK REQUIRING THE ISSUANCE OF A CERTIFICATE OF APPROPRIATENESS OR A CERTIFICATE OF ECONOMIC HARDSHIP.

(A) No building permit, demolition permit, or any other work requiring the issuance of a building or demolition permit or the authorization of an alteration by the Building Department regarding property in any designated historic district, and/or any eligible or designated historic landmark shall commence prior to such issuance or authorization in accordance with this section.

(B) Public works projects within designated historic districts or affecting eligible or designated historic landmarks shall require consultation with the Commission at the next regularly scheduled Commission meeting following the authorization of the public works project. In emergency situations as established by the city definition and ordinance, or where time constraints otherwise require the immediate commencements of such projects, work may commence prior to the consultation with the Commission.

(Ord. 06-50, passed 11-28-2006; Ord. 11-04, passed 1-25-2011)

§ 1478.11 ZONING AND SUBDIVISION ACTIONS AFFECTING ANY NOMINATED, ELIGIBLE OR DESIGNATED HISTORIC LANDMARKS OR DESIGNATED HISTORIC DISTRICTS.

(A) The Building Director shall notify the Commission, within three working days of submission to the Department, of all applications for zoning amendments, variances, special use permits, subdivision or planned unit developments affecting property in any designated historic district, and any eligible or designated historic landmarks.

(B) In furtherance of its duties as set forth in § [1478.02](#) of these Codified Ordinances, the Commission shall evaluate the anticipated effect of the action requested in the application on the designated historic district or nominated, eligible or designated historic landmark(s) and shall consider the long-term compatibility of the proposed action with the character of the affected historic resources and the effect of any proposed zoning action on the long range preservation of these resources. In its review, the Commission shall also consider the criteria specified in § [1478.13](#) of this chapter.

(C) In no event shall the provisions of this section preclude the necessity of obtaining a certificate of appropriateness or a certificate of economic hardship when required under these Codified Ordinances.

(D) In the case of the alteration, demolition or removal of an eligible historic landmark, the building or demolition permit shall be issued or the alteration authorized upon the denial of designation of historic landmark status by the City Council; provided, however, that if the site, building, structure or improvement which has been denied landmark status is located within a designated Historic District, then the issuance of a building or demolition permit shall also be contingent upon satisfying the requirements set forth herein for property located within a designated Historic District;

(E) In the case of a demolition or removal of an eligible or designated historic landmark or any site, building, structure or improvement located within a designated Historic District, or

listed in the National Register of Historic Places which is wholly or partially financed by the city or by one or more federal, state or city funding sources which are dispersed through or administered by the city, the demolition permit shall be issued upon the authorization of a permit by formal resolution of the City Council as being necessary to protect the public health, safety or welfare; or

(F) In the case of the a) alteration or removal of an eligible or designated historic landmark; b) the alteration, demolition or removal of a site, building, structure or improvement located in a designated Historic District or listed in the National Register of Historic Places which is wholly or partially funded by the city or by one or more federal, state or city funding sources which are dispersed through or administered by the city; c) or the removal or demolition of any building, structure or improvement located within a designated Historic District for which demolition has not been authorized under § [1478.10](#)(A) above, the building or demolition permit shall be issued or the alteration shall be authorized upon the issuance of a certificate of appropriateness in accordance with § 1478.14 set forth hereinbelow or a certificate of economic hardship in accordance with § [1478.15](#) set forth herein below.

(Ord. 06-50, passed 11-28-2006; Ord. 11-04, passed 1-25-2011; Ord. 11-19, passed 4-26-2011)

§ 1478.12 ACQUISITION OR USE OF PUBLIC PROPERTY.

(A) The City Clerk's Office shall advise the Commission, in a timely manner, of all proposed or pending acquisitions, sales or changes in the use by the city or by any other public agency, including any other unit of local government, when known to the city of any property designated as a historic landmark, or located in a Historic District. The Commission shall advise the City Council, other appropriate public agency or other unit of local government, as to the effects of the actions on the special historic architectural, community or aesthetic interest or value of the properties to the city.

(B) The Commission shall request that other public agencies serving the community agree to advise the Commission of pending acquisitions, sales or changes by the agencies in use of property designated as a historic landmark, or located in a Historic District, in order that the Commission may advise the agencies as to the impact of actions on the historic, architectural, community or aesthetic interest or value of the properties to the city. The Commission shall take appropriate steps to notify all public agencies which own or may acquire property in the city about the existence and character of designated historic landmarks and Historic Districts, and the Commission shall provide a current record of the landmarks and districts to the public agencies for their maintenance.

(Ord. 06-50, passed 11-28-2006)

§ 1478.13 REVIEW CRITERIA FOR CERTIFICATE OF APPROPRIATENESS AND CERTIFICATE OF ADVISORY REVIEW.

(A) *Guidelines for construction, alteration and relocation work.* In making a determination to issue or deny a certificate of appropriateness for construction, alteration or relocation work affecting an eligible or designated historic landmark, or a determination to conduct an advisory review and either approve or make recommendations with regard to construction or relocation work on property located in a designated Historic District, either the Commission or the City Council, when considering an appeal, shall consider the effect of the proposed construction, alteration or relocation on the architectural features and on the historic, aesthetic or architectural value, characteristics and significance of the eligible or designated historic landmark or designated Historic District.

(B) *Determination.* In making a determination whether to issue a certificate of appropriateness or a certificate of advisory review, the Commission or the City Council when considering an appeal, shall follow the *Secretary of the Interior's Standards*, revised 1990, as amended, and other criteria and guidelines as the Commission may recommend, and which the City Council may adopt, for use by the Commission or the City Council when considering an appeal. The criteria shall include but are not limited to the following:

(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 and environment;

(2) The significant original qualities and/or historic character of a property shall be retained and preserved. The removal or alteration of historic or distinctive architectural materials or 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 features, finishes and construction techniques or examples of craftsmanship that characterizes a historic property shall be preserved;

(6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of distinctive features, the new feature shall match the old in design, inherent and not renewable color, texture and other visual qualities and materials. Materials where possible 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 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 the resources must be disturbed, mitigation measures shall be undertaken;

(9) The historic and architectural integrity of the property and its environment shall be protected by making the new work compatible with the existing structures, surrounding structures, streetscape or the character of the Historic District, whenever one or more of these elements is affected by the work, with respect to the following design criteria:

- (a) The height of the alteration, addition or construction;
- (b) Proportions between the width and heights of structure's front facade;
- (c) The proportions and relationships between doors and windows;
- (d) Relationship of building masses and the open space around them;
- (e) The design of the roof shapes, forms and materials;
- (f) Landscaping and appurtenances, which should also be sensitive to the individual structure, its occupants and their needs;
- (g) The scale of the proposed structure;
- (h) Dominant horizontal or vertical directional expression of front elevation or additional elevation; and
- (i) Architectural style, design, details and materials, including textures and patterns but not necessarily color.

(10) New additions and adjacent or related new construction shall be undertaken in a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(C) *Guidelines for removal or demolition of historic landmarks, or buildings, structures or improvements located within a Historic District.* Guidelines to be used by the Commission, or by the City Council when considering an appeal, in making a determination of appropriateness of the removal or demolition of a landmark or a building, structure or improvement in a Historic District shall include but not be limited to the guidelines set forth in division (A) hereinabove. Certificates of appropriateness for the removal or demolition of a building, structure or improvement in a Historic District shall be granted by the referenced criteria, if the proposal is for the removal or demolition of a noncontributing resource.

(Ord. 06-50, passed 11-28-2006; Ord. 11-04, passed 1-25-2011; Ord. 11-19, passed 4-26-2011)

**§ 1478.14 PROCEDURES FOR CERTIFICATE OF
APPROPRIATENESS.**

(A) *Preapplication.* Any owner of a historic landmark may, at any time, request the Commission to make a preliminary review of proposed work in order to determine whether the proposed work will meet the criteria set forth herein. The Commission may, on a basis of documents and other materials presented, make a preliminary finding of acceptability, which may then be used by the Commission to expedite the processing of a certificate of appropriateness after the owner has applied for a building permit and/or a certificate of appropriateness. The Commission will issue the certificate of appropriateness only if the work described on the permit documents submitted by the owner to obtain the permit is found to be substantially the same as that which was preapproved. If, during the preapplication review, the Commission finds that the proposed work does not meet the criteria, the Commission may advise the owner on possible ways to meet the criteria.

(B) *Application.* Any application for a building permit and/or Certificate of Appropriateness for construction, alteration or relocation affecting an eligible or historical landmark or the removal of a building, structure or improvement from a property within a designated Historic District, and any application for a demolition permit for the demolition of an eligible or designated historic landmark or for the demolition of a building, structure or improvement in a designated Historic District shall be sent by the City Clerk, within three working days of receipt, to the Commission. At the time of receipt of the application(s), the City Clerk shall issue to the applicant a historic preservation guidelines pamphlet prepared by or made available by the Commission, which summarizes the preservation requirements and preservation assistance available in the city with regard to the historic landmarks and Historic Districts. The Building Director shall not issue a building permit or shall not authorize the issuance of a permit or any alternations until a certificate of appropriateness or certificate of economic hardship has been issued.

(C) *Subcommittee and Commission staff review and issuance of certificate of appropriateness.*

(1) The Commission may propose and the City Council may adopt rules, procedures and criteria under which a Subcommittee of the Commission and/or Commission staff may approve applications for certificates of appropriateness when the proposed work involves:

- (a) Restoration to original conditions;
- (b) No changes in materials;
- (c) Changes not visible from the street; or

(d) Other types of activities determined by the Commission to have limited effect on the historic, architectural or aesthetic qualities or landmarks or districts.

(2) The rules, procedures and criteria, if adopted, shall provide that the Subcommittee or Commission staff shall act within five working days from receipt of the application by the Commission to review, approve and issue a certificate of appropriateness, or to refer the application to the full Commission for its consideration.

(D) *Commission review.* If rules, procedures and criteria are adopted providing for Subcommittee and/or staff issuance of certificates of appropriateness under certain limited circumstances, applications which would not meet the criteria for Subcommittee or staff review under division (C) herein, shall be referred to the Commission by the Subcommittee or Commission staff, or applications which have been denied a certificate of appropriateness by Subcommittee or Commission staff shall be referred to the Commission. Except as otherwise provided for in rules and procedures adopted in accordance with division (C) herein, all applications for certificates of appropriateness shall be referred directly to the full Commission for review. The Commission shall review the completed application and supporting information within 30 days of receiving same, either from a subcommittee or directly from the City Clerk. The applicant shall be notified, in writing, of the date, time and place of the meeting at which Commission review on the proposed work shall take place. The applicant shall be requested to submit the plans; drawings, photographs or other information the Commission may request to complete its review. Requested information shall not delay the meeting. The notice shall be sent no less than five days before the meeting at which the proposed work is to be reviewed. The applicant may waive the requirement for this five-day advance notice, in writing. A special meeting of the Commission may be called if the application is received more than 15 days before the Commission's next scheduled meeting. A final vote, as to approval or denial, shall be made within 45 days of the receipt of a complete application.

(E) *Acceptance of proposed work and issuance of certificate of appropriateness.* If, upon review, a majority of the Commission finds the proposed work is in accordance with the applicable criteria set forth in § [1478.13](#) herein and the purposes of this chapter, it may issue a certificate of appropriateness. The resolution issuing a certificate of appropriateness shall be sent to the applicant, the City Clerk, and the Building Department within five working days after the decision. A certificate of appropriateness shall expire one year after the date of issuance. Any change in the proposed work after issuance of a certificate of appropriateness shall require inspection by Historic Preservation staff to determine whether the work is still in substantial compliance with the certificate of appropriateness. If staff determines that the change in work is not in substantial compliance with the certificate of appropriateness, then the owner must submit a revised application to the Commission for review.

(F) *Failure to issue a certificate of appropriateness.*

(1) If the Commission finds that the proposed work does not meet the established criteria and, therefore, will adversely affect or destroy any significant historic, aesthetic or architectural feature or value of an eligible or designated historic landmark, or is inappropriate or inconsistent with the spirit and purposes of the chapter, it shall not take action on the application and shall so advise the applicant, the City Clerk and the Building Department, in writing, within five working days of the determination not to act on the application and shall further indicate to

the applicant at that time that the applicant may submit an amended application for expedited review or may request a public hearing.

(2) Within the same five-working-day time frame, the Commission shall send a letter to the applicant explaining any changes recommended by the Commission before an amended application may be considered. The letter will address the appropriate review criteria and other points deemed pertinent by the Commission. The applicant may either amend the application or resubmit same for expedited review, or the applicant may request a public hearing on the application. If the applicant submits an amended application and it is determined to conform to Commission recommendations, a certificate of appropriateness may be issued by a majority of a quorum of the Commission.

(G) *Public hearing following denial of a certificate of appropriateness.* Within 15 days of notice to the applicant to file an amended application or request a public hearing, the applicant may request that the Commission hold a public hearing where additional evidence and testimony may be heard regarding the application for a certificate of appropriateness. The Commission shall hold a public hearing within 45 days of receipt of the written request.

(1) Notice of the date, time, place and purpose of the public hearing shall be sent by regular and certified mail to the applicant (see § [1478.08](#) to notify adjacent parties) and the notice shall also be published in a newspaper of general circulation in the city. The notice shall be sent and published not less than 15 days nor more than 30 days prior to the date of the hearing. The notice shall include the time and place of the hearing, a general description of the contents of the request to be heard, and the address or location of the property to which the request applies.

(2) At the public hearing, the Commission shall take testimony presented by the applicant and any other interested parties concerning the effect of the proposed alteration, construction, relocation, removal or demolition upon an eligible or designated historic landmark, or the effect of the proposed removal or demolition of any structure, building or improvement with a Historic District upon the district, and shall conduct the hearings in a manner consistent with the *Rules of Procedure for Hearings Before the Historic Preservation Commission* adopted herein and made a part hereof and as may be amended from time to time, by action of the Commission and the City Council. The hearing may be continued to a date certain, with the concurrence of the applicant.

(3) Within 15 days following the completion of the public hearing, the Commission shall issue or deny the certificate of appropriateness. Notice of the Commission's decision will be sent to the applicant and owner, the City Clerk and the Building Director within five working days of rendering the decision. Notification procedures outline under § [1478.08](#) of this chapter will apply.

(H) *Appeal to the City Council.* Upon denial of the application for a certificate of appropriateness by the Commission, the applicant may appeal the denial to the City Council or may request a certificate of economic hardship.

(Ord. 06-50, passed 11-28-2006; Ord. 11-19, passed 4-26-2011)

§ 1478.15 PROCEDURES FOR CERTIFICATE OF ECONOMIC HARDSHIPS.

(A) *Application.* Following denial of a certificate of appropriateness by the Commission or by the City Council on appeal, the owner or designated representative may apply for a certificate of economic hardship by submitting to the Commission a completed application for a certificate of economic hardship, which form shall be available in the City Hall and in particular, at the office of the City Clerk, the Building Department and/or the City Commission staff.

(B) *Public hearing process.*

(1) The Commission shall hold a public hearing within 45 days of receipt of a completed application for a certificate of economic hardship. Notice of the public hearing shall be sent by regular and certified mail to the applicant (see § [1478.08](#) to notify adjacent parties). Notice also shall be published in a newspaper of general circulation in the city. The notice shall be sent not less than 15 days nor more than 30 days prior to the date of the hearing. The notice shall include the time and place of the hearing, a general description of the contents of the request to be heard and the address or location of the property to which the request applies.

(2) At the public hearing, the Commission shall take testimony presented by the owner(s) and any other interested parties concerning the effect of the proposed alteration, construction, relocation, removal or demolition upon the eligible or designated historic landmark or designated Historic District based upon the criteria consistent with the *Rules of Procedure for Hearing Before the Historic Preservation Commission*, as adopted herein and made a part hereof and as may be amended, from time to time, by action of the Commission and the City Council. The hearing may be continued to a date certain. A record shall be kept of all proceedings.

(C) *Factors.* In determining where a certificate of economic hardship should be issued, the factors to be considered by the Commission and the City Council on the issue of economic hardship shall include but are not limited to the following:

(1) A substantial decrease in the fair market value of the property as a result of the denial of the certificate of appropriateness;

(2) A substantial decrease in the pre-tax or after-tax return to owners of record or other investors in the property as a result of the denial of the certificate of appropriateness;

(3) The cost of the proposed construction, alteration, relocation or demolition, and an estimate of any additional cost that would be incurred to comply with the recommendations of the Commission for changes necessary for the issuance of a certificate of appropriateness;

(4) The structural soundness of any structures on the property and their suitability for rehabilitation; and

(5) The economic feasibility of rehabilitation or reuse of the existing structure or improvement on the property in the case of a proposed demolition.

(D) *Evidence.* The Commission may solicit expert testimony. The applicant may be required to submit evidence at the hearing to support any of the factors, including those listed above, which the applicant believes to have contributed to the economic hardship, which the applicant alleges he or she would suffer if the applicant were not granted a certificate of appropriateness.

(1) Specific information and documentation, which should be presented by the applicant as competent evidence at the hearing may include but not be limited to the following:

(a) The amount paid for the property, the date of purchase and the party from whom purchased (including description of the relationship, if any, between the owner and the person from whom the property was purchased);

(b) The assessed value of the land and improvements thereon according to the two most recent assessments;

(c) Real estate taxes for the previous two years;

(d) Annual debt service, if any, for the previous two years;

(e) All appraisals obtained within the previous two years by the owner or applicant in connection with his or her purchase, financing or ownership of the property;

(f) Any listing of the property for sale or rent, price asked and offers received, if any;

(g) Any consideration by the owner as to profitable adaptive uses for the property;

(h) 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, if any, during the same period;

(i) Executed construction agreements or proposals;

(j) Engineering or architect reports on the structural integrity of the building or structure upon which work is being proposed; and

(k) 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.

(2) In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall provide to the Commission

a statement of the information which cannot be obtained and describe the reasons why the information cannot be obtained.

(E) *Issuance or denial of certificate of economic hardship.*

(1) If the Commission finds that the owner and/or applicant has not established that the owner and/or applicant will suffer a demonstrable economic hardship as a result of the denial of a certificate of appropriateness, then the Commission shall deny the application for certificate of economic hardship.

(2) If the Commission makes an initial determination that the applicant has presented a case which may establish that without approval of the proposed work all reasonable use of, or return from, a designated historic landmark will be denied a property owner, but the Commission finds that reasonable alternatives may exist which should be addressed by the applicant, then the application shall be delayed for a period of no more than 30 days of this period, the Commission shall investigate plans and make recommendations to the owner and the City Council which are intended to provide for reasonable use of, or return from the property, or to otherwise preserve the subject property. During the second 30 days of this period, the applicant will investigate the proposal of the Commission and prove the Commission with written response thereto.

(3) If, at the end of this 60-day period, after reviewing its initial finding and its subsequent proposals and the applicant's response thereto, the Commission finds that without approval of the proposed work the property cannot be put to any reasonable use or the owner cannot obtain a reasonable economic hardship approving the proposed work. If the Commission finds otherwise, it shall deny the application for a certificate of economic hardship. Within 15 days following the completion of the public hearing and within 15 days of the 60-day delay period provided for in this division, if applicable, the Commission shall render its decision on the certificate of economic hardship by adopting a resolution which shall set forth the findings of fact and decision of the Commission either granting or denying the certificate of hardship.

(4) An executed copy of the resolution shall be sent to the applicant and property owner, the City Clerk and the Building Department within five working days after the decision.

(Ord. 06-50, passed 11-28-2006)

 **§ 1478.16 APPEALS.**

(A) Within 15 days of receipt of a final denial of a certificate of appropriateness or a certificate of economic hardship, the applicant and/or his or her representative may appeal the Commission's decision to the City Council. The City Council, within 45 days of the applicant filing his or her appeal, shall affirm, reverse or modify the decision of the Commission after due consideration of the facts contained in the records, which the Commission shall submit to the City Council within ten working days of the filing of the appeal. The City Council may receive comments on the contents of the record, but shall not consider any new matters that were not presented during the Commission hearings.

(B) The City Council shall, in writing, and within ten days of its decision, advise the applicants and the Commission of its final decision and shall direct the City Council to advise all affected departments of the city government.

(C) The failure of the City Council to affirm, modify or reverse the decision of the Commission within 45 days of the applicant filing his or her appeal shall be considered as an affirmance by the City Council of the decision of the Commission and a denial of the appeal, and the Commission shall so notify the applicant and the affected departments of the city government.

(D) The decision of the City Council will be the final administrative decision of the city.

(Ord. 06-50, passed 11-28-2006)

 **§ 1478.17 RESERVED.**

 **§ 1478.18 PREVENTION OF DEMOLITION BY NEGLIGENCE.**

The Commission, on its own initiative, may file a petition with the Building Department requesting that the Department proceed under the public safety and housing ordinance to require correction of defects or repairs to eligible or designated historic landmarks or building, structures or improvements in designated Historic Districts so that the landmarks, buildings, structures or improvements shall be preserved and protected in accordance with the purposes of this chapter and the public safety and housing ordinance.

(Ord. 06-50, passed 11-28-2006)

 **§ 1478.19 HAZARDOUS STRUCTURES AND PUBLIC NUISANCES.**

(A) This chapter shall not prohibit the demolition of any structure, which poses an immediate hazard to human health and safety. When an eligible or designated historic landmark or building, structure or improvement in a designated Historic District requires immediate demolition due to its imminent threat to human health and safety, and conditions have been reviewed by a licensed architect or structural engineer and an authorized city official, pursuant to ordinance, who have made the determination that the landmark, building, structure or improvement should be demolished immediately, then nothing in this chapter shall prohibit the demolition of such landmark, building, structure or improvement. The city official ordering the demolition shall, prior to causing the demolition, attempt notification of a designated member of the Commission of the imminent threat posed by the landmarks, building, structure or improvement if the notice may be given without jeopardizing human health and safety. The Chairperson of the Commission shall designate three members of the Commission, any of whom shall be authorized to receive notice of emergency demolition as provided in this section.

(B) If the city has, pursuant to official action, declared a building, structure or improvement that is an eligible or designated landmark or is located in a designated Historic District as a public nuisance and has authorized its demolition, the City Clerk or his or her designee shall have a copy of the declaration of public nuisance delivered to the chairperson of the Commission, who shall place the matter on the agenda of the next meeting of the Commission. The Commission shall be authorized to review the building, structure or improvement and determine if the owner or some other person can commence rehabilitation of it immediately. The Commission shall ensure that whoever will rehabilitate the building, structure or improvement, shall have either public or private financing, or both, to make sure that the building, structure or improvement is promptly rehabilitated in accordance with the criteria set forth in this chapter. If the Commission is unable to secure the rehabilitation plans of the building, structure or improvement within 90 days of the date that the city obtains judicial authorization to demolish it, whichever is later, then the city may proceed with the demolition of the building, structure or improvement.

(C) An owner of a building, structure or improvement eligible or designated as a landmark or located within a Historic District shall not be authorized to demolish the building, structure or improvement without filing an application for certificate of appropriateness, except when an authorized city official, pursuant to ordinance, has made the determination that the building, structure or improvement poses an imminent threat to human health and safety and should be demolished immediately, under the guidelines of division (A) herein.

(D) If the city has declared an eligible or designated landmark or a building, structure or improvement in a designated Historic District to be a public nuisance and, after the declaration, the owner of the building, structure or improvement files an application for a certificate of appropriateness so the building, structure or improvement may be rehabilitated, the Commission may exercise jurisdiction over the application and the structure until a time as the city obtains judicial authorization to demolish the structure. Once the city has obtained judicial authorization, then the rehabilitation of the structure may proceed only if the City Council consents to withholding its authority to demolish the structure in abeyance while the structure is rehabilitated.

(Ord. 06-50, passed 11-28-2006; Ord. 11-04, passed 1-25-2011)

§ 1478.20 HANDICAPPED ACCESSIBILITY PROVISIONS.

Nothing in this chapter shall exempt owners from complying with applicable federal, state or city laws concerning handicapped accessibility. In providing for handicapped accessibility as may be required by laws or desire by an owner, every effort shall be made to visually integrate the physical devices as may be necessary to accomplish accessibility with the architectural design of the historic landmark or building, structure or improvement in a Historic District. Emphasis shall be placed on providing readily removable physical accessibility provisions such as ramps or chair lifts, with no permanent damage to the historic fabric of the building.

(Ord. 06-50, passed 11-28-2006)

§ 1478.21 JUDICIAL REVIEW OF FINAL DECISION.

Any final decisions rendered by the City Council under this chapter shall be subject to judicial review pursuant to the provisions of the Administrative Review Law, ILCS Ch. 735, Act 5, §§ 3-101 *et seq.*, as amended, and rules adopted pursuant thereto.

(Ord. 06-50, passed 11-28-2006)

§ 1478.99 PENALTY.

(A) It shall be unlawful for any person to alter, relocate, remove or demolish any historic landmark or to do construction work on, relocate, remove or demolish any building, structure or improvement within a Historic District, or attempt to take any of these actions without complying with the provisions of this chapter. Persons violating any provision of this chapter other than mandatory advisory review shall also be subject to the institution of proceedings by the city to prevent, strain, abate or correct the violations of this chapter, including restoration of the building or structure and its site to its appearance prior to the violation if the appearance is integral to the significance of the site or structure as determined by the Commission. Any action to enforce this section shall be brought by the City Attorney, his or her designee or by designated representatives of the Building Department. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty contained in this section.

(B) If construction, alteration, relocation, removal or demolition of an eligible or designated historic landmark or of any building, structure or improvement located in a designated Historic District occurs without a permit or without proper authorization as set forth in this chapter, then the city may seek to revoke the license of the company, individual, principal owner, or its or his or her successor(s) interest in performing construction, alteration, relocation, removal or demolition for a period of one year.

(C) If demolition of a historic landmark occurs without a permit, the person causing the demolition shall, upon conviction, be guilty of a misdemeanor offense punishable by incarceration in the county jail for a term not to exceed six months.

(D) Any person violating any provision of this chapter shall, upon conviction, be punished by a fine not to exceed \$1,500. Each day during which any violation hereof is committed shall constitute a separate offense.

(Ord. 06-50, passed 11-28-2006)