

Chapter 13 - HISTORIC PRESERVATION COMMISSION

2-13-1. - Purpose of provisions.

It is hereby declared necessary for the general welfare of the citizens of the Village to protect and encourage the continued utilization of areas, districts, places, buildings, structures, works of art, and other similar objects within the Village, including "Stacy's Tavern", eligible for designation by ordinance as "Glen Ellyn landmarks". This declaration of intent shall incorporate the following purposes:

- (A) To identify, preserve, protect, enhance and encourage the continued utilization and the rehabilitation of such areas, districts, places, buildings, structures, works of art and other objects having a special historical, community, architectural or aesthetic interest or value to the Village and its citizens;
- (B) To safeguard the Village's historic and cultural heritage, as embodied and reflected in such areas, districts, places, buildings, structures, works of art and other objects determined eligible for designation by ordinance as "Glen Ellyn landmarks";
- (C) To preserve the character and vitality of the neighborhoods and central area, to promote economic development through rehabilitation, and to conserve and improve the property tax base of the Village;
- (D) To foster civic pride in the beauty and noble accomplishments of the past as presented in such "Glen Ellyn landmarks";
- (E) To protect and enhance the attractiveness of the Village to homeowners, home buyers, tourists, visitors, businesses and shoppers, and thereby to support and promote business, commerce, industry, and tourism and to provide economic benefit to the Village;
- (F) To foster and encourage preservation, restoration, and rehabilitation of areas, districts, places, buildings, structures, works of art and other objects, including entire districts and neighborhoods, and thereby prevent future urban blight and in some cases reverse current urban deterioration;
- (G) To foster the education, pleasure, and welfare of the people of the Village through the designation of "Glen Ellyn landmarks";
- (H) To encourage the continuation of surveys and studies of Glen Ellyn's historical and architectural resources and the maintenance and updating of a register of areas, districts, places, buildings, structures, works of art and other objects which may be worthy of landmark designation;
- (I) To encourage public participation in identifying and preserving historical and architectural resources through public hearings on proposed designations, building permits, and economic hardship variations;
- (J) To aid in the development and restoration of "Stacy's Tavern" as it existed during the period between the years 1846 and 1850.

(Ord. 3825, 4-22-1991)

2-13-2. - Commission on Glen Ellyn Landmarks.

(A) *Creation, membership; terms:*

1. *Creation and membership:* There is hereby continued in existence the Historic Preservation Commission of the Village of Glen Ellyn, which commission shall be empowered to recommend the designation of historical and architectural landmarks within the Village in compliance with the powers and duties enumerated herein. The Commission shall consist of nine members,

appointed by the President with the approval of a majority of the Board of Trustees, to serve without compensation, except that the members of the Historic Preservation Commission as it existed at the time of enactment of this chapter shall continue as members of said Commission. Thereafter, an effort shall be made to select as members persons who are professionals in the disciplines of history, architecture, historic architecture, planning, archaeology, real estate, historic preservation, or related fields, or who have demonstrated special interest, knowledge or experience in architecture, history, neighborhood preservation, or related disciplines. A member of the Board of Trustees to be appointed by the President shall serve as an ex officio, nonvoting member for a term of two years. The Village President, with the advice and consent of a majority of the Village Board, shall designate one of the members as Chairman. The Chairman shall be appointed annually in June of each year. A secretary, who is not a member of the Commission, shall be provided by the manager's office. All Commissioners shall reside, own property, or work in the Village. The Village President may choose Commissioners with special knowledge or special interest in the Village of Glen Ellyn who are not currently residing, property owners, or working within the Village.

2. *Terms:* Each member shall serve for a term of three years. All terms shall expire on May 31.
3. *Vacancies:* Vacancies on the Commission shall be filled for the unexpired term of the member whose place has been vacant in the same manner in which original appointments are required to be made.
4. *Removal:* A Commission member may be removed by a majority vote of the Village President and Board of Trustees.

(B) *Meetings; voting:*

1. *Regular meetings:* Regular meetings shall be monthly on a day certain as determined by the Chairman of the Commission.
2. *Special meetings:* Special meetings of the Commission may be called by the Chairman from time to time. Members of the Commission must receive notice not less than 48 hours prior to a special meeting. Notice of said special meeting must be posted in the Civic Center not less than 48 hours before said meeting. Special meetings may be called by the written request of any two members of the Commission. Such written request shall be received by the Chairman no less than five days prior to the requested date of meeting.
3. *Notice of meetings:* Whenever any action affecting an owner of property proposed or designated as a landmark is to be considered at a regular or special meeting of the Commission, the owner shall be provided at least seven days' advance written notice of such meeting except where different notice provisions are specified elsewhere in this chapter.
4. *Quorum:* The presence of a majority of the Commission members then in office shall be necessary to constitute a quorum to transact any Commission business at any regular or special meeting of the Commission.
5. *Manner of acting:* Except as otherwise provided in this chapter, the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the members.
6. *Rules of procedure:* The Commission shall enact rules of procedure and regulations not inconsistent with ordinances or statutes that further enhance the purpose of the Commission.

(C) *Reports and records:* The Commission shall keep permanent records and minutes of its meetings, showing the vote of each member upon each topic submitted to it, and of all public hearings. The Commission shall prepare and submit minutes of each meeting to the Village Board in a timely manner. The Commission shall submit its recommendations to the Village Board in writing. A minority report may be attached to the majority recommendation.

(D) *Commission powers and duties:* The commission shall have and may exercise the following duties, powers, and responsibilities:

1. To conduct an ongoing survey of the Village for the purpose of identifying those areas, districts, places, buildings, structures, works of art and other objects of historic or architectural significance;
2. Upon consent of the owner or owners thereof, to hold hearings and to recommend that the Village Board designate by ordinance areas, districts, places, buildings, structures, works of art and other objects as official "Glen Ellyn landmarks", if they qualify as defined hereunder, and to recommend that such designation include all or some portion of the property or any improvements thereon;
3. To cause plaques to be manufactured and installed that identify the significance of designated landmarks and landmark districts;
4. To prepare and publish maps, brochures and other descriptive and educational materials and to advise and assist residents about Glen Ellyn's landmarks and landmark districts and their designation and protection;
5. Subject to provisions set forth in subsection 2-13-10(A) of this chapter, to review permit applications for alteration, construction, reconstruction, erection, demolition, relocation or work of any kind affecting landmarks and structures or unimproved sites in landmark districts and to require the presentation of such plans, drawings, elevations and other information as may be necessary to review those applications;
6. To advise and assist owners or prospective owners of designated or potential landmarks or structures in landmark districts on technical and financial aspects of preservation, renovation and rehabilitation and to establish standards and guidelines therefor;
7. To apply for and accept any gift, grant or bequest from any private or public source, including government agencies, upon approval by the Village Board, for any purpose authorized by these provisions;
8. To spend and disburse such sums as may be appropriated for its use, upon approval of the Village Board;
9. To make recommendations to the Village Board concerning means to preserve, protect, enhance, rehabilitate and perpetuate landmarks and structures in landmark districts;
10. To adopt, publish and make available rules of procedure and other regulations for the conduct of Commission meetings, hearings and other business;
11. To prepare and present nominations of landmarks and historic districts to any State or Federal Registers of Historic Places;
12. To assume whatever responsibility and duties may be assigned to it by the State under certified local government provisions of the National Historic Preservation Act of 1966, as amended;
13. To cooperate with and enlist the aid of persons, organizations, corporations, foundations and public agencies in matters involving historic preservation, renovation, rehabilitation and reuse;
14. To advise any Village department or agency concerning the effect of its actions, programs, capital improvements or activities on designated or potential landmarks;
15. To hold hearings and make recommendations to the Village Board regarding applications for permits to alter, relocate or demolish landmarks or proposed landmarks and applications of property owners for economic hardship exceptions;
16. To exercise any other power or authority necessary or appropriate to carry out the purpose of these provisions.

(Ord. 3825, 4-22-1991; Ord. 5751, 4-27-2009; Ord. 5919, 2-14-2011; Ord. 6041, 6-25-2012; amd. Ord. 6064, 8-27-2012)

2-13-3. - Designation of landmark or landmark district; recommendation and preliminary determination.

(A) *Criteria* for designation: The Commission shall familiarize itself with areas, districts, places, buildings, structures, works of art and other objects within the Village which may be considered for designation by ordinances as "Glen Ellyn landmarks", and maintain a register thereof. Areas, districts, places, buildings, structures, works of art and other objects within the Village being considered for landmarking will have authenticity of historic identity, evidenced by the survival of physical characteristic that existed during the period of its significance. In making its recommendation to the Village Board for designation, the Commission shall limit its consideration solely to the following criteria concerning such area, district, place, building, structure, work of art and other objects:

1. It be of an age of at least 50 years, in whole or in part; and that two or more of the following conditions exist:
 - (a) It be listed on the National or State Register of Historic Places; or
 - (b) Its integrity of location, design, materials and workmanship make it worthy of preservation or restoration; or
 - (c) Its value as an example of the architectural, cultural, economic, historic, social or other aspect of the heritage of the Village of Glen Ellyn, the State of Illinois, or the United States; or
 - (d) Its certain distinguishing characteristic of architecture is inherently valuable for the study of a time period, type of property, method of construction or use of indigenous materials; or
 - (e) Its location as a site of an important archaeological, significant historic, or natural event; or
 - (f) Its identification with a person or persons who significantly contributed to architectural, cultural, economic, historic, social or other aspect of the development of the Village of Glen Ellyn, the State of Illinois, or the United States; or
 - (g) It be one of the few remaining examples of a particular architectural style; or
 - (h) Its exemplification of an architectural type or style distinguished by innovation, rarity, uniqueness or overall quality of design, detail, materials or craftsmanship; or
 - (i) Its identification as the work of an architect, designer, engineer or builder whose individual work is significant in the history or development of the Village of Glen Ellyn, the State of Illinois, or the United States; or
 - (j) Its representation of an architectural, cultural, economic, historic, social or other theme expressed through distinctive areas, districts, places, buildings, structures, works of art or other objects that may or may not be contiguous; or
 - (k) Its unique location or distinctive physical appearance or presence representing an established and familiar visual feature of a neighborhood, community or the Village.
2. In the case of residences, the Commission shall limit its consideration of landmark status to the exterior of the structure.

(B) *Recommendations of landmarks and landmark districts; preliminary determination:* The Commission or any person may recommend districts, places, buildings, structures, works of art and other objects for landmark designation. If other than the Commission, such person shall complete and submit a form provided by the Planning and Development Department. Following a recommendation, the Commission may, by resolution, make a preliminary determination of landmark designation; provided, that the proposed area, district, place, building, structure, work of art or other object meets the age requirement and two or more of the criteria for landmark designation.

(Ord. 6449, 11-14-2016)

2-13-4. - Notice of preliminary determination; request for owner consent.

Within 15 days of its preliminary determination, the Commission shall, by certified mail, return receipt requested, notify the owner(s) of the property of the reasons for and effects of the proposed designation and request that the owner(s) consent in writing to the proposed designation, and shall forward a copy of such notice to the Village Board. The owner(s) shall have 45 days from the date of mailing of the request to respond to the request.

- (A) *Proposed designation of building, etc.:* In the case of the proposed designation of an area, place, building, structure, work of art or other object, an owner may, within the 45-day period, request an extension of time, not to exceed 90 days, to submit a response.
- (B) *Proposed designation of district:* In the case of the proposed designation of a district, an owner or any Trustee may, within the 45-day period, request an extension of time, not to exceed 90 days, for owners of property within the district to submit responses. Of all owners in a proposed landmark district, 66⅔ percent of the property owners within the proposed landmark district must consent before the Commission may proceed under sections 2-13-5 through 2-13-7 of this chapter.

For purposes of this chapter, a "district" shall mean an area which contains, within definable geographic boundaries, one or more landmarks along with such other buildings, places, or areas which, while not of such historic significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark(s) located within the district; and/or an area which contains within definable geographic boundaries such buildings, places, or areas which, while not of such individual significance to be designated as landmarks, nevertheless, as an aggregate, possess historic significance for the Village in:

- 1. Establishing a sense of time and place unique to the Village; and/or
 - 2. Exemplifying or reflecting the cultural, social, economic, political, or architectural history of the Nation, the State, or the Village; and/or
 - 3. Representing distinguishing characteristics of an architectural type which is inherently valuable for studying a period, style, method of construction, indigenous materials, or unique craftsmanship.
- (C) *Owner consent:* If the owner of a proposed individual landmark or if 66⅔ percent of owners in a proposed landmark district fail(s) or refuse(s) to consent to the proposed designation within the applicable time periods, the designation process shall terminate as to that property without further action, and the subject of the proposed designation shall not be reconsidered for a period of two years. If the owner (s) consent(s) within the applicable time period, the Commission shall schedule a public hearing on the proposed designation pursuant to section 2-13-6 of this chapter to be held within 60 days of receipt of consent by the Commission.

(Ord. 3825, 4-22-1991; amd. Ord. 4458, 1-13-1997; Ord. 5266, 6-14-2004)

2-13-5. - Request for planning report.

Upon adoption of a resolution making a preliminary determination, and receipt of owner's consent in writing, the Commission shall advise the Board of Trustees of such resolution and consent and shall request a report from the Planning and Development Director which evaluates the relationship of the proposed designation to the Comprehensive Plan of the Village and the effect of the proposed designation on the surrounding neighborhood. The report shall also include the Director's opinion and recommendation regarding any other planning consideration relevant to the proposed designation and the Director's recommendation of approval, rejection or modification of the proposed designation. The report shall be submitted to the Commission within 45 days of the request, if the proposed designation is of an area, place, building, structure, work of art or other object, or within 60 days, if the proposed designation

is a district, and shall become part of the official record concerning the proposed designation. The Commission may make such modifications concerning the proposed designation and recommendation as it deems necessary. If the Director fails to submit a report within the time provided herein, the Commission may proceed with the designation process.

(Ord. 3825, 4-22-1991)

2-13-6. - Public hearing; recommendation of Commission.

- (A) *Notice requirements:* Prior to conducting a public hearing as provided hereunder, the Commission shall give at least 15 days' written notice of the date, time and place of the hearing to any owner of the subject property. The Commission shall also cause to be posted, for a period of not less than 15 days immediately preceding the hearing, a placard stating the time, date, place and matter to be considered at the hearing and such other information as directed by the Planning and Development Director. The placard shall be prominently displayed on the place, building, object or structure, or on the public ways abutting the property, and, in the case of designation of areas or districts, the placards shall be placed on the principal boundaries thereof. In addition, not more than 30 nor less than 15 days prior to the hearing, the Commission shall cause a legal notice to be published in a newspaper of general circulation in the Village setting forth the nature of the hearing, the property, area or district involved, and the date, time and place of the scheduled public hearing.
- (B) *Presentation of evidence; designation of parties:* The Commission shall provide a reasonable opportunity for all interested persons to present testimony or evidence under such rules as the Commission may adopt governing the proceedings of a hearing. The hearing may be continued to a date certain, and a transcript and record shall be kept of all proceedings. A person, organization or other legal entity whose use or whose members' use or enjoyment of the area, district, place, building, structure, work of art or other object proposed for designation may be injured by the designation or the failure of the Commission to recommend designation, may become a party to the proceeding. The foregoing shall include, without limitation, persons, organizations or other legal entities residing in, leasing or having an ownership interest in real property located within 250 feet of the property line of the proposed or designated landmark or landmark district.
- (C) *Commission recommendation following hearing; objections; vote of commission:* No later than its next regular meeting after the conclusion of the public hearing, the Commission shall vote upon whether to recommend the proposed landmark designation to the Board of Trustees. The affirmative vote of five members of the Commission shall be required to recommend a designation to the Board of Trustees. If the Commission recommends a designation, it shall set forth its recommendation in writing, including findings of fact relating to the criteria for designation in subsection 2-13-3(A) of this chapter that constitutes the basis for its decision. The Commission shall include with its written report the official record of its proceedings. If the proposed designation is of an area, place, building, structure, work of art or other object, the Commission shall transmit its report to the Board of Trustees within 60 days from the conclusion of the public hearing. If the proposed designation is of a district, the Commission shall transmit its report to the Board of Trustees within 90 days from the conclusion of the public hearing. Copies of the Commission report shall be sent to the owner of the property and placed on file with the Village Clerk.

(Ord. 3825, 4-22-1991)

2-13-7. - Consideration of recommended designation by Village Board of Trustees; plaques.

Within 45 days of receipt of the Commission recommendation, the Board of Trustees shall review and give due consideration to the findings, recommendations and record of the Commission in making its determination with respect to the proposed designation of any area, district, place, building, structure, work of art or other object having a special historical, community, architectural or aesthetic interest or value and shall vote upon such recommendation. The Board of Trustees may, by passage of an

ordinance within 45 days of the Commission recommendation, designate an area, district, place, building, structure, work of art or other object meeting one or more of the criteria stated in subsection 2-13-3(A) of this chapter as a "Glen Ellyn landmark". The Village Board shall direct that a suitable plaque or plaques be created by the Commission appropriately identifying said landmark and the owner(s) of the designated landmark shall affix said plaque to the property.

(Ord. 3825, 4-22-1991)

2-13-8. - Landmarks; notice of official designation.

The Commission shall, within ten days of official landmark designation, send a certified copy of the ordinance designating the property and a summary of the effects of designation to the owner(s) of the property by certified mail, return receipt requested. The Commission shall also file with the recorder of deeds of DuPage County, the assessor of DuPage County, the Village Clerk, the Department of Public Works of the Village, and all other relevant Village departments, a certified copy of the designating ordinance.

(Ord. 3825, 4-22-1991)

2-13-9. - Amendment, rescission and reconsideration of designation.

Any designation of an area, district, place, building, structure, work of art or other similar object as a "Glen Ellyn landmark" shall only be amended or rescinded in the same manner and procedure as the original designation was made. If the Commission votes not to recommend a proposed designation to the Village Board, or if the Commission has failed to issue its recommendations on a proposed designation within the time provided, or if the Village Board has refused to designate a proposed "Glen Ellyn landmark", then the Commission may not reconsider the proposed designation for a period of one year from the date of the negative Commission vote, or from the date of expiration of the time limitation for Commission action, or from the date of the Village Board's refusal to designate, whichever is applicable.

(Ord. 3825, 4-22-1991)

2-13-10. - Alteration, relocation or demolition of landmarks.

(A) *Application for permit; review requirements:* All permits for alterations, construction, erection, demolition, relocation or other work on the exterior of the structure shall be reviewed by staff in the administration or Planning and Development departments within 15 days of receipt thereof. The report will evaluate the impact of the permit application on the landmark structure and the effect on the surrounding neighborhood. The report shall also include staff's opinion and recommendation regarding any other planning consideration relevant to the permit application and staff's recommendation of approval, rejection or modification of the permit application. Staff will then forward a report and recommendation regarding the permit application to the Commission within 15 days of receipt thereof.

No permit for alteration, construction, reconstruction, erection, demolition, relocation or any other work affecting exterior appearance shall be issued to any applicant by any department of the Village without the written approval of the Commission for any area, district, place, building, structure, work of art or other object for which the Commission has made a preliminary determination of landmark status or which has been designated as a "Glen Ellyn landmark": 1) where such permit would allow the alteration or reconstruction of or addition to any exterior improvement which constitutes all or a part of a landmark or proposed landmark; or 2) where such permit would allow the demolition of any improvement which constitutes all or a part of a landmark or proposed landmark; or 3) where a permit would allow the construction or erection of any addition to any improvement or the erection of any new structure or improvement on any land within a landmark district; or 4) where a permit would

allow the construction or erection of any sign or billboard within the public view which may be placed on, in or immediately adjacent to any improvement which constitutes all or part of any landmark or proposed landmark.

Where the permit application involves a proposed landmark and the owner has submitted written consent to designation, the Commission may initiate the review process provided hereunder or it may impose a moratorium on the issuance of any permits until the designation process is completed. Where the proposed or officially designated landmark is a residence, the Commission shall concern itself solely with applications pertaining to alteration or reconstruction of the exterior, to the exterior of any proposed additions, and to the effect such addition will have on the character and appearance of the exterior in its entirety.

Any Village department which receives an application for a permit as defined in this section shall forward the application, including copies of all detailed plans, designs, elevations, specifications and documents relating thereto, to administration or Planning and Development staff within 15 days of receipt thereof, which will then be sent to the Commission within 15 days of receipt thereof. It shall be a violation of this chapter for an owner to perform, authorize or allow work or other acts requiring review without a permit.

(B) *Exception for preexisting work, ordinary maintenance and hazardous conditions:*

1. Erection, construction, reconstruction, alteration or demolition work begun pursuant to a properly issued permit prior to a preliminary determination of landmark status shall not be subject to review by the commission unless such permit has expired, been canceled or revoked, or the work is not diligently proceeding to completion in accordance with the Glen Ellyn building code.
2. Nothing in this chapter shall be construed to prevent the ordinary repair and maintenance of any exterior elements of a property or structure designated or proposed as a landmark or located within a designated or proposed landmark district.
3. Where property conditions pose an immediate threat to safety, the commission shall approve necessary work as provided in subsection (C)2. of this section.

(C) *Application for permit; preliminary decision by Commission:* Within 15 days of its receipt of a permit application from the relevant Village department, the Commission shall, by motion taken at a regular or special meeting, decide whether to preliminarily approve or disapprove the application and shall send written notice to the applicant and the appropriate Village department(s) of its preliminary decision.

1. *Preliminary approval by commission:* If the Commission finds that the proposed work will not adversely affect any significant historical or architectural feature of the improvement or of the district, and is in accord with the standards for rehabilitation set forth by the United States secretary of the interior at 36 CFR 67, as amended, as well as the Commission's published procedures and regulations, the Commission shall issue a preliminary approval of the application and shall notify the appropriate Village department(s) which shall proceed in its usual manner to review the application. If the Village department approves the building, demolition or other requested permit, it shall be issued in accordance with and governed by applicable Village Codes and regulations, including the 18 month limitation for commencement of authorized construction.
2. *Preliminary disapproval by Commission:* If the Commission finds that the proposed work will adversely affect or destroy any significant historical or architectural feature of the improvement or the district, or is inappropriate or inconsistent with the designation or design of the structure, area or district, or is not in accordance with the spirit and purposes of this chapter, or does not comply with the standards for rehabilitation established by the secretary of the interior, the Commission shall issue a preliminary decision disapproving the application for permit; provided, however, that if the construction, reconstruction, alteration, repair or demolition of any improvement would remedy conditions imminently dangerous to life, health or property, as

determined in writing by the Planning and Development department, the Commission shall approve the work, notwithstanding other considerations relating to its designation as a "Glen Ellyn landmark" or to the fact that the Commission has made a preliminary determination of landmark status. Notice of preliminary disapproval shall be sent to the applicant by certified mail, return receipt requested.

3. *Informal conference following preliminary disapproval:* Within ten days after receiving the Commission's notice of preliminary disapproval, the applicant for permit may request in writing an informal conference before the Commission for the purpose of securing compromise regarding the proposed work so that the work will not, in the opinion of the Commission, adversely affect any significant historical or architectural feature of the improvement or district and will be appropriate and consistent with the spirit and purposes of this chapter. The Commission shall hold such conference within 15 days after receipt of the request. The Commission shall consider with the applicant every reasonable means for substantially preserving, protecting, enhancing and perpetuating the special historical or architectural feature of the improvement or district, including investigating the possibility of modifying the proposed work, the possibility of any alternative private use of the structure or structures that would substantially preserve its special features, and the possibility of public incentives for enhancing the use of the structure or structures or district involved. If the Commission and the applicant for permit reach accord through the informal conference, as evidenced by a written agreement, the Commission shall issue its approval of the application for permit as modified and so notify the applicant and the appropriate Village departments which shall proceed with their own review.

(D) *Public hearing; consideration of economic hardship exception:*

1. If the Commission and applicant for permit have failed to reach accord by means of the informal conference, or if the applicant fails to request an informal conference, the Commission shall hold a public hearing on the permit application in accordance with procedures set forth in section 2-13-6 of this chapter.
2. Said hearing shall be held within 45 days following the conclusion of the conference or the owner's failure to request a conference. Any person, organization or other legal entity whose use or enjoyment of the area, district, place, building, structure, work of art or other object designated as a landmark may be injured by the approval or disapproval of a proposed alteration, construction, reconstruction, erection, demolition or relocation of a proposed or designated landmark, may become a party to a permit application proceeding.
3. In conjunction with such hearing, the applicant may file a request for an economic hardship exception on the basis that a denial of the permit applied for will result in the loss of reasonable and beneficial use of or return from the property. Failure of the applicant to request this exception and present pertinent evidence at the hearing shall be deemed a voluntary waiver of this right and preclude the applicant from raising the issue at any subsequent hearings before the Commission or the Village Board. Evidence to be submitted prior to and presented at the hearing and considered by the Commission in the event the Commission recommends disapproval of the permit shall include, but not be limited to, the following:
 - (a) The amount paid for the property and the date of purchase.
 - (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 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.
- 4. The Commission shall first consider the permit application on its merits. If the Commission recommends disapproval, it shall then consider and decide the request for an economic hardship exception.
- (E) *Commission decision approving or disapproving permit application and economic hardship exception:* Within 30 days after the conclusion of the hearing, the Commission shall issue a written report approving or disapproving the permit application and, where applicable, granting or denying the request for an economic hardship exception. The report shall contain the findings of fact that constitute the basis for the decisions consistent with the criteria in subsection (C)1. of this section. The Commission shall send written notice of its report to the applicant by certified mail, return receipt requested, to the appropriate Village departments and to the Village Board.
 - 1. *Approval:* If the Commission approves the permit, it shall recommend issuance of the permit; provided, the appropriate Village departments have authorized its issuance. Said decision shall be deemed a final decision of the Commission.
 - 2. *Disapproval; commission recommendation; plan to relieve hardship:* If the Commission recommends permit disapproval, it shall then determine whether denial of the permit would deprive the applicant of reasonable and beneficial use of or return from the property and shall issue and forward to the Village Board a written recommendation and report pertaining to its disapproval of the permit and approving or denying the requested exception. In the case of a finding of economic hardship, the report shall be accompanied by a recommended plan to relieve any economic hardship. This plan may include, but is not limited to, property tax relief, loans or grants from the Village or other public or private sources, acquisition by purchase or eminent domain, Building Code modifications, changes in applicable zoning regulations including a transfer of development rights, or relaxation of the provisions of this chapter sufficient to allow reasonable beneficial use of or return from the property.
- (F) *Village Board decision:* Within 30 days following the Commission's recommendation, the Village Board shall affirm, reverse or modify the recommendation of the Commission regarding permit disapproval and the economic hardship exception. If the Village Board affirms the Commission recommendation to disapprove the permit and deny an economic hardship exception, no permit shall issue. If the Village Board approves a plan to relieve economic hardship, it shall be by ordinance, and if the plan requires that any action be taken by Village departments or agencies, the action shall be initiated within 30 days following passage of the ordinance. If the Village Board does not approve a plan to relieve economic hardship within the time specified, the plan to relieve economic hardship shall be deemed to be denied and the permit shall issue.
- (G) *Failure of the commission to act:* The Commission's failure to act upon an application for permit within the applicable time periods shall constitute approval by the Commission and no other evidence shall be needed.

(Ord. 3825, 4-22-1991; Ord. 5266, 6-14-2004)

2-13-11. - Penalties and remedies for violations.

The following penalties and remedies shall be applicable to violations of this chapter:

- (A) *Penalties:* Failure to perform any act required by the ordinance codified in this chapter or performance of any action which is prohibited by said sections shall constitute a violation thereof. Every day on which a violation exists shall constitute a separate violation and a separate offense. Any person violating any of the provisions of this chapter shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 for each offense. In addition, if the owner of property designated a "Glen Ellyn landmark" willfully or through gross negligence causes all

or any part of the property to be demolished or substantially destroyed or altered without the approval of the Village Board or the Commission, as the case may be, then no permit to construct a new structure or improve said structure shall be issued for said property or for the land upon which the landmark stood within five years of the date of the demolition or alteration. Thereafter for a period of 20 years, commencing at the end of the five-year period hereinbefore stated, any application for a building permit on the subject premises shall follow the procedure heretofore set out in section 2-13-10 of this chapter.

- (B) *Remedies:* Notwithstanding the provisions of subsection (A) of this section, in the event any building or structure is erected, constructed, reconstructed, altered, added to or demolished in violation of this chapter, the Village may institute appropriate proceedings to prevent or remedy such unlawful erection, construction, reconstruction, alteration, addition or demolition.

(Ord. 3825, 4-22-1991)

2-13-12. - Severability.

If any provision of this chapter or application thereof to any person or circumstance is invalid, such invalidation shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

(Ord. 3825, 4-22-1991)