

ORDINANCE NO. 11-2019 (PD), *Second Reading*

By Council Member Ungar

An Ordinance enacting and adopting a revised Chapter 143, “Landmark Commission,” of the Codified Ordinances of Cleveland Heights, and declaring an emergency.

WHEREAS, the City has conducted a comprehensive review and revision of Chapter 143 and is enacting amendments to Chapter 143 to protect and enhance the historic and aesthetic qualities of the City for the enjoyment of the City’s residents and visitors alike; and

WHEREAS, the amendments to Chapter 143 further historic preservation goals by enabling the Landmark Commission to: safeguard locally designated properties, protect properties as they go through the Landmark designation process, designate local historic districts where more than 50% of property owners consent, and protect designated properties from inappropriate alterations or demolition; and

WHEREAS, Chapter 143 does not affect properties listed on the National Register of Historic Places unless they are also designated Cleveland Heights Landmarks or Historic Districts;

WHEREAS, the 2017 Cleveland Heights Master Plan includes a goal to promote the preservation of historic homes and buildings through the establishment of procedures for reviewing alteration and demolition of Landmarks and properties in local Historic Districts; and

WHEREAS, the amended Landmark Ordinance meets the Ohio Historic Preservation Office’s standards to become a Certified Local Government, an action promoted in the 2017 Cleveland Heights Master Plan; and

WHEREAS, Certified Local Government status is a federal-state-local partnership that permits qualified local communities to conduct a wide range of historic preservation activities in close cooperation with the State Historic Preservation Office; and

WHEREAS, Certified Local Government status entitles the City to apply for grants to conduct surveys, nominate properties to the National Register of Historic Places, further community historic preservation education, and to acquire and redevelop designated historic properties.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. The revised Chapter 143, “Landmark Commission,” shall be, and is hereby enacted and adopted in its entirety as set forth in Exhibit A attached hereto and incorporated herein of the Codified Ordinances of the City of Cleveland Heights, a copy of which is on file with the Clerk of Council, subject to approval of the Director of Law.

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SECTION 2. The existing Chapter 143 of the Codified Ordinances of the City of Cleveland Heights, be and is hereby repealed in its entirety.

SECTION 3. The Mayor is hereby authorized to submit to the State of Ohio a Request for Certification as a Certified Local Government. The Mayor is further authorized, along with the City Manager, to execute any additional documents, subject to approval of the Director of Law, including but not limited to a final agreement, as required by the State of Ohio to achieve Certification as a Certified Local Government.

SECTION 4. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 5. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to adopt the new Chapter immediately so that it may be incorporated into the Codified Ordinances of the City of Cleveland Heights. Wherefore, provided it receives the affirmative vote of five (5) or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

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CAROL ANN ROE, Mayor  
President of the Council

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SUSANNA NIERMANN O'NEIL  
Acting Clerk of Council

PASSED: March 4, 2019

CHAPTER 143  
Landmark Commission

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**143.01 ESTABLISHMENT; COMPOSITION, TERM AND VACANCY**

The Cleveland Heights Landmark Commission is hereby established and shall consist of seven (7) members appointed by Council for staggered terms of three (3) years each, with each member serving until the appointment of a successor. A vacancy occurring during the term of any member shall be filled for the unexpired term in the manner authorized for an original appointment. All vacancies shall be filled within sixty (60) days. An extension of this time limit may be granted by City Council. In case of temporary absence or disability of any member, a member may be appointed and confirmed in the manner provided above to serve during such temporary absence or disability. Such temporary member shall possess all of the qualifications of a regular member, shall have the same powers and perform the same duties, and shall abide by all of the rules of a regular member. The City Manager and the Director of Planning shall serve as ex-officio non-voting members of the Commission.

**143.02 PURPOSES.**

The purpose of the Landmark Commission is to designate Landmarks and Historic Districts in the City of Cleveland Heights pursuant to the procedures hereinafter described, in order to preserve, protect and perpetuate places, buildings, districts, structures, works of art and other objects having a special historical, community or aesthetic interest or value, all for the reasons described in the remainder of this section.

- (a) To safeguard the heritage of the City of Cleveland Heights, by preserving sites and structures which reflect elements of the City's cultural, social, economic, political or architectural history;
- (b) To stabilize and improve property values;
- (c) To protect and enhance the City of Cleveland Heights' attractiveness to residents, tourists and visitors, and serve as a support and stimulus to businesses;
- (d) To enhance the visual and aesthetic character, diversity and interest of the City of Cleveland Heights;
- (e) To foster civic pride in the beauty and notable accomplishments of the past;
- (f) To promote the use and preservation of historic sites and structures for the education and general welfare of the people of the City of Cleveland Heights;
- (g) To safeguard the architectural integrity of the City's designated Landmarks and Historic Districts;
- (h) To seek alternatives to demolition or incompatible alterations to designated Landmarks and properties within designated historic districts before such acts are performed; and
- (i) To encourage development of vacant properties located in designated Historic Districts in accordance with neighborhood character.

**143.021 DEFINITIONS**

For the purposes of this ordinance, the following words shall have the following meanings:

Alter or Alteration: Any material change to the appearance of an historic building, signage, structure or property, or structure or property within a Historic District, whether or not such change requires a building permit. Changes to the interior of a

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structure or to the landscaping are considered alterations only to the extent the features proposed to be changed were relevant to the initial Landmark or Historic District designation of the property.

Building: Any structure having a roof supported by or suspended from columns or walls and which is completely enclosed to serve as a shelter or enclosure for persons, animals, chattel or property of any kind. The term "building" shall be construed as if followed by the words "or any part thereof."

Building Change: Any alteration, demolition, removal or construction to a Landmark building or structure, or a building or structure within an Historic District. Building change shall also include change to site conditions and accessory buildings if those features were included in the initial Landmark or Historic District designation.

Commission: The Cleveland Heights Landmark Commission.

Certificate of Appropriateness: A certificate issued by the Landmark Commission indicating that a proposed building change, alteration, or demolition of a Landmark building or structure within a Landmarked site or Historic District is in accordance with provisions of this ordinance.

Construction: The erection of any on-site improvements to any parcel of ground located within an Historic District or on a Landmark site, whether the site is presently improved, unimproved, or hereafter becomes unimproved by demolition.

Demolition: The complete or substantial removal or destruction of any structure.

Exterior architectural feature: The architectural style, design, general arrangement and components of all of the outer surfaces of a structure including, but not limited to, the kind and texture of the building material and the type and style of all windows, doors, lights, signs, and other fixtures.

Historic District or district: Any area within a boundary which has been designated as a Historic District and subject to the jurisdiction of the Landmark Commission. A Historic District shall consist of contiguous properties within a determined boundary, which may be of a regular or irregular shape.

Historic significance: The attributes of a district, site, building or structure that possess integrity of location, design, setting, materials, workmanship, feeling and association, and that:

- (a) Are associated with events that have made a significant contribution to the broad patterns of our history; or
- (b) Are associated with the lives of persons significant in our past; or
- (c) Embody the distinctive characteristics of a type, period, or method of construction, or represent a significant and distinguishable entity whose components may lack individual distinction; or
- (d) Have yielded, or may be likely to yield, information important in prehistory or history.

Historic site or site: Any place, area, structure, work of art, or object which has special character or special historic, archaeological, or architectural value as part of development, heritage, or cultural characteristics of the City, County, State or

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Country, and which has been designated as such pursuant to the provisions of this title.

Historic structure: Any structure that has historic significance and that has been designated as a Landmark pursuant to the provisions of this ordinance.

Landscaping: Includes only mature landscaping, such as historic trees, excluding the planting or arrangement of flowers and plants incidental to the enhancement of a property or district. Landscaping may be a part of the Landmark designation if such landscaping is important in the history of the site, or was designed by a well-known landscape architect.

Landmark: Any property which has special character, historical, aesthetic or architectural value as part of the heritage, development or cultural characteristics of the City, County, State or Country and which has been designated as a Landmark pursuant to the provisions of this ordinance. Such designation shall include historic outbuildings and structures on such site unless noted otherwise.

Maintenance and/or repairs: Work done on a building or structure to prevent it from deterioration or to replace any part thereof in order to correct any deterioration, decay of, or damage to a building on any part thereof to restore same as nearly as practical to its condition prior to such deterioration, decay, or damage.

Property: Any plot of land, place, building, structure, work of art, fixture or similar object.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground or is attached to something having a fixed location on the ground, and including, but not limited to signs, fences, backstops for sports fields or courts, pergolas, decks, pools, patios, paved areas, sidewalks and gazebos.

**143.03 QUALIFICATIONS OF MEMBERS**

Each member of the Landmark Commission shall have been a resident of this City for not less than five (5) years prior to the member's appointment to the Commission. Council may waive the residence requirement provided herein. Members of the Landmark Commission shall be persons who have demonstrated special interest, experience, or knowledge in one of the following areas: architecture, history, historic preservation, law, realty, archeology, art history, planning, or related disciplines. At least two (2) members of the Commission shall be professionals in a preservation-related field to the extent such professionals are available and willing to serve. Qualifications of the members shall be kept on file and available for public inspection.

**143.04 COMPENSATION OF MEMBERS**

No compensation shall be paid to any member of the Landmark Commission for services performed on this Commission.

**143.05 INTEREST OF MEMBERS**

No member of the Landmark Commission shall participate in the review of any item for discussion before the Commission if such member has any personal or financial interest in the property involved in such discussion.

**143.06 MEETINGS; NOTICE**

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- (a) Schedule. The Landmark Commission shall hold at least four meetings in each calendar year, approximately on a quarterly basis. The meetings shall be at the regularly scheduled times established by the Landmark Commission at the beginning of each calendar year, or at any time upon the call of the Chairperson. The Chairperson may establish the agenda and may cancel a meeting in the event that there are no agenda items.
- (b) Meeting Notice and Owner Notification. Before conducting a meeting of the Landmark Commission, notice shall be given pursuant to Codified Ordinances Section 107.02.
  - (1) Additionally, in requests for designation or removal of designation of a single Landmark property or multiple properties within an Historic District, a public hearing shall be required and, at least ten (10) days prior to the meeting, written notice of the meeting shall be mailed or caused to be mailed by the Commission Secretary to interested parties requesting notifications and all property owners included in the designation and to adjacent property owners as follows:
    - (a) Properties on the same side of the street which abut the site on which the building or use is sought to be located;
    - (b) Properties on the same side of the street next contiguous to the premises so abutting;
    - (c) Properties across the street immediately opposite the site; and the premises opposite the abutting and contiguous premises referred to in subsections (1) and (2) hereof; and
    - (d) All other premises abutting the site(s).
  - (2) Additionally, in requests for a Certificate of Appropriateness, a public hearing shall be required and, at least ten (10) days prior to the meeting, written notice of the meeting shall be mailed or caused to be mailed by the Commission Secretary to interested parties requesting notifications and the applicant and to all owners of all properties any part of which abuts the parcel of land upon which the subject building or structure is situated.

The failure of any such person to receive such notice shall not affect the right and power of the Commission to hear such request or to take action in accordance with such public notice.
- (c) Minutes. The Landmark Commission shall keep minutes of its proceedings and these records shall be of public record and kept in the Landmark Commission office. All written reports, cases, decisions and special project descriptions shall be kept on file and available for public inspection.

**143.07 ORGANIZATION AND OFFICERS**

The members of the Landmark Commission annually shall choose one (1) of its number to serve as Chairperson for a period of one (1) year or until a successor has been chosen. The Chairperson shall preside over meetings. In the absence of the Chairperson, a temporary Chairperson shall be elected by those present. The City Manager shall appoint a City employee to serve as secretary of the Commission. The secretary shall:

- (a) Keep, or cause to be kept, a complete record of all meetings of the Commission and a detailed record of all Commission transactions;
- (b) Publish and distribute copies of the minutes, reports, and decisions of the Landmark Commission to Commission members, affected property owners,

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- and other interested parties requesting notifications;
- (c) Give notice as provided herein or by law for all public hearings conducted by the Landmark Commission;
- (d) Advise the City Council of vacancies on the Commission and expiring terms;
- (e) Publish a written annual report which shall include Commission activities, cases, decisions, and special projects; and
- (f) At regular meetings, present a staff report updating the Commission on relevant City activities.

In addition, the Secretary shall perform such other functions as the Commission may direct.

**143.075 CRITERIA FOR DESIGNATION**

In determining whether or not to recommend designation of such place, site building, structure, district, work of art or object as a Landmark or Historic District, the Commission shall consider the following criteria with respect to such property's historic significance and/or architectural significance:

- (a) Its character, interest or value as part of the development, heritage or cultural characteristics of the City of Cleveland Heights, State of Ohio or the United States.
- (b) Its location as a site of a significant local, county, state or national historic event.
- (c) Its identification with a person or persons who significantly contributed to the culture and development of the City of Cleveland Heights, the county, state, or nation.
- (d) Its exemplification of the cultural, economic, social or historic heritage of the City of Cleveland Heights.
- (e) Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style or building type.
- (f) Its embodiment of distinguishing characteristics of an architectural style or type valuable for the study of a period, building type, method of construction, or use of indigenous materials.
- (g) Its identification as the work of an architect, landscape architect, or master builder whose individual work has influenced the development of the City of Cleveland Heights.
- (h) Its embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural or structural innovation.
- (i) Its relationship to other distinctive areas which are eligible for preservation according to a plan based on an historic, cultural or architectural motif.
- (j) Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood, community or the City of Cleveland Heights.
- (k) Such other individual characteristics as shall be relevant to its designation as a Landmark or Historic District.

**143.08 PROCEDURES FOR DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS**

The Landmark Commission may adopt a resolution designating a site, building, structure, work of art or similar object in the City of Cleveland Heights as a Landmark or designate any grouping of such places or objects, or combination thereof, as a Historic District, by following the procedures set forth in this section. The Landmark Commission

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may act on its own initiative or pursuant to a request by an individual, group of individuals, or organization.

- (a) Owner Notification. Notification shall be in accordance with Section 143.06(b).
- (b) Permit Referral. In order to protect proposed Landmark properties or Historic Districts during the designation process, the Landmark Commission may adopt a resolution requiring, during the designation process, referral of all applications for permits related to a proposed Landmark or Historic District to the Landmark Commission for review. If the Landmark Commission adopts such a resolution, all such permit applications pending as of the effective date of the resolution and all permit applications submitted after said effective date shall be referred to the Landmark Commission for review, and the Landmark Commission shall have the same powers that would apply if the property were an established Landmark or Historic District. The referral and review of such permits shall continue for up to twelve (12) months after the Landmark Commission adopts such a resolution, or until such time as the Landmark Commission approves or rejects the establishment of the Landmark or Historic District, whichever occurs first.
- (c) Owner Consent. The Landmark Commission shall seek the consent of the owner or owners of all property included in the proposed designation. No such place, building, work of art, or similar object shall be designated a Landmark without the consent of the owner thereof. Greater than fifty percent (50%) of property owners within a proposed Historic District shall constitute consent to designation. Each individual parcel shall have a single owner vote.
- (d) Landmark Commission Report and Recommendation. The Landmark Commission shall prepare or cause to be prepared a report and recommendation as to the property proposed to be designated as a Landmark or within a Historic District, including an explanation of the significance of the property or properties in relation to the designation criteria, a description of the property or properties with a list of contributing and non-contributing structures and sites, a history of the property or properties, photographic documentation, and a map or site plan showing the boundaries of the proposed Landmark or Historic District. If the Landmark Commission recommendation is to decline designation of the Landmark or Historic District, no further action shall be taken.
- (e) Planning Commission recommendation. The Landmark Commission shall submit the report and recommendation to designate the Landmark or Historic District to the Planning Commission and secure a Planning Commission recommendation on the proposed designation, its opinion as to the effect of the proposed designation upon the surrounding neighborhood, and its opinion and recommendations as to any other planning consideration which may be relevant to the proposed designation, together with its recommendation of approval, rejection, or modification of the proposed designation. This recommendation shall become part of the official record concerning the proposed designation. The Landmark Commission may make such modifications concerning the proposed designation as it deems necessary in consideration of the Planning Commission's recommendation.
- (f) Landmark Commission public hearing. Within forty-five (45) days after receiving the Planning Commission's recommendation, the Landmark Commission shall schedule a public hearing on the proposed designation, providing notice in accordance with Section 143.06(b)(1). The public

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hearing shall include a summary of the property or district's history, the Commission's rationale for designation, and an explanation of the effect of designation. The Landmark Commission shall conduct the public hearing and provide opportunity for all interested parties to express their opinions under such rules as the Landmark Commission may adopt for governing the hearings.

- (g) Landmark Commission determination and Landmark/Historic District designation. After the required public hearing has been concluded, within sixty (60) days, the Landmark Commission shall then determine whether or not to designate the proposed site(s), building(s), structure(s), work(s) of art or similar object(s) as a Landmark or Historic District. The designation of a Landmark or Historic District becomes in full force and effect from the date the Landmark Commission adopts a resolution to designate the individual site, building, structure, work of art or similar object as a Landmark.
- (h) Notification of designation. Within ten (10) days after the adoption of a resolution by the Landmark Commission designating a Landmark or Historic District, the Secretary of the Landmark Commission shall communicate notice of the designation in writing to the owner(s) of such property, other interested parties requesting information, City Council and the City Building Department. A certified copy of the designating resolution together with a notice briefly stating the fact of such designation and a summary of the effects of such designation shall be filed with the Recorder of Deeds of Cuyahoga County and shall be sent to property owners included in the designation.
- (i) Removal of Landmark or Historic District Designation. The owner(s) of a Landmark or properties within a locally designated Historic District may petition the Landmark Commission to remove Landmark or Historic District status. In the case of a Historic District, at least a two-thirds majority of property owners, with each individual parcel having a single owner vote, must petition the Landmark Commission for designation removal. The Landmark Commission shall hold a public hearing to determine whether the property shall remain a Landmark or Historic District and shall provide notice of such hearing in accordance with Code section 143.06(b). The Commission shall take into account the reasons for initially designating the property or properties as a Landmark or Historic District, shall review the petition to rescind, and shall render a decision within ninety (90) days of receipt of the property owner(s)' written petition. After a final decision is rendered, the Landmark Secretary shall communicate notice in writing to the owner(s) of such property, and other interested parties requesting information, and the City Building Department. A resolution for removal of Landmark or Historic District designation shall be filed with the Recorder of Deeds of Cuyahoga County and shall be sent to property owners.
- (j) All Landmarks designated prior to the effective date of this ordinance shall maintain Landmark status and abide by Chapter 143 of the Codified Ordinances.

**143.09 RECORD OF LANDMARKS**

The Landmark Commission shall maintain complete records of all properties and districts designated as Landmarks and Historic Districts in the office of the Department of Planning and Development. This designation shall also be noted in the Building Department and Housing Department records of the City.

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**143.10 REGULATION OF BUILDING CHANGE/CERTIFICATE OF APPROPRIATENESS/TIME LIMIT FOR DEMOLITION DISAPPROVAL/MINOR CHANGES**

No owner, tenant, or occupant (hereafter, for purposes of this section 143.10, "owner") of any property designated as a Landmark or located within an Historic District shall undertake any building change, exterior alteration, new construction, or demolition to any part of the Landmark property or property within an Historic District without the consent of the Landmark Commission. Nothing herein contained shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any property which has been designated a Landmark or which is located in a Historic District that does not involved a change in design, material, color, or exterior appearance, nor prohibit immediate repairs necessary to remedy a condition dangerous to life, health or property.

- (a) Application for Certificate of Appropriateness.
  - (1) When the owner of a Landmark property or property within a designated Historic District wishes to undertake any building change, exterior alteration, new construction, or demolition, then the owner shall, in addition to applying for a building/demolition permit, apply to the Landmark Commission for a "Certificate of Appropriateness." Within seven (7) days following receipt of a demolition permit application or a building permit application that affects the exterior architectural features or appearance of a designated Landmark or property within a designated Historic District, the Building Department shall forward the application, plans, elevations, and other documentation to the Landmark Commission. The Building Department shall not issue the building or demolition permit for a Landmark or property within an Historic District until the Certificate of Appropriateness has been issued by the Landmark Commission.
  - (2) Application for review of exterior construction, alteration, demolition, or removal not requiring a building permit, but for which a Certificate of Appropriateness is required, shall be made on a form prepared by the Secretary of the Landmark Commission. This application will state in detail the change which the owner wishes to make to such property, together with appropriate drawings, plans, elevations, and other information necessary to explain and evaluate the proposed change.
- (b) Public Hearing by the Landmark Commission. The Landmark Commission shall hold a public hearing to review any proposed building change, exterior alteration, new construction, or demolition to any part of the Landmark property or property within a Historic District within sixty (60) days from the date the application is accepted as complete by the Secretary to the Landmark Commission. Notice shall be provided in accordance with Section 143.06(b). When an application for a building or environmental change requires review by both the Landmark Commission and the Architectural Board of Review, the boards shall make every effort to meet jointly.
- (c) Action by the Landmark Commission. Utilizing the design guidelines set forth in Section 143.14 of this ordinance, the Landmark Commission may approve the request for change submitted by the owner, modify the change requested by the owner, or reject the proposed change, all in accordance with its original criteria for designation of the particular Landmark or Historic District. The Landmark Commission shall then determine whether to issue a Certificate of Appropriateness. The applicant shall be given a written notice of the determination and, if approved, be issued a Certificate of Appropriateness. If the Landmark Commission does not act on the request

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- within ninety (90) days of application, the request will be deemed approved. The Landmark Commission decision shall be final.
- (d) Notice of Landmark Commission decision. Within ten (10) days after the action by the Landmark Commission, the Secretary of the Landmark Commission shall communicate notice of the action in writing to the owner(s) of such property, other interested parties requesting information, and the City Building Department.
  - (e) Time limit for demolition disapproval. If an application for demolition of a Landmark or property within a Historic District is rejected, the Commission and City staff shall negotiate with the applicant to find a means of preserving the property. If after a four-month period of meaningful and continuing discussions, no alternative is found, the parties may, by mutual consent, agree to an extension to continue negotiations. If, at the end of the four-month period or agreed upon extension, no alternative is found, the Building Department shall issue a permit for demolition without a Certificate of Appropriateness. Nothing herein shall prevent the City from ordering and/or approving the immediate demolition of such a property if, in the judgment of the Chief Building Official, it may cause a danger to the public health, safety, and/or welfare.
  - (f) Approval of Minor Changes. The Landmark Commission may delegate to its staff the authority to issue Certificates of Appropriateness for specified minor changes. The Landmark Commission shall provide to staff written guidelines for issuing Certificates of Appropriateness under this subsection.

**143.105 CERTIFICATE OF ECONOMIC HARDSHIP**

- (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. Application shall be made on a form prepared by the Landmark Commission. The Landmark Commission may hold a public hearing on the hardship application. All of the following criteria shall be considered to determine the existence of an economic hardship, provided that the applicant shall have the burden of persuasion by clear and convincing evidence:
  - (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;
  - (5) Previous alterations have interfered with the architectural character of the property and the character defining features to illustrate the style or type are lost, and to return the property to its original character is not reasonable; or
  - (6) Denial will result in a substantial burden as set forth in the applicant's sworn statement or affidavit in support.
- (b) Certificate Process. The Landmark 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 Landmark Commission deems necessary to determine whether denial of the application constitutes an economic hardship. The level of documentation required may vary as is appropriate to each case.

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- (c) Landmark Commission Action on an Application. The Landmark Commission shall act upon the application for Certificate of Economic Hardship within ninety (90) days after receipt of such an application. If no action has been taken by the Landmark Commission within ninety (90) days, the application shall be deemed granted, unless the time is extended by mutual agreement. Upon the denial of an application, the applicant shall be notified by mail.
- (d) Investigation of Measures to Relieve Hardship. Upon a finding by the Landmark Commission that a denial of the application for building or environmental change results in a hardship, then the application for a Certificate of Appropriateness shall be delayed for a period not to exceed sixty (60) days. During this period the Landmark Commission shall investigate measures to relive the hardship or otherwise preserve the property. Such plans and recommendations may include, but are not limited to: financial assistance, Building Code modifications, and/or changes to zoning regulations, to the extent such actions may be lawful.
- (e) Issuance of Certificate. If by the end of this ninety (90) day period, the Landmark Commission has found that without approval of the building or environmental change the hardship cannot be relieved, then the Landmark Commission shall issue a Certificate of Economic Hardship permitting the proposed building or environmental change.

Nothing herein contained shall obviate compliance by the owner of such property with all other applicable ordinances, rules and regulations of the City.

**143.11 POWERS AND DUTIES OF THE COMMISSION**

Attendance by Commission members shall be in person. The presence of four (4) or more members shall constitute a quorum for the transaction of all business and action by the Commission on any matter shall be effected by the concurring votes of at least four (4) members. The Landmark Commission shall have the following powers and duties in addition to those otherwise specified in this chapter:

- (a) The Commission shall conduct, or cause to be conducted, a continuing survey of all areas, places, buildings, structures, districts, works of art or similar objects in the City which the Commission, on the basis of information available or presented to it and in accordance with the guidelines established by the Ohio Historic Preservation Office, has reason to believe are or will be eligible for designation as Landmarks or Historic Districts. The collected information shall be recorded on the Ohio Historic Inventory and Ohio Archaeological Inventory forms and updated periodically as changes occur. This inventory material shall be maintained securely, made available to the Ohio Historic Preservation Office and open to the public.
- (b) The Commission shall nominate buildings, structures, districts, works of art or similar objects for local designation and for designation on the National Register of Historic Places, and shall review all such nominations for properties within the City.
- (c) The Commission shall designate Landmarks and Historic Districts;
- (d) The Commission shall review and approve or disapprove an application for a Certificate of Appropriateness.
- (e) The Commission shall work for the continuing education of the citizens of the City with respect to the historic and architectural heritage of the City and the Landmarks, Historic Districts, designated under the provisions of this chapter. It shall keep current and public a register of Landmarks and Historic Districts.
- (f) The Commission shall establish and utilize written guidelines to make

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determinations upon requests for permits for alterations, demolition or additions to designated Landmarks, and buildings and sites within Historic Districts.

- (g) The Commission shall act in an advisory role to other officials and departments of local government regarding the protection of designated and eligible local Landmarks, and districts.
- (h) The Commission shall act as a liaison on behalf of the City of Cleveland Heights to individuals and organizations concerned with historic preservation.
- (i) Each Commission member shall, barring extenuating circumstances, attend an educational session at least once a year. Materials shall be provided by the Ohio Historic Preservation Office (OHPO), and shall pertain to the work and functions of the Commission.
- (j) The Commission shall confer recognition upon the owners of Landmarks or structures within Historic Districts by means of certificates, plaques, signs, or markers.
- (k) The Commission shall have authority to establish rules and regulations consistent with the provisions of this chapter and the spirit of its purpose. These rules and regulations may assist the Commission in the evaluation of applications for Landmark and Historic District designations, unless otherwise provided in this chapter. It shall govern the manner in which such applications are processed, and the proper and orderly conduct of the Commission's business. Rules and regulations adopted by the Commission shall be made available to the public.
- (l) The Commission may accept the services on a permanent or part-time basis of technical experts and such other persons as may be required to perform its duties.
- (m) The Commission may undertake additional responsibilities upon mutual written agreement between the State Historic Preservation Office and the Certified Local Government.

**143.13 MINIMUM MAINTENANCE REQUIREMENT**

No person, being the owner of a Landmark property or a property located within a Historic District in the City of Cleveland Heights, shall fail to provide sufficient and reasonable care, maintenance and upkeep to ensure such building, structure, or site's perpetuation and to prevent its destruction by deterioration. This provision shall be in addition to all other applicable code provisions and shall be subject to the penalties outlined in Section 143.99 of this ordinance.

**143.14 DESIGN GUIDELINES**

The Commission may establish Design Guidelines for the City of Cleveland Heights Landmarks and Historic Districts to guide review of alterations and new construction to a Landmark or within an Historic District. Design guidelines shall not limit new construction within a Historic District to any one historical period or architectural style, but shall seek to preserve the integrity of existing historic structures. Building design shall not attempt to copy a historical style, but a contemporary design shall respect the context, massing and scale of the area. When establishing Design Guidelines, the Landmark Commission shall share and discuss the draft guidelines with the Architectural Board of Review and obtain their recommendation.

Designs should be reviewed with respect to Design Guidelines for the City of Cleveland Heights Landmarks and Historic Districts. Until such time that these guidelines are established, designs for Certificates of Appropriateness shall be reviewed keeping in

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mind the Secretary of the Interior's Standards for Rehabilitation which, at a minimum, consider the following exterior architectural features and design criteria:

- (a) Height
- (b) Proportions of windows and doors
- (c) Relationship of building masses and spaces
- (d) Roof shape
- (e) Building material and color
- (f) Scale
- (g) Detailing

**143.16 SEVERABILITY**

If any particular section of this chapter is declared to be unconstitutional or void, only that particular section is affected, and all other sections of this chapter shall remain in full force and effect.

**143.99 SCHEDULE OF FEES AND PENALTIES**

- (a) Council shall by ordinance establish a schedule of fees for application for designation, certificates of appropriateness, removal of designation, and other procedures after considering the recommendations of the Secretary to the Landmark Commission with respect to actual administrative costs, both direct and indirect. The schedule of fees shall be available at City Hall, and may be altered or amended only by Council. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application or administrative procedure.
- (b) Any person who undertakes or causes an alteration, construction, demolition, or removal of any designated Landmark or property within a designated Historic District without a Certificate of Appropriateness or otherwise complying with Section 143.10 shall be guilty of a minor misdemeanor and upon conviction thereof shall be punished by a fine not to exceed One Hundred Fifty Dollars (\$150.00). Each day such violation shall continue to exist shall constitute a separate violation. The City of Cleveland Heights may institute any appropriate action to enjoin, correct, or abate any violation of this chapter. The property owner shall also pay any Building Department fines as a result of construction or demolition without a Building Permit.