

ORDINANCE NO.

BY:

AN ORDINANCE to amend Chapter 1134, Historic Preservation Districts (HPD) and Historic Properties (HP), of the Zoning Code of the Codified Ordinances of the City of Lakewood to expand the scope of the chapter to public interior portions of buildings with unique historical value.

WHEREAS, the amendments to the Zoning Code promote the development and protection existing buildings and structures throughout the City of unique historical significance, thereby protecting property values; and

WHEREAS, the amendments to the Zoning Code encourage the orderly development and retention of buildings and structure in the City in a manner consistent with the *Community Vision*; and

WHEREAS, Article 18, Section 3 of the Constitution of the State of Ohio permits municipalities to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations as are not in conflict with general laws; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, STATE OF OHIO:

Section 1. That Chapter 1134, Historic Preservation Districts (HPD) and Historic Properties (HP), of the Zoning Code of Codified Ordinances of the City of Lakewood, currently reading as follows:

**HISTORIC PRESERVATION DISTRICTS (HPD)
AND HISTORIC PROPERTIES (HP)**

1134.01 PURPOSE

- (a) The purpose of this Chapter is to promote the health, safety and welfare of the citizens of the *City* by providing for the identification, protection, enhancement, perpetuation and use of areas, places, buildings, structures, works of art and other objects having a special historical, community or aesthetic interest or value, so that the following objectives are reached:
 - (1) To maintain and enhance the distinctive and/or aesthetic character, diversity and interest of the *City*.

- (2) To safeguard the architectural integrity of the *City's* designated Historic Preservation Districts (HPD) and Historic Properties (HP).
 - (3) To safeguard the heritage of the *City* by preserving places, sites, buildings and structures, which reflect elements of the *City's* cultural, social, economic, political, architectural or archaeological heritage.
 - (4) To seek alternatives to demolition or incompatible alterations in the HPD and to HP's before such acts are performed.
 - (5) To afford the widest possible scope of continuing vitality through private renewal and architectural creativity within appropriate controls and standards.
- (b) The purpose of the HPD or HP designation and determination provided for in this Chapter is to contribute to the economic, recreational, cultural and educational development of the *City* by:
- (1) Fostering a sense of community identification and civic pride by preserving areas, places, buildings, structures, works of art and other objects which reflect periods, events in history, notable accomplishments of the past and significant persons of the community and its region;
 - (2) protecting and enhancing the *City's* attributes for residents, prospective residents, visitors and tourists;
 - (3) strengthening the economy of the *City*;
 - (4) stabilizing and improving property values;
 - (5) facilitating the reinvestment in and revitalization of certain districts and neighborhoods;
 - (6) promoting use and preservation of historic sites and structures for the education and general welfare of residents of the *City*.

1134.02.1 DEFINITIONS

- (a) **ALTER** or **ALTERATION** for the purposes of this Chapter, shall include a change in design, material color, texture, material or exterior architectural feature and shall also include any additions to existing areas, places, buildings, structures, works of art or other objects. The correction of any deterioration or damage to an area, place, building, structure, work of art or other object and restoration to its condition prior to such deterioration or damage is excluded from the definition of alteration, provided such work does not involve a change in design, material color, texture material or exterior architectural feature.
- (b) **CERTIFICATE OF APPROPRIATENESS** means a certificate issued either by the Architectural Board of Review indicating that proposed design plans for alteration, or by the Commission for demolition

of a property within the HPD or the HP, is in accordance with the provisions of this Chapter.

- (c) **DESIGNATION** and **DETERMINATION** means respectively the initial process by the Commission to identify appropriate districts and properties for implementation of this Chapter and the actual outcome of an application process to implement and make effective this Chapter for any specific district or property;
- (d) **DEMOLISH** or **DEMOLITION** means the razing or removal, in whole or in part, of any area, place, building, structure, work of art or other object.
- (f) **EXTERIOR ARCHITECTURAL FEATURE(S)** means the architectural style, general design and general arrangement of the exterior of a building or structure including, but not limited to, windows, doors, porches, cornices, exterior wall materials, decorative trim, chimneys, roof structure and roof materials, and other fixtures appurtenant to the exterior of the building or structure.
- (g) **MATERIAL COLOR** means the color inherent to a material such as brick or stone. It shall not be construed to refer to exterior painting.
- (h) **PRESERVATION** means the act or process of applying measures to sustain the existing form, integrity and material of an area, place, building, structure, work of art or other object.
- (i) **SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION** means the United States Secretary of the Interior's Standards For Rehabilitation codified at 36 CFR 67 of the Code of Federal Regulations, as the same may be amended from time to time and associated guidelines established by the Commission, that form the criteria used by the Architectural Board of Review when considering an application for a Certificate of Appropriateness in an HPD or for an HP.
- (j) **UNIQUE HISTORIC GUIDELINES** means any specific guidelines adopted by the Commission, either at the time of designation of an HPD or HP, or upon subsequent revision and review, to govern any such designated HPD or HP.

**1134.03 PROCEDURES FOR IDENTIFICATION, REVIEW
AND DESIGNATION OF AN HPD OR HP OR LAND-
MARKS**

- (a) **Relationship to Base Districts:** The HPD or HP is the designation of an additionally restricted zone, or specific property restrictions for an historic property, within any zone, which may be applied to existing zoning districts as described herein. When such a district or property is established, the HPD or HP shall be shown as an indication to the underlying districts by the designation of HPD for Historic Preservation District, or HP for Historic Properties, on the zoning map.

A HPD or HP may cross or transit several base districts, however, the uses permitted in each base district are limited to the boundaries of that base district, except as otherwise provided herein.

- (b) **Initial Designation Procedure:** The Commission may propose designations of any area, place, building, structure, work of art or other object as an HPD or HP on its own initiative or upon the recommendation of the Heritage Advisory Board or upon a request by an owner of a property. Proposals for designation must be accompanied by information with respect to the special historical, community or aesthetic interest or value of the HPD or HP. The Commission may establish from time to time such procedures and policies with respect to designations and other matters described in this Chapter. Moreover, the Commission shall, where appropriate, issue specific Unique Historic Guidelines to govern any such designated HPD or HP. The purpose of such guidelines are to assist the Architectural Board of Review to limit its judgment and review procedures to design and engineering issues, rather than its own independent view of historic appropriateness, which are hereby expressly left in the province of the Commission with the advice of the Heritage Advisory Board.
- (c) **Considerations for Designation:** In considering the designation of any area, place, building, structure, work of art or other object in the *City* as a HPD or HP, the Commission shall apply the following criteria with respect to each property. One (1) or more of the following must apply:
- (1) The character, interest or value as part of the heritage of the *City*, the region, State of Ohio or the United States;
 - (2) the location as a site of a significant historic event;
 - (3) the identification with a person or persons who significantly contributed to the historic development of the *City*;
 - (4) a HPD's or HP's exemplification of the cultural, economic, social, archeological, or historic heritage of the *City*;
 - (5) the portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
 - (6) the embodiment of distinguishing historical characteristics of a group of people in an era of history characterized by a distinctive architectural style;
 - (7) HPD's or HP's identification as the work of an architect or master builder whose individual work has influenced the development of the *City*;
 - (8) HPD's or HP's embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural or technological innovation;

- (9) HPD's or HP's unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the *City*, itself at large;
 - (10) HPD's or HP's having yielded or its likelihood of yielding information important to the understating of pre-history or history.
- (d) **Additional considerations for an HPD:** In addition to meeting at least one (1) of the above criteria, a proposed HPD must also meet the following criteria in order to be designated a HPD:
- (1) The area within the proposed boundaries must have a high degree of historic integrity, without excessive loss of architectural or historic character.
 - (2) The area within the proposed boundaries must have an internal historic cohesiveness in the sense of a shared common history of its inhabitants, historical development according to the *Vision*, a shared architectural style or design, or a body of architecture illustrating the evolution of architectural styles over a period of time.
- (e) **Additional Considerations for an HP:** In addition to meeting at least one (1) of the criteria listed in subsection (c) above, a proposed HP must also meet the following criteria in order to be designated a HP:
- (1) The structure(s) must have a high degree of historic integrity, without excessive loss of architectural or historic character.
 - (2) The structure(s) must have an internal historic cohesiveness in the sense of a shared common history of its inhabitants, historical development according to the *Vision*, a shared architectural style or design, or a body of architecture illustrating the evolution of architectural styles over a period of time.
- (f) **Designation by the Commission:** The Commission after obtaining advice from the Heritage Advisory Board may designate certain areas, places, sites, buildings and structures as eligible to become either a HPD or a HP.
- (g) **Designation Not Self-Executing:** Once the Commission has designated any certain areas, places, sites, buildings and structures as eligible to become either an HPD or an HP, an individual or group may apply to the Commission for official status as an HPD or HP. The rules of this Chapter, or the Unique Historic Guidelines adopted by the Commission for any HPD or HP, are not effective until the following application and approval process is additionally completed.
- (h) **Application for Historic Status Determination:** The applicant(s) shall attempt to secure the written consent of the property owner(s) for the determination of a property as a HP. However, written approval is not required for the property to be determined as an HP. In the event that such owner refuses or declines to or otherwise does not give written consent to the proposed determination as a HP, upon the applicant's

application the Commission shall schedule a public hearing on the question of the proposed determination. In regards to a HPD, the applicant(s) shall attempt to secure the written approval of owner(s) within the proposed boundaries. These signatures shall be presented on a form prepared by the Commission. However, written approval is not required for the properties to be determined as within a HPD. In the event that such owner(s) refuses or declines to or otherwise does not give written consent to the proposed determination as a HPD, upon the applicant(s)'s application the Commission shall schedule a public hearing on the question of the proposed determination.

(i) **Notice Procedures for Public Hearing:**

(1) Notice of the public hearing shall be made in accordance with Lakewood Codified Ordinances no less than seven (7) days before the hearing; said notice shall state the time, place and purpose of the hearing in accordance with Chapter 107 (Publication of Legal Notices) of the Ordinances.

(2) No less than seven days prior to a public hearing, the Commission additionally shall give written notice of a public hearing, stating the time, place and purpose to all owners and residents of property in and within 200 feet of the property for which either an HPD or an HP designation is requested.

(j) The Commission shall give due consideration to the advice of the Heritage Advisory Board, such consents to determination and comments as have been filed with it, and the views as may have been expressed by persons participating in the hearing before the Commission, as well as any other relevant information brought before the Commission, in making its decision with respect to the proposed determination of each HPD or HP by a majority vote of its members.

(k) The application for historic determination shall be studied by the Commission for its review and recommendation. The Commission may determine said area, place, site, building(s), and structure(s), as a HPD or HP by majority vote. Regardless of any current National Register of Historic Places status, a HPD or HP must be locally determined by the Commission for this Chapter to apply.

(l) The Commission may approve by majority vote specific architectural guidelines for a created district or a specific historic property. The Commission shall schedule a public hearing on the question of proposed design guidelines. If specific architectural guidelines are not created, the Secretary of the Interior's Standards for Rehabilitation shall apply to a HD for Architectural Board of Review purposes.

(m) Applications, which have been denied by the Commission, may be re-submitted within ten (10) days, if a request is made in writing by the applicant, setting forth the grounds thereof. If the Commission determines by vote that valid grounds have been submitted, a rehearing shall be granted. If the request is not made within ten (10) days from date of ruling, no application on the same appeal may be made to the Commission for a period of six (6) months from the date the original application was denied. The filing of an application for a rehearing shall not

be deemed to extend the time permitted by law for the filing of an appeal to the Courts.

1134.04 LOCATION OF AN HPD OR HP

Location of a HPD or HP is limited to the C1 Commercial Office, C2 Commercial Retail, C3 Commercial General Business, C4 Commercial Public School Districts, R1H Single-Family, high density, R1M Single-Family, medium density, R1L Single-Family, low density, R2 Single- and Two-Family, L Lagoon, MH Multiple-Family, high density and ML Multiple-Family, low density, Residential Districts.

1134.05 PERMITTED ACCESSORY USES

Permitted accessory uses in an HPD shall be those uses listed as accessory in the underlying base zone.

1134.06 PROCEDURES FOR THE REVIEW OF PROPOSED ALTERATIONS, DEMOLITION AND NEW CONSTRUCTION AND FOR ISSUANCE OF APPROVAL TO PROCEED WITH WORK (CERTIFICATE OF APPROPRIATENESS)

- (a) No person shall make any alteration or demolition with respect to any property that is situated in a determined HPD or has been determined an HP unless a Certificate of Appropriateness has been previously issued with respect to such property. With respect to any such alteration or demolition, the owner of a property shall first apply for and secure a Certificate of Appropriateness from the Architectural Board of Review. In addition, any improvements or changes undertaken within public rights-of-way within an HPD also require a Certificate of Appropriateness from the Architectural Board of Review.
- (b) Unless the Commission has previously approved Unique Historic Guidelines when considering an application for a Certificate of Appropriateness, the Architectural Board of Review shall determine whether the proposed construction, reconstruction, alteration or demolition is appropriate or whether it has an adverse affect upon the purposes of this Chapter and shall refer to the Secretary of the Interior's Standards for Rehabilitation, as amended from time to time, and which on the date of the adoption of this Chapter are as follows:
 - (1) A property shall be used for its historic purpose or placed in a new use that requires minimal change to the defining characteristics of the building and its site and 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 features, finishes, and construction techniques or examples of craftsmanship that characterize an HP shall be preserved.
 - (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 the historic materials, structures, if appropriate, shall be undertaken using the gentlest means possible.
 - (8) Significant archeological 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 environment would be unimpaired.
- (c) In the case of archeological properties, the Architectural Board of Review shall refer to the Advisory Council on Historic Preservation's Treatment of Archeological Properties: A Handbook or successor publication(s).
- (d) **Approval Not Self-executing Where the Commission has Issued Unique Historic Guidelines:** If the proposed construction, reconstruction, alteration or demolition is determined to have no adverse effect on the HPD or the HP, and does not violate the spirit and purpose of these preservation regulations, then the Architectural Board of Review shall approve the Certificate of Appropriateness, subject to a final additional review by the Commission, whenever Unique Historic Guidelines have been established.
- (e) **Denial:** If the Architectural Board of Review determines that the proposed construction, reconstruction, alteration or demolition will have an adverse effect on the HPD or HP and does violate the spirit and purpose of these preservation regulations, then the Architectural Review Board shall deny the Certificate of Appropriateness.

- (f) **Notice of Denial to Applicant:** In the event that the Architectural Board of Review denies an application for a Certificate of Appropriateness, the Secretary of the Architectural Board of Review shall forthwith notify the applicant of such determination in writing and transmit to him/her a copy of the reasons for denial and recommendations, if any, of the Architectural Board of Review.
- (g) **Effect of Denial:** Upon denying an application for a Certificate of Appropriateness, the Architectural Board of Review shall impose a waiting period to not exceed thirty (30) days from the date of disapproval during which the applicant may develop a compromise proposal. With respect to an application involving a demolition, the Architectural Board of Review may, at its discretion, extend the aforementioned waiting period to not exceed one (1) year from the date of disapproval. If both parties accept a compromise proposal, the Architectural Board of Review may henceforth approve a final Certificate of Appropriateness, unless Unique Historic Guidelines have been adopted by the Commission and pertain, in which case any compromise must also be approved by the Commission.
- (h) **Negotiations During Waiting Period for Demolition: In the Case of a Denial of an Application for a Certificate of Appropriateness for Demolition:**
- (1) The Architectural Board of Review, along with the Director, Commissioner, members of the Heritage Advisory Board, and other officials of the *City* as needed, may participate in negotiations with the owner or owners and any other interested party in an effort to find a means of preserving the property. If the aforementioned do not agree on a means of preserving the property at the initial meeting then they may continue to undertake meaningful and continuing discussion with the purpose of finding a method of saving the property.
 - (2) If the applicant fails to meet with any or all of the aforementioned in good faith, in the time specified, then the Architectural Board of Review's denial of the application will stand.
 - (3) If, after holding such good-faith meetings in the waiting period as specified above, the Director determines in writing that failure to approve an application for a Certificate of Appropriateness will create a substantial hardship to the applicant and that such certificate may be approved without substantial detriment to the public welfare and without substantial derogation from the purposes of this Chapter, therein in such event, the Architectural Board of Review shall approve a Certificate of Appropriateness for such proposed demolition.
- (i) **Negotiations During Waiting Period for Alteration:** In the case of denial of an application for a Certificate of Appropriateness for construction, reconstruction or alteration:
- (1) The Architectural Board of Review, along with the Director, Commissioner, members of the Heritage Advisory Board, and

other officials of the City as needed, may participate in negotiations with the owner or owners and any other interested party in an effort to find a means of preserving the historic integrity of the property. The aforementioned shall investigate the feasibility of all means of preserving the historic integrity of the designated property. If the aforementioned do not agree on a means of preserving the historic integrity of the property at the initial meeting, then they may continue to undertake meaningful and continuing discussion of the purpose of finding a method of saving the historic integrity of the property.

- (2) If the applicant fails to meet with the aforementioned in good faith, in the time specified, then the Architectural Board of Review's denial of the application will stand.
- (3) If, after holding such good faith meetings in the waiting period specified by the Architectural Board of Review, the Director determines in writing that failure to approve a Certificate of Appropriateness will create a substantial hardship to the applicant and that such certificate may be approved without substantial detriment to the public welfare and without substantial derogation from the purposes of this Chapter, therein in such event, the Architectural Board of Review can approve a Certificate of Appropriateness for such proposed demolition.

(k) **Alternative Summary Procedures Not Requiring Board or Commission Action:** The Director, or his/her designee, may administratively approve an application for a Certificate of Appropriateness for the following activities:

- (1) Repair or replacement of gutters and downspouts, provided there is no change in material or location.
- (2) Exterior wall insulation provided the exterior holes are repaired with a matching material. For vinyl or aluminum siding, the necessary siding shall be removed prior to the work and then reinstalled. Insulation work that requires venting of any type that appears on the exterior of a structure requires a Certificate of Appropriateness.
- (3) Re-roofing, only with like material and if the original style and shape of the roof is not altered.
- (4) Storm windows and storm doors, provided that the item(s) installed:
 - A. do not significantly alter the visual effect of the opening;
 - B. is/are compatible with the character of the building;
 - C. does not require the removal of original windows and/or doors.

- (5) Repair of the surface of driveways, parking or loading areas or walkways with like material.
- (l) **Summary Procedures Report:** The Director shall provide to the Architectural Board of Review a summary of the Certificates of Appropriateness for each administrative approval issued.
- (m) As long as the repair or maintenance does not represent a material alteration to the structure, the following activities are approved within a HPD or HP;
 - (1) Exterior painting; and
 - (2) landscaping improvements, referring only to the planting or arrangement of trees, shrubs, flowers and plants.
- (n) If no action has been taken by the Architectural Review Board or the Director, or his/her designee, on an application for a Certificate of Appropriateness within sixty (60) days after such application has been received by the Architectural Review Board, the Certificate of Appropriateness shall be deemed issued.

1134.07 ECONOMIC HARDSHIP; APPLICATION FILED AFTER DENIAL OF A CERTIFICATE OF APPROPRIATENESS

- (a) An applicant who has been denied a Certificate of Appropriateness may, within thirty (30) days of the denial, apply for a Certificate of Economic Hardship. The application shall be made on a form prepared by the Commission. The Commission may hold a public hearing on the hardship application.
- (b) All of the following criteria shall be considered to determine the existence of an economic hardship:
 - (1) Denial of a Certificate will result in a substantial reduction in the economic value of the property.
 - (2) Denial of a certificate will result in a substantial economic burden on the applicant because the applicant cannot reasonably maintain the property in its current form.
 - (3) No reasonable alternative exists consistent with the architectural standards and guidelines for the property.
 - (4) The owner has been unable to sell the property utilizing best efforts.
 - (5) Previous alterations have interfered with the architectural character of the building and the character-defining features to illustrate the style or type are lost and to return the structure to its original character is not reasonable.
 - (6) If the owner is a not-for-profit organization, and it is financially or physically infeasible to achieve its charitable purpose

while conforming to the pertinent architectural standards and guidelines.

- (7) A court of competent jurisdiction has required the owner to abate any violation of these ordinances within a time frame that does not comport with the requirements of this Chapter.
- (c) In considering granting a Certificate of Economic Hardship, the Commission may solicit expert testimony or request that the applicant for a Certificate of Economic Hardship submit evidence concerning property value, cost estimates, income expenses, and/or any other information that the Commission deems necessary to determine whether the denial of the application constitutes an economic hardship. The level of documentation required may vary as is appropriate to each case. The Applicant may submit any personal or proprietary information to the Staff of the *City* for a confidential review, and such information shall be returned to the Applicant, and a summary or evaluation of the information shall be provided to the Commission without disclosure of the specific personal or proprietary information.
- (d) The Commission shall act upon an application of Certificate of Economic Hardship within a period not to exceed six (6) months from the original date of the denial of a Certificate of Appropriateness. If no action has been taken by the Commission within this six (6) month period, the application shall be deemed granted, unless the time is extended upon by mutual agreement. Upon the denial of an application, the applicant shall be notified by mail.

1134.08 DEMOLITION OR REMOVAL OF STRUCTURES IN AN HPD OR AN HP

- (a) Demolition or removal of a principal structure on a commercial property(s) in a designated HPD or HP shall comply with the regulations set forth within this Chapter and those in Section 1133.08.
- (b) Demolition or removal of a principal structure on a residential property(s) in a designated HPD or HP shall comply with the regulations set forth within this Chapter and those in Section 1133.09.

1134.09 RESCISSION OF A DESIGNATION OR DETERMINATION

Notwithstanding any provision of this Chapter to the contrary, the Commission may rescind the designation or determination of any area, place, building, or structure, work of art or other object as a HPD or HP by majority vote by finding that the designated HPD or HD does not meet the designation criteria or to protect the public interest in response to changed circumstances since the designation decision was made. This rescission act of the Commission shall relieve the owner of such property from any duties or penalties.

1134.10 EXCLUSIONS

- (a) If the forthwith demolition of a structure is required by an action authorized by the Public Safety Director of the *City* to protect the public

health or safety, said action shall take precedence over the provisions of this Chapter.

- (b) Nothing in this Chapter shall be construed to prevent the correction of any deterioration or damage to an area, place, building, structure, work of art or other object and restoration to its condition prior to such deterioration or damage.

1134.11 FEES

The fees for a HPD or HP application for a Certificate of Appropriateness shall be pursuant to Section 1173.06.

1134.12 AFFIRMATIVE MAINTENANCE

Every owner, operator, or agent of any property which has been determined HPD or HP shall keep in good repair all of the exterior portions and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portion of such area, place, building, or structure, work of art or other object to deteriorate, decay or become damaged or otherwise fall into a state of disrepair. Every owner, operator or agent of any property which has been determined HPD or HP shall further keep in good repair all portions of any area, place, building, or structure, work of art or other object which, if not so maintained, may cause or tend to cause such portions to deteriorate, decay, or become damaged or otherwise fall into a state of disrepair.

- (a) The repair and maintenance required by this section includes, without limitation:
 - (1) Developing and implementing a maintenance and monitoring plan for protecting each portion of any area, place, building, or structure, work of art or other object.
 - (2) Structurally stabilizing each Improvement and Improvement parcel by taking all steps necessary to ensure:
 - A. the roof is watertight;
 - B. gutters are properly pitched and cleared of debris;
 - C. downspout joints are intact;
 - D. drains are unobstructed;
 - E. windows and door frames and wood siding are in good condition;
 - F. masonry walls are properly tuck-pointed to keep out moisture;
 - G. the Improvement parcel is graded for proper water run-off;
 - H. vegetation is cleared from around each Improvement; and

- I. trash, debris and hazardous materials such as inflammable liquids, poisons and paints are removed from the interior of each one (1) of any area, place, building, or structure, work of art or other object on a continuous basis.
- (3) Exterminating or controlling pests, including termites and rodents.
- (b) Protecting of any area, place, building, or structure, work of art or other object from moisture penetration.
 - (1) Securing each vacant area, place, building, structure, work of art or other object from vandalism and break-ins including, without limitation:
 - A. first floor windows and doors must be secured;
 - B. plywood must be painted black or if the structure is composed of brick, a color compatible with the color of the brick;
 - C. the method used to install the plywood may not result in the destruction of the opening covered and all sashes, doors and frames must be protected or stored for future use;
 - D. battery-operated intrusion alarms must be installed on the first floor of each portion of any area, place, building, or structure, work of art or other object;
 - E.
 - F. battery-operated smoke alarms must be installed on all floors of any area, place, building, or structure, work of art or other object;
 - G. adequate security lighting must be installed on each portion of any area, place, building, or structure, work of art or other object and adequate security lighting or fencing or both must also be installed on each Improvement parcel where deemed necessary by the Commissioner.
 - (2) Providing adequate ventilation to the interior of each vacant portion of any area, place, building, or structure, work of art or other object.
 - (3) Securing or modifying utilities and mechanical systems for each portion of any area, place, building, or structure, work of art or other object.
 - (4) Taking such other steps deemed necessary by the Commissioner.

1134.13 PENALTY

Any person violating the provisions of this Chapter shall be fined not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00) for each offense, and a separate offense is deemed committed each day during which an offense continues.

1134.14 SEVERABILITY

Should any provision of this Chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Chapter as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

shall be and is hereby amended to read as follows:

**HISTORIC PRESERVATION DISTRICTS (HPD)
AND HISTORIC PROPERTIES (HP)**

1134.01 PURPOSE

(a) The purpose of this Chapter is to promote the health, safety and welfare of the citizens of the *City* by providing for the identification, protection, enhancement, perpetuation and use of areas, places, buildings, public interior portions of buildings, structures, works of art and other objects having a special historical, community or aesthetic interest or value, so that the following objectives are reached:

- (1) To maintain and enhance the distinctive and/or aesthetic character, diversity and interest of the *City*.
- (2) To safeguard the architectural integrity of the *City's* designated Historic Preservation Districts (HPD) and Historic Properties (HP).
- (3) To safeguard the heritage of the *City* by preserving places, sites, buildings and structures, which reflect elements of the *City's* cultural, social, economic, political, architectural or archaeological heritage.
- (4) To seek alternatives to demolition or incompatible alterations in the HPD and to HP's before such acts are performed.
- (5) To afford the widest possible scope of continuing vitality through private renewal and architectural creativity within appropriate controls and standards.

(b) The purpose of the HPD or HP designation and determination provided for in this Chapter is to contribute to the economic, recreational, cultural and educational development of the *City* by:

- (1) Fostering a sense of community identification and civic pride by preserving areas, places, buildings, public interior portions of buildings, structures, works of art and other objects which

reflect periods, events in history, notable accomplishments of the past and significant persons of the community and its region;

- (2) protecting and enhancing the *City's* attributes for residents, prospective residents, visitors and tourists;
- (3) strengthening the economy of the *City*;
- (4) stabilizing and improving property values;
- (5) facilitating the reinvestment in and revitalization of certain districts and neighborhoods;
- (6) promoting use and preservation of historic sites and structures for the education and general welfare of residents of the *City*.

1134.02 DEFINITIONS

- (a) **ALTER** or **ALTERATION** for the purposes of this Chapter, shall include a change in design, material color, texture, material public interior portion of a building or structure, or exterior architectural feature and shall also include any additions to existing areas, places, buildings, structures, works of art or other objects. The correction of any deterioration or damage to an area, place, building, structure, work of art or other object and restoration to its condition prior to such deterioration or damage is excluded from the definition of alteration, provided such work does not involve a change in design, material color, texture material or exterior architectural feature.
- (b) **CERTIFICATE OF APPROPRIATENESS** means a certificate issued either by the Architectural Board of Review indicating that proposed design plans for alteration, or by the Commission for demolition of a property within the HPD or the HP, is in accordance with the provisions of this Chapter.
- (c) **DESIGNATION** and **DETERMINATION** means respectively the initial process by the Commission to identify appropriate districts and properties for implementation of this Chapter and the actual outcome of an application process to implement and make effective this Chapter for any specific district or property;
- (d) **DEMOLISH** or **DEMOLITION** means the razing or removal, in whole or in part, of any area, place, building, public interior portion of a building, structure, work of art or other object.
- (e) **EXTERIOR ARCHITECTURAL FEATURE(S)** means the architectural style, general design and general arrangement of the exterior of a building or structure including, but not limited to, windows, doors, porches, cornices, exterior wall materials, decorative trim, chimneys, roof structure and roof materials, and other fixtures appurtenant to the exterior of the building or structure.
- ~~(e)(f)~~ **INTERIOR ARCHITECTURAL FEATURE(S)** means the architectural style, design, general arrangement and components of an interior,

including but not limited to the kind, color and texture of a building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such interior.

~~(f)~~(g) **MATERIAL COLOR** means the color inherent to a material such as brick or stone. It shall not be construed to refer to exterior painting.

(h) **PRESERVATION** means the act or process of applying measures to sustain the existing form, integrity and material of an area, place, building, structure, work of art or other object.

~~(e)~~(i) **PUBLIC INTERIOR PORTION** means the interior portion of a building or structure together with its interior architectural features, that is, or was, designed to be customarily open or accessible to the public, including by invitation. Public interior portion does not include an interior portion of a building or structure that was customarily open or accessible to the public if the interior portion has been significantly altered such that a substantial portion of the features reflecting design for public use no longer remain. Terminating the use of an interior portion of a building by the public shall not in and of itself constitute the conversion of the design of such interior portion. Public interior portion does not include the interior portions of a building, which building was designed to be, and is still, used exclusively as one or more private residences.

~~(h)~~(j) **SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION** means the United States Secretary of the Interior's Standards For Rehabilitation codified at 36 CFR 67 of the Code of Federal Regulations, as the same may be amended from time to time and associated guidelines established by the Commission, that form the criteria used by the Architectural Board of Review when considering an application for a Certificate of Appropriateness in an HPD or for an HP.

~~(i)~~(k) **UNIQUE HISTORIC GUIDELINES** means any specific guidelines adopted by the Commission, either at the time of designation of an HPD or HP, or upon subsequent revision and review, to govern any such designated HPD or HP.

1134.03 PROCEDURES FOR IDENTIFICATION, REVIEW AND DESIGNATION OF AN HPD OR HP OR LAND-MARKS

(a) **Relationship to Base Districts:** The HPD or HP is the designation of an additionally restricted zone, or specific property restrictions for an historic property, within any zone, which may be applied to existing zoning districts as described herein. When such a district or property is established, the HPD or HP shall be shown as an indication to the underlying districts by the designation of HPD for Historic Preservation District, or HP for Historic Properties, on the zoning map.

A HPD or HP may cross or transit several base districts, however, the uses permitted in each base district are limited to the boundaries of that base district, except as otherwise provided herein.

- (b) **Initial Designation Procedure:** The Commission may propose designations of any area, place, building, public interior portion of a building, structure, work of art or other object as an HPD or HP on its own initiative or upon the recommendation of the Heritage Advisory Board or upon a request by an owner of a property. Proposals for designation must be accompanied by information with respect to the special historical, community or aesthetic interest or value of the HPD or HP. The Commission may establish from time to time such procedures and policies with respect to designations and other matters described in this Chapter. Moreover, the Commission shall, where appropriate, issue specific Unique Historic Guidelines to govern any such designated HPD or HP. The purpose of such guidelines are to assist the Architectural Board of Review to limit its judgment and review procedures to design and engineering issues, rather than its own independent view of historic appropriateness, which are hereby expressly left in the province of the Commission with the advice of the Heritage Advisory Board. The designation of an HPD or HP shall not constitute designation of any public interior portion of such area, place, building or structure unless the public interior portion is specifically identified as part of the designation.
- (c) **Considerations for Designation:** In considering the designation of any area, place, building, public interior portion of a building, structure, work of art or other object in the *City* as a HPD or HP, the Commission shall apply the following criteria with respect to each property. One (1) or more of the following must apply:
- (1) The character, interest or value as part of the heritage of the *City*, the region, State of Ohio or the United States;
 - (2) the location as a site of a significant historic event;
 - (3) the identification with a person or persons who significantly contributed to the historic development of the *City*;
 - (4) a HPD's or HP's exemplification of the cultural, economic, social, archeological, or historic heritage of the *City*;
 - (5) the portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
 - (6) the embodiment of distinguishing historical characteristics of a group of people in an era of history characterized by a distinctive architectural style;
 - (7) HPD's or HP's identification as the work of an architect or master builder whose individual work has influenced the development of the *City*;
 - (8) HPD's or HP's embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural or technological innovation;

- (9) HPD's or HP's unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the *City*, itself at large;
 - (10) HPD's or HP's having yielded or its likelihood of yielding information important to the understating of pre-history or history.
- (d) **Additional considerations for an HPD:** In addition to meeting at least one (1) of the above criteria, a proposed HPD must also meet the following criteria in order to be designated a HPD:
- (1) The area within the proposed boundaries must have a high degree of historic integrity, without excessive loss of architectural or historic character.
 - (2) The area within the proposed boundaries must have an internal historic cohesiveness in the sense of a shared common history of its inhabitants, historical development according to the *Vision*, a shared architectural style or design, or a body of architecture illustrating the evolution of architectural styles over a period of time.
- (e) **Additional Considerations for an HP:** In addition to meeting at least one (1) of the criteria listed in subsection (c) above, a proposed HP must also meet the following criteria in order to be designated a HP:
- (1) The structure(s) must have a high degree of historic integrity, without excessive loss of architectural or historic character.
 - (2) The structure(s) must have an internal historic cohesiveness in the sense of a shared common history of its inhabitants, historical development according to the *Vision*, a shared architectural style or design, or a body of architecture illustrating the evolution of architectural styles over a period of time.
- (f) **Designation by the Commission:** The Commission after obtaining advice from the Heritage Advisory Board may designate certain areas, places, sites, buildings, public interior portions of buildings, and structures as eligible to become either a HPD or a HP.
- (g) **Designation Not Self-Executing:** Once the Commission has designated any certain areas, places, sites, buildings, public interior portions of buildings, and structures as eligible to become either an HPD or an HP, an individual or group may apply to the Commission for official status as an HPD or HP. The rules of this Chapter, or the Unique Historic Guidelines adopted by the Commission for any HPD or HP, are not effective until the following application and approval process is additionally completed.
- (h) **Application for Historic Status Determination:** The applicant(s) shall attempt to secure the written consent of the property owner(s) for the determination of a property as a HP. However, written approval is not required for the property to be determined as an HP. In the event that such owner refuses or declines to or otherwise does not give writ-

ten consent to the proposed determination as a HP, upon the applicant's application the Commission shall schedule a public hearing on the question of the proposed determination. In regards to a HPD, the applicant(s) shall attempt to secure the written approval of owner(s) within the proposed boundaries. These signatures shall be presented on a form prepared by the Commission. However, written approval is not required for the properties to be determined as within a HPD. In the event that such owner(s) refuses or declines to or otherwise does not give written consent to the proposed determination as a HPD, upon the applicant(s)'s application the Commission shall schedule a public hearing on the question of the proposed determination.

(i) **Notice Procedures for Public Hearing:**

(1) Notice of the public hearing shall be made in accordance with Lakewood Codified Ordinances no less than seven (7) days before the hearing; said notice shall state the time, place and purpose of the hearing in accordance with Chapter 107 (Publication of Legal Notices) of the Ordinances.

(2) No less than seven days prior to a public hearing, the Commission additionally shall give written notice of a public hearing, stating the time, place and purpose to all owners and residents of property in and within 200 feet of the property for which either an HPD or an HP designation is requested.

(j) The Commission shall give due consideration to the advice of the Heritage Advisory Board, such consents to determination and comments as have been filed with it, and the views as may have been expressed by persons participating in the hearing before the Commission, as well as any other relevant information brought before the Commission, in making its decision with respect to the proposed determination of each HPD or HP by a majority vote of its members.

(k) The application for historic determination shall be studied by the Commission for its review and recommendation. The Commission may determine said area, place, site, building(s), and structure(s), as a HPD or HP by majority vote. Regardless of any current National Register of Historic Places status, a HPD or HP must be locally determined by the Commission for this Chapter to apply.

(l) The Commission may approve by majority vote specific architectural guidelines for a created district or a specific historic property. The Commission shall schedule a public hearing on the question of proposed design guidelines. If specific architectural guidelines are not created, the Secretary of the Interior's Standards for Rehabilitation shall apply to a HD for Architectural Board of Review purposes.

(m) Applications, which have been denied by the Commission, may be re-submitted within ten (10) days, if a request is made in writing by the applicant, setting forth the grounds thereof. If the Commission determines by vote that valid grounds have been submitted, a rehearing shall be granted. If the request is not made within ten (10) days from date of ruling, no application on the same appeal may be made to the Commission for a period of six (6) months from the date the original applica-

tion was denied. The filing of an application for a rehearing shall not be deemed to extend the time permitted by law for the filing of an appeal to the Courts.

1134.04 LOCATION OF AN HPD OR HP

Location of a HPD or HP is limited to the C1 Commercial Office, C2 Commercial Retail, C3 Commercial General Business, C4 Commercial Public School Districts, R1H Single-Family, high density, R1M Single-Family, medium density, R1L Single-Family, low density, R2 Single- and Two-Family, L Lagoon, MH Multiple-Family, high density and ML Multiple-Family, low density, Residential Districts.

1134.05 PERMITTED ACCESSORY USES

Permitted accessory uses in an HPD shall be those uses listed as accessory in the underlying base zone.

1134.06 PROCEDURES FOR THE REVIEW OF PROPOSED ALTERATIONS, DEMOLITION AND NEW CONSTRUCTION AND FOR ISSUANCE OF APPROVAL TO PROCEED WITH WORK (CERTIFICATE OF APPROPRIATENESS)

- (a) No person shall make any alteration or demolition with respect to any property that is situated in a determined HPD or has been determined an HP unless a Certificate of Appropriateness has been previously issued with respect to such property. With respect to any such alteration or demolition, the owner of a property shall first apply for and secure a Certificate of Appropriateness from the Architectural Board of Review. In addition, any improvements or changes undertaken within public rights-of-way within an HPD also require a Certificate of Appropriateness from the Architectural Board of Review.
- (b) Unless the Commission has previously approved Unique Historic Guidelines when considering an application for a Certificate of Appropriateness, the Architectural Board of Review shall determine whether the proposed construction, reconstruction, alteration or demolition is appropriate or whether it has an adverse affect upon the purposes of this Chapter and shall refer to the Secretary of the Interior's Standards for Rehabilitation, as amended from time to time, and which on the date of the adoption of this Chapter are as follows:
 - (1) A property shall be used for its historic purpose or placed in a new use that requires minimal change to the defining characteristics of the building and its site and 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 features, finishes, and construction techniques or examples of craftsmanship that characterize an HP shall be preserved.
 - (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 the historic materials, structures, if appropriate, shall be undertaken using the gentlest means possible.
 - (8) Significant archeological 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, interior 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. Alteration to a non-designated interior portion is permitted if the proposed alteration neither has an effect on the appearance of, nor compromises the structural integrity of, a designated public interior portion.
 - (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 environment would be unimpaired.
- (c) In the case of archeological properties, the Architectural Board of Review shall refer to the Advisory Council on Historic Preservation's Treatment of Archeological Properties: A Handbook or successor publication(s).
- (d) **Approval Not Self-executing Where the Commission has Issued Unique Historic Guidelines:** If the proposed construction, reconstruction, alteration or demolition is determined to have no adverse effect on the HPD or the HP, and does not violate the spirit and purpose of these preservation regulations, then the Architectural Board of Review shall approve the Certificate of Appropriateness, subject to a final additional review by the Commission, whenever Unique Historic Guidelines have been established.

- (e) **Denial:** If the Architectural Board of Review determines that the proposed construction, reconstruction, alteration or demolition will have an adverse effect on the HPD or HP and does violate the spirit and purpose of these preservation regulations, then the Architectural Review Board shall deny the Certificate of Appropriateness.
- (f) **Notice of Denial to Applicant:** In the event that the Architectural Board of Review denies an application for a Certificate of Appropriateness, the Secretary of the Architectural Board of Review shall forthwith notify the applicant of such determination in writing and transmit to him/her a copy of the reasons for denial and recommendations, if any, of the Architectural Board of Review.
- (g) **Effect of Denial:** Upon denying an application for a Certificate of Appropriateness, the Architectural Board of Review shall impose a waiting period to not exceed thirty (30) days from the date of disapproval during which the applicant may develop a compromise proposal. With respect to an application involving a demolition, the Architectural Board of Review may, at its discretion, extend the aforementioned waiting period to not exceed one (1) year from the date of disapproval. If both parties accept a compromise proposal, the Architectural Board of Review may henceforth approve a final Certificate of Appropriateness, unless Unique Historic Guidelines have been adopted by the Commission and pertain, in which case any compromise must also be approved by the Commission.
- (h) **Negotiations During Waiting Period for Demolition:** In the ~~Case~~ case of a ~~Denial-denial~~ of an ~~Application-application~~ for a Certificate of Appropriateness for ~~Demolition~~demolition:
- (1) The Architectural Board of Review, along with the Director, Commissioner, members of the Heritage Advisory Board, and other officials of the *City* as needed, may participate in negotiations with the owner or owners and any other interested party in an effort to find a means of preserving the property. If the aforementioned do not agree on a means of preserving the property at the initial meeting then they may continue to undertake meaningful and continuing discussion with the purpose of finding a method of saving the property.
 - (2) If the applicant fails to meet with any or all of the aforementioned in good faith, in the time specified, then the Architectural Board of Review's denial of the application will stand.
 - (3) If, after holding such good-faith meetings in the waiting period as specified above, the Director determines in writing that failure to approve an application for a Certificate of Appropriateness will create a substantial hardship to the applicant and that such certificate may be approved without substantial detriment to the public welfare and without substantial derogation from the purposes of this Chapter, therein in such event, the Architectural Board of Review shall approve a Certificate of Appropriateness for such proposed demolition.

(i) **Negotiations During Waiting Period for Alteration:** In the case of denial of an application for a Certificate of Appropriateness for construction, reconstruction or alteration:

- (1) The Architectural Board of Review, along with the Director, Commissioner, members of the Heritage Advisory Board, and other officials of the City as needed, may participate in negotiations with the owner or owners and any other interested party in an effort to find a means of preserving the historic integrity of the property. The aforementioned shall investigate the feasibility of all means of preserving the historic integrity of the designated property. If the aforementioned do not agree on a means of preserving the historic integrity of the property at the initial meeting, then they may continue to undertake meaningful and continuing discussion of the purpose of finding a method of saving the historic integrity of the property.
- (2) If the applicant fails to meet with the aforementioned in good faith, in the time specified, then the Architectural Board of Review's denial of the application will stand.
- (3) If, after holding such good faith meetings in the waiting period specified by the Architectural Board of Review, the Director determines in writing that failure to approve a Certificate of Appropriateness will create a substantial hardship to the applicant and that such certificate may be approved without substantial detriment to the public welfare and without substantial derogation from the purposes of this Chapter, therein in such event, the Architectural Board of Review can approve a Certificate of Appropriateness for such proposed demolition.

(j) **Alternative Summary Procedures Not Requiring Board or Commission Action:** The Director, or his/her designee, may administratively approve an application for a Certificate of Appropriateness for the following activities:

- (1) Repair or replacement of gutters and downspouts, provided there is no change in material or location.
- (2) Exterior wall insulation provided the exterior holes are repaired with a matching material. For vinyl or aluminum siding, the necessary siding shall be removed prior to the work and then reinstalled. Insulation work that requires venting of any type that appears on the exterior of a structure requires a Certificate of Appropriateness.
- (3) Re-roofing, only with like material and if the original style and shape of the roof is not altered.
- (4) Storm windows and storm doors, provided that the item(s) installed:
 - A. do not significantly alter the visual effect of the opening;

- B. is/are compatible with the character of the building;
 - C. does not require the removal of original windows and/or doors.
- (5) Repair of the surface of driveways, parking or loading areas or walkways with like material.
- (k) **Summary Procedures Report:** The Director shall provide to the Architectural Board of Review a summary of the Certificates of Appropriateness for each administrative approval issued.
- (l) As long as the repair or maintenance does not represent a material alteration to the structure, the following activities are approved within a HPD or HP;
- (1) Exterior painting; and
 - (2) ~~landscaping~~ Landscaping improvements, referring only to the planting or arrangement of trees, shrubs, flowers and plants.
- (m) If no action has been taken by the Architectural Review Board or the Director, or his/her designee, on an application for a Certificate of Appropriateness within sixty (60) days after such application has been received by the Architectural Review Board, the Certificate of Appropriateness shall be deemed issued.

1134.07 ECONOMIC HARDSHIP; APPLICATION FILED AFTER DENIAL OF A CERTIFICATE OF APPROPRIATENESS

- (a) An applicant who has been denied a Certificate of Appropriateness may, within thirty (30) days of the denial, apply for a Certificate of Economic Hardship. The application shall be made on a form prepared by the Commission. The Commission may hold a public hearing on the hardship application.
- (b) All of the following criteria shall be considered to determine the existence of an economic hardship:
- (1) Denial of a Certificate will result in a substantial reduction in the economic value of the property.
 - (2) Denial of a certificate will result in a substantial economic burden on the applicant because the applicant cannot reasonably maintain the property in its current form.
 - (3) No reasonable alternative exists consistent with the architectural standards and guidelines for the property.
 - (4) The owner has been unable to sell the property utilizing best efforts.

- (5) Previous alterations have interfered with the architectural character of the building and the character-defining features to illustrate the style or type are lost and to return the structure to its original character is not reasonable.
 - (6) If the owner is a not-for-profit organization, and it is financially or physically infeasible to achieve its charitable purpose while conforming to the pertinent architectural standards and guidelines.
 - (7) A court of competent jurisdiction has required the owner to abate any violation of these ordinances within a time frame that does not comport with the requirements of this Chapter.
- (c) In considering granting a Certificate of Economic Hardship, the Commission may solicit expert testimony or request that the applicant for a Certificate of Economic Hardship submit evidence concerning property value, cost estimates, income expenses, and/or any other information that the Commission deems necessary to determine whether the denial of the application constitutes an economic hardship. The level of documentation required may vary as is appropriate to each case. The Applicant may submit any personal or proprietary information to the Staff of the *City* for a confidential review, and such information shall be returned to the Applicant, and a summary or evaluation of the information shall be provided to the Commission without disclosure of the specific personal or proprietary information.
 - (d) The Commission shall act upon an application of Certificate of Economic Hardship within a period not to exceed six (6) months from the original date of the denial of a Certificate of Appropriateness. If no action has been taken by the Commission within this six (6) month period, the application shall be deemed granted, unless the time is extended upon by mutual agreement. Upon the denial of an application, the applicant shall be notified by mail.

1134.08 DEMOLITION OR REMOVAL OF STRUCTURES IN AN HPD OR AN HP

- (a) Demolition or removal of a principal structure on a commercial property(s) in a designated HPD or HP shall comply with the regulations set forth within this Chapter and those in Section 1133.08.
- (b) Demolition or removal of a principal structure on a residential property(s) in a designated HPD or HP shall comply with the regulations set forth within this Chapter and those in Section 1133.09.

1134.09 RESCISSION OF A DESIGNATION OR DETERMINATION

Notwithstanding any provision of this Chapter to the contrary, the Commission may rescind the designation or determination of any area, place, building, public interior portion of a building, or structure, work of art or other object as a HPD or HP by majority vote by finding that the designated HPD or HD does not meet the designation criteria or to protect the public interest in response to changed circumstances since the designation decision was made. This rescission act of

the Commission shall relieve the owner of such property from any duties or penalties.

1134.10 EXCLUSIONS

- (a) If the forthwith demolition of a structure is required by an action authorized by the Public Safety Director of the *City* to protect the public health or safety, said action shall take precedence over the provisions of this Chapter.
- (b) Nothing in this Chapter shall be construed to prevent the correction of any deterioration or damage to an area, place, building, structure, work of art or other object and restoration to its condition prior to such deterioration or damage.

1134.11 FEES

The fees for a HPD or HP application for a Certificate of Appropriateness shall be pursuant to Section 1173.06.

1134.12 AFFIRMATIVE MAINTENANCE

Every owner, operator, or agent of any property which has been determined HPD or HP shall keep in good repair all of the exterior portions and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portion or public interior portion of such area, place, building, or structure, work of art or other object to deteriorate, decay or become damaged or otherwise fall into a state of disrepair. Every owner, operator or agent of any property which has been determined HPD or HP shall further keep in good repair all portions of any area, place, building, or structure, work of art or other object which, if not so maintained, may cause or tend to cause such portions to deteriorate, decay, or become damaged or otherwise fall into a state of disrepair.

- (a) The repair and maintenance required by this section includes, without limitation:
 - (1) Developing and implementing a maintenance and monitoring plan for protecting each portion of any area, place, building, public interior portion of a building, or structure, work of art or other object.
 - (2) Structurally stabilizing each ~~Improvement and Improvement parcel~~ building or structure by taking all steps necessary to ensure:
 - A. the roof is watertight;
 - B. gutters are properly pitched and cleared of debris;
 - C. downspout joints are intact;
 - D. drains are unobstructed;
 - E. windows and door frames and wood siding are in good condition;

- F. masonry walls are properly tuck-pointed to keep out moisture;
 - G. the ~~Improvement parcel~~property is graded for proper water run-off;
 - H. vegetation is cleared from around each Improvement; and
 - I. trash, debris and hazardous materials such as inflammable liquids, poisons and paints are removed from the interior of each one (1) of any area, place, building, or structure, work of art or other object on a continuous basis.
- (3) Exterminating or controlling pests, including termites and rodents.
- (b) Protecting of any area, place, building, public interior portion of a building, or structure, work of art or other object from moisture penetration.
- (1) Securing each vacant area, place, building, structure, work of art or other object from vandalism and break-ins including, without limitation:
- A. first floor windows and doors must be secured;
 - B. plywood must be painted black or if the structure is composed of brick, a color compatible with the color of the brick;
 - C. the method used to install the plywood may not result in the destruction of the opening covered and all sashes, doors and frames must be protected or stored for future use;
 - D. battery-operated intrusion alarms must be installed on the first floor of each portion of any area, place, building, or structure, work of art or other object;
 - E. battery-operated smoke alarms must be installed on all floors of any area, place, building, or structure, work of art or other object;
 - F. adequate security lighting must be installed on each portion of any area, place, building, or structure, work of art or other object and adequate security lighting or fencing or both must also be installed on each ~~Improvement parcel~~property where deemed necessary by the Commissioner.

- (2) Providing adequate ventilation to the interior of each vacant portion of any area, place, building, or structure, work of art or other object.
- (3) Securing or modifying utilities and mechanical systems for each portion of any area, place, building, or structure, work of art or other object.
- (4) Taking such other steps deemed necessary by the Commissioner.

1134.13 PENALTY

Any person violating the provisions of this Chapter shall be fined not less than Ten Dollars (\$10.00) nor more than Five Hundred Dollars (\$500.00) for each offense, and a separate offense is deemed committed each day during which an offense continues.

1134.14 SEVERABILITY

Should any provision of this Chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Chapter as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 2. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Adopted: _____

PRESIDENT

CLERK

Approved: _____

MAYOR