

Chapter 37
PRESERVATION*

*Cross reference(s)--Buildings and building regulations, Ch. 12; planning and development,

Ch. 34; zoning, App. A.

State law reference(s)--Powers of home rule units, Ill. Const. art. VII, § 6.

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ARTICLE I

IN GENERAL

Sec. 37-1. Declaration.

A. Over the last few decades, unprecedented development has taken place in and around the city. This development is accompanied by shifts of population and changes in residential, commercial and industrial land use. This kind of growth and development threaten longstanding and historically or architecturally *significant* properties and areas within the city. These properties and areas are important sources of the city's traditions and stability.

B. In the interest of the public health, safety and general welfare and pursuant to sound urban planning principles those properties and areas that have special historical, architectural, community or aesthetic *significance* should be preserved, enhanced and restored to use. The city's economic vitality and tax base cannot be maintained and enhanced without regard for Aurora's heritage and older neighborhoods.

C. The preservation of *significant* properties, buildings and historic *structures* will serve to:

1. Stabilize and improve the economic vitality and value of the city in general, and of *designated sites* and *improvements* in particular;
2. Preserve the city's existing housing stock;
3. Foster civic pride in the beauty and accomplishments of the past;
4. Enhance the city's appeal to visitors so as to support and stimulate commerce and industry;
5. Promote and encourage the continued private ownership and use of *designated sites* and *improvements* to the maximum extent consistent with the above objectives.

(Code 1969, § 37-1)

Sec. 37-2. Purposes.

The purposes of this chapter are to:

- A. Establish the *commission* and its governing rules.
- B. Establish standards and a procedure for the designation of *landmarks*, *historic districts* and *urban conservation districts*.
- C. Establish standards and a procedure for reviewing requests to perform an *alteration* of a designated *landmark* and *alterations* within a designated *historic or urban conservation district*.
- D. Provide for appeals from decisions of the *commission* regarding proposed work on a designated *landmark*, *historic district* or *urban conservation district site*.

(Code 1969, § 37-2)

Sec. 37-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: When the below defined words are used within the ordinance, each will be shown in italics.

Adaptive Use. *Rehabilitation* of a historic *structure* for use other than its original use such as a residence converted into offices.

Addition. New *construction* added to an existing building or *structure*.

Alteration. Any change or modification, including, but not limited to *demolition* or *addition* to the structural aspect, the materials, color, texture or details of all or a part of the exterior of any *improvement* or *site*. *Alteration* shall not include normal repair or maintenance.

Application for Designation. The official written request received by the *commission*, asking that a *site* within the city be designated as a *landmark*, a *historic district* or an *urban conservation district*.

Certificate of Appropriateness. A certificate issued by the *commission* authorizing the performance of *alterations*, *construction* and *demolition* on property and *improvements*, which have been designated a *landmark* or which is located within a *historic preservation district* or an *urban conservation district*.

Certificate of Economic Hardship. A certificate issued by the *commission* authorizing the performance of *alterations*, *construction* and *demolition* even though a *certificate of appropriateness* has previously been denied.

Commission. The Aurora preservation *commission*.

Construction. Any act or process whereby a new *improvement* is built, an existing *improvement* is structurally changed or is expanded in size or area, or a new *structure* is built on *site* where a previous *improvement* was demolished.

Demolition. An act or process which destroys a *site* or *improvement* in its entirety, or which destroys a part of a *site* or *improvement* and permanently impairs its structural, historic or architectural integrity.

Designated Site. That specification, pursuant to this chapter, as a *landmark*, *historic district* or *urban conservation district*.

Design Guidelines. The manual, entitled *city of Aurora historic districts and landmarks guidelines*, adopted by the Aurora preservation *commission*, approved and modified from time to time by the city council, which sets forth the appropriate standards for *restoration*, *rehabilitation* and preservation of *improvements* or *sites*.

Director. *The director* of the Aurora preservation *commission*, or if none has been appointed, the city's director of community development.

District. Any proposed or existing *historic district* or *urban conservation district*.

Exterior Architectural Feature. The architectural style, design, general arrangement and components thereof, of the outer surfaces of an *improvement*.

Exterior architectural features shall include, by way of example, but not by limitation, the kind, color or texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to *improvement* as distinguished from the interior surfaces enclosed by such outer surfaces.

Final Administrative Decision. Any decision reached by the *commission* or its designee, governed by this chapter, from which there is no further administrative appeal to any agency of the city of Aurora.

Historic District. An area of the city with defined geographic boundaries and designated as a “historic district” under this ordinance.

Improvement. Any building, *structure*, wall, fence, steps, paving, gate, sign, light, general arrangement of place or area, kind of texture or quality of building material, landscaping or landscape architecture, or work of art, commemorative *structure* or other object which is or may be erected or arranged upon real estate.

Interim Control. That period of time between the filing of an *application for designation* and the *final administrative decision* with respect to that application.

Landmark. An *improvement* or *site* designated as a “landmark” by the *commission*, pursuant to procedures prescribed in this chapter, that is worthy of *rehabilitation*, *restoration* and preservation because of its historic or architectural *significance* to the city.

Normal Repair and Maintenance. Subject to the provisions of the existing guidelines, any work to be performed on an existing *improvement* or *site* for the purpose of maintaining and retaining the existing condition of the *improvement* or *site*. *Normal repair and maintenance* shall not be deemed an *alteration*.

Owner or Owners. For purposes of the right to speak at a public hearing or the right to appeal a decision, *owner* shall mean the actual legal or beneficial *owner* of the property in question.

Owner of Record. The person, corporation or other legal entity that holds legal title to real property as shown on the tax assessor’s rolls.

Public View. The sight perspectives of an *improvement* or *site* from a public right-of-way or public place. An alley shall not be considered a public right-of-way for the purposes of this definition.

Rehabilitation. The process of returning an *improvement* or *site* to a state of utility, through repair or *alteration*, which makes possible an appropriate current use while preserving those portions and features of the *improvement* or *site* which are *significant* to its historic, architectural or cultural value.

Restoration. The act or process of taking an *improvement's* or *site's* appearance back to a specific period of time by removing later work and by replacing missing earlier features to accurately match or portray the original *improvement* or *site*.

Significant. That characteristic of an *improvement* or *site* denoting the importance of one or all of its elements due to its association with a noteworthy event, person or time period; or because it is an example of a prominent architectural style.

Site. Any real property or feature of real property within the city; the use of which is, in any way, regulated or affected by this chapter. *Site* shall include real property and all the *improvements* as defined in this chapter.

Structure. Any building, wall, fence, sign, fixture, steps or other elements attached or intended to be attached to the land.

Urban Conservation District. An area of the city with defined geographic boundaries and designated as an "urban conservation district" under this ordinance. An *urban conservation district* is an area that may not meet the standards for a *historic district*, but is threatened with obsolescence or deterioration that requires some special attention, protection or financing from the *commission* or the city.

Sec. 37-4. General principles for construing all the requirements and each of the processes of this chapter.

A. No provision in this chapter shall be construed as repealing any other regulation of the city.

B. Any permit or license required by any other city regulation shall be in addition to any *certificate of appropriateness*. However, where a *certificate of appropriateness* is required, no other permit or license may be issued by any department of the city until a final determination on the *certificate of appropriateness* has been issued by the *commission* or its designee.

C. A *site* receiving a designation pursuant to this chapter shall in all instances, continue to be governed by the city zoning ordinance (Appendix A of this Code).

D. Whenever there is a conflict between a provision of this chapter or a regulation adopted pursuant to it and the provisions of any other regulation of the city; the more restrictive shall apply.

E. Any notice required by this chapter shall be in writing.

F. Any mailing required by this chapter shall be by both certified and first class mail. All mailings shall be sent not less than ten (10) nor more than thirty (30) business days prior to a public hearing. Failure to send notice where the address of an *owner of record* cannot be found shall not defeat any action taken pursuant to this chapter.

G. Any time reference to days shall mean calendar days unless otherwise stated.

H. Any reference to the term *commission* shall refer to any designee of the *commission*.

I. Any newspaper publication required by this chapter shall be in a newspaper of general circulation within the city and be published not less than ten (10) nor more than thirty (30) days prior to the public hearing.

J. Any public hearing held pursuant to this chapter, once duly commenced, may be continued from time to time without further notice so long as the continued date is announced at the prior meeting.

K. Any decision or determination required of the *commission* shall be by a majority vote of the members present at any meeting.

L. Any decision or determination required by this chapter shall be in writing and include findings of fact.

M. Any *final administrative decision* may be reviewed only pursuant to article III of the Illinois code of civil procedure.
(Code 1969, § 37-4)

Sec. 37-5. Penalties.

Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this code.

(Code 1969, § 37-19)

Sec. 37-6. Other remedies.

In addition to any other remedies provided by law, the city may institute any appropriate action or proceeding to prevent, restrain, abate or correct a violation of this chapter. This shall include, but not be limited to, requiring the *restoration* of a *site* to its appearance prior to the violation.

(Code 1969, § 37-20)

Secs. 37-7 -- 37-20. Reserved.

ARTICLE II
PRESERVATION COMMISSION*

*Cross reference(s)--Boards and commissions generally, § 2-406 et seq.

Sec. 37-21. Creation; members.

A. There is created the Aurora preservation *commission*, which shall consist of eleven (11) voting members to be appointed by the mayor with the consent of the city council. Members shall serve for terms of three (3) years which may be extended until the respective successor of each member is appointed. Vacancies shall be filled by appointment for the remainder of any unexpired term. Members may be appointed for no more than two (2) consecutive terms and shall serve without compensation.

B. All voting members of the *commission* shall be residents of the city and shall be appointed on the basis of demonstrated expertise, experience or interest in the areas of anthropology, architecture, art, building *construction*, engineering, finance, historical and architectural preservation, history, law, neighborhood organizing, planning or real estate. A representative from any of the various city departments may serve, ex officio, as a nonvoting member of the *commission* when so appointed by the mayor at the request of the *commission*.

(Code 1969, § 37-5)

Sec. 37-22. Organization; rules; meetings; removals; conflicts.

A. The mayor shall appoint a chairman and a vice-chairman from among the members of the *commission* for terms of one (1) year or until such time as the mayor appoints a new chairman and/or vice-chairman. The chairman shall preside over all meetings. In the absence of the chairman, the vice-chairman shall perform the duties of the chairman.

B. The *commission* shall adopt rules for the conduct of its business. Meetings shall be held at regularly scheduled times or at the call of the chairman. The *commission* shall be subject to the Illinois Open Meetings Act.

C. A quorum shall consist of a majority of appointed members. The transaction of business shall be made by a majority vote of those members in attendance while a quorum is present. However, the adoption, modification or rescission of any rule or part of a rule shall require the affirmative vote of a majority of appointed members. Members shall be automatically dismissed from

the *commission* upon failing to attend at least two-thirds of all meetings held during any twelve (12) month period of time.

D. The mayor may, in his or her sole discretion, remove any member for incompetence, neglect of duty or malfeasance in office. The mayor shall, within ten (10) days, report the reasons for the removal, in writing, to the city council.

E. Any member of the *commission* having a pecuniary or personal interest in any matter coming before the *commission* shall disclose such interest to the other members and such interest shall be made a matter of record. Any member having such an interest shall not present or speak on such matter nor shall he or she vote or in any way use his or her personal influence on such matter. He or she shall not be counted in determining a quorum for consideration of such matter.

(Code 1969, § 37-6)

Cross reference(s)--Human services department to provide staffing and liaison for boards, etc., § 2-284.

Sec. 37-23. Powers and duties.

The *commission* shall have the authority to do the following:

A. Designate *landmarks, historical districts and urban conservation districts* within the corporate limits of the city in accordance with the procedures and standards set forth in this chapter.

B. Issue *certificates of appropriateness* and *certificates of economic hardship* in accordance with the procedures and criteria set forth in this chapter. The *commission* may selectively delegate its authority to grant *certificates of appropriateness* for the more routine requests, i.e. *alterations* that are clearly appropriate and so consistent with the purpose of this chapter and the *design guidelines* that further review is not required.

C. Adopt rules and regulations as may be deemed necessary for review of applications for *certificates or appropriateness*.

D. Review decisions of the *director* with respect to whether a proposed work is an *alteration or normal maintenance and repair*. Such a review shall not require a hearing.

E. Provide financial and technical assistance as may from time to time be available to the *owners* of a *landmark* or property within a *historic district or urban conservation district*.

- F. Retain, upon approval by the city council, such specialists as may from time to time be required.
- G. Engage in mutual cooperation with city departments and other commissions on matters affecting *designated sites*.
- H. Make suggestions and recommendations relative to the nomination of *designated sites* to state and national registers.
- I. Foster the marking and maintenance of *designated sites* as may be appropriate of each and as may aid the public in visiting such areas with convenient and appropriate surroundings.
- J. Recommend the city's acquisition by donation, purchase or eminent domain of a fee or lesser interest in *designated sites*. This may include, but not be limited to easements, covenants and leasehold interests.
- K. Recommend the city's acquisition by donation, purchase or eminent domain of a fee or lesser interest in property which is within the *public view* and adjacent to or immediately surrounding a *designated site* when the adjacent property's *alteration*, clearance or maintenance is important for the proper preservation and use of a *designated site* or *improvement*.
- L. Recommend the city's reconstruction, maintenance, operation or transfer of *designated sites* in accordance with the purposes, procedures and standards set forth in this chapter.
- M. Create and perfect appropriate covenants and restrictions to protect *designated sites*.
- N. Receive funds from federal, state and private sources for deposit in a separate account of the city to be referred to as the preservation fund. Monies from this fund shall only be loaned or expended by the *commission* with approval of the city council in furtherance of the purposes set forth in this chapter. If the *commission* is dissolved, any amounts remaining in the fund shall be applied by the city council to further the purposes of this chapter. If any amounts remain in the fund after a period of one (1) year following the *commission's* dissolution, then such funds may be applied by the city council for such general corporate purposes, as it may deem appropriate.
- O. Recommend the issuance of revenue bonds by the city council to further the purposes of this chapter.
- P. Cooperate with other governmental bodies or agencies and not-for-profit organizations with purposes similar to those set forth in this chapter.
- Q. For purposes of remedying emergency conditions determined to be dangerous to life, health or property, the *commission* may waive the procedures

set forth in this chapter and grant immediate approval for a *certificate of appropriateness*. The *commission* shall state its reasons in writing for such immediate approval.

(Code 1969, § 37-7)

Sec. 37-24. Director.

A. Upon recommendation by the *commission*, the mayor, with the consent of the city council, may appoint a *director* to provide staff support to the *commission*. If a *director* is not appointed, the director of community development shall have the responsibilities of the *director* as set forth in this chapter.

B. The *director* shall keep, or cause to be kept, a record of all proceedings and actions of the *commission*. This record shall be open to the public for inspection and shall be kept and maintained at the *director's* office.

C. The *director* shall submit, at a minimum, a quarterly report of the *commissions'* activities to the city council.

D. The *director* is hereby authorized to prepare and serve citations for violations of this chapter.

E. The *director* shall keep a register of all *landmarks, historic districts and urban conservation districts* which have been so designated pursuant to this chapter. This register shall include the information required of each designation, along with appropriate maps.

Secs. 37-25 -- 37-30. Reserved.

ARTICLE III

LANDMARKS

Sec. 37-31. Landmark designation standards.

The *commission* shall consider the following when making a decision with respect to a site for *landmark* designation:

A. The *site's significance* with respect to the historic, cultural, artistic, social, ethnic or other heritage of the nation, state or community;

B. The *site's significance* as it may be representative of an architectural or engineering type inherently valuable for the study of a style, period, craftsmanship, method of *construction* or use of indigenous materials;

C. The *site's* association with an important person or event in national, state or local history;

D. The *site's* identity as a notable work of a master builder, designer, architect or artist whose individual genius has influenced an era;

E. The *site's* identity as an established and familiar visual feature in the community owing to its unique location or physical characteristics;

F. The preferences of the *owner*;

G. The economic and functional potentials of the *site*.

(Code 1969, § 37-8)

Sec. 37-32. Application for a *landmark* designation.

A. Any resident of the city of Aurora or person representing, by written authority, a resident of the city of Aurora or the *commission* by a three-fifths vote of all members then appointed, may apply for a *landmark designation* for a *site* located within the corporate limits of the city.

B. Applications shall be filed with the *director* on forms provided by the *commission*. With respect to the property proposed for designation, the application shall include or be accompanied by the following:

1. If the applicant is the *commission* or a person who is not the property *owner*; the name and address of the *owner of record*.

2. If the applicant is not the *owner*, a statement as to whether or not an attempt has been made to obtain the *owner's* consent to the proposed designation.

3. If the applicant is the *owner*, the name and address of both the legal and beneficial *owner*.

4. The legal description and common street address.

5. A map delineating the property's boundaries and location.

6. A written statement describing the property and setting forth reasons in support of the proposed designation.

7. Such other information as may be required by the *director* or the *commission*.

C. No application relating to the same property may be filed during the twelve (12) months following a denial.

Sec. 37-33. Period of *interim control* for a proposed *landmark*.

From the date of filing a completed *application for designation* until the date of a *final administrative decision*, the provisions of article VI shall apply as if the subject property were designated as requested. This *interim control* shall in no case apply for more than two hundred ten (210) days after the application is filed. The *owner of record* shall be notified of this period of *interim control* by the *director* within seven (7) days of the filing of the completed *application for designation*. This notice shall inform the *owner* that any contract for the sale of the subject property must disclose this status to the prospective buyer.

(Code 1969, § 37-14)

(Code 1969, § 37-11)

Sec. 37-34. Notification and preliminary review as to a *landmark application for designation*.

A. Upon receipt of a fully completed *application for designation*, the *director* shall schedule a preliminary review by the *commission*. The *director* shall notify the applicant of the time and place of the preliminary review. The *director* shall also notify the division of inspections, permits and zoning enforcement, the division of planning and the public works department that an *application for designation* has been received. The notification shall request that each report to the *commission* on any matters that might affect the subject property or surrounding area.

B. The *director* shall notify the applicant if additional materials are required.

C. At the preliminary review, the *commission* shall consider the application and decide whether it appears that there is sufficient merit to the *application for designation* to proceed to a public hearing. If the *commission* determines that the *site* clearly will not meet the standards for designation as set forth in this chapter, it shall enter a formal denial of the *application for designation*, which shall constitute a *final administrative decision*.

D. If the *commission* finds, upon completing the preliminary review, that an application merits further consideration, then a public hearing shall be scheduled to be held within forty-five (45) days of the completion of the preliminary review. The applicant is notified if additional materials are required.

(Code 1969, § 37-12)

Sec. 37-35. Public hearing on a *landmark application for designation*

A. The *director* shall notify by mail the applicant and *owner or owners* of the subject property as to the date, time, place and purpose of the public hearing.

B. The *director* shall also publish newspaper notice of the public hearing.

C. The applicant shall be required to produce the following information at the hearing:

1. All information that was required to be submitted on or with the *application for designation*.

2. Clear photographs of the *improvements* on the subject property, together with information as to the age, condition and current and historical use of each *improvement*.

3. Proposals for the *restoration, rehabilitation* or enhancement of the subject property.

4. Any other materials required by the *commission*.

D. The applicant, the *owners* of the subject property and property *owners* immediately adjacent to the subject property shall be entitled to speak at the public hearing. The *commission* may, in the sole discretion of the chairman, accept comments from any other interested parties. The *commission* shall review and evaluate the information that it deems appropriate according to the standards set forth in this article III. A record of the proceedings shall be made and retained as a public record.

(Code 1969, § 37-13)

Sec. 37-36. Decisions on *landmark* designation applications.

A. *Commission* action:

1. The *commission* shall deny, grant or grant with modifications, the requested *landmark* designation within thirty (30) days after the public hearing.

2. The *commission* may not modify the area of a proposed *landmark* designation such that the *site* extends beyond the exact physical boundary of the subject property as described in the application.

B. Decisions

1. A decision denying an application for *landmark* designation shall be a *final administrative decision*

2. Each decision, as applicable, shall be in writing and shall include findings of fact. The *director* shall mail copies of the decision or recommendation to the applicant and the *owner* of the subject property.

3. The *director* shall forward copies of any *final administrative decision* to the applicant, the *owner* of the subject property, the city clerk and the department of building and permits.

4. If a designation is granted, the *director* shall record a copy with the county in which the property is located.

5. A designation may be amended or rescinded pursuant to the same procedure and according to the same standards and considerations set forth for designation.

C. Appeals to the city council:

1. A decision that grants or grants with modifications any designation may be appealed to the city council only by an owner of the subject property. The appeal must be filed in writing with the city clerk within fifteen (15) business days after the *commission's* decision to grant the designation.

2. If an appeal is not filed within such time, the designation of the *commission* shall be a *final administrative decision*.

3. An appeal to the city council shall only be by a review of the record established before the *commission*. No new evidence may be introduced in the record on the appeal. However, the *commission*, the applicant, and an *owner* may be permitted an opportunity to make a statement as to their respective positions.

4. Within thirty (30) days after an appeal is filed, the city council shall, by resolution, affirm, reverse or modify the *commission's* designation. A decision of the city council to affirm or reverse shall be a *final administrative decision*. If the city council modifies the *commission's* designation, such modification shall be subject to approval by the *commission* at its next regular meeting. If the *commission* does not approve such modification, the designation shall be deemed to have been denied by the city council and shall be a *final administrative decision*.

Sec. 37-37. Alteration of a designated landmark.

No *alteration* may be performed on a *site* designated as a *landmark* except as set forth in article VI of this chapter.

Secs. 37-38 -- 37-40. Reserved.

ARTICLE IV
HISTORIC DISTRICTS

Sec. 37-41. *Historic district* designation standards.

The *commission* shall consider the following when making a decision with respect to *historic district* designation:

- A. Any and all of the standards set forth in section 37-31;
- B. The homogeneity of architectural design or dates of *construction* throughout the proposed *district*;
- C. The *district* is identifiable by clear and distinctive boundaries;
- D. There exist particular distinguishing architectural or land use characteristics throughout the proposed *district*.

(Code 1969, § 37-9)

Sec. 37-42. Application for a *historic district* designation.

A. Prior to any application being submitted for designation, the interested party must schedule a meeting with the *director* and/or staff. The purpose of the meeting with the *director* shall be to review their proposal, the process for designation and the importance of communication with property *owners*. The *director* will present and secure signature(s) for a complete package of information which should include, but not be limited, to:

- 1. A copy of the current guidelines and ordinance.
- 2. Application papers.
- 3. Sample materials and aids for information notices and meetings.
- 4. Sample form(s) for documentation of *owners'* consent, objection or undecided/non-responsive positions.
- 5. A timeline of the application and approval process.

B. A preservation file shall be created by the *director* and made available for the public record. The file shall include the contact(s) information and general boundaries of the proposed *district*.

C. Any person, group of persons or association including the *commission* by a three-fifths vote of all members then appointed, may apply for a

historic district designation for a *site* located within the corporate limits of the city, subject to the following:

1. Person means a resident of the city of Aurora or a person representing, by written authority, a resident of the city of Aurora.
2. Any association must have its headquarters or main business address within the city.
3. No application shall be accepted unless a simple majority of all *owners* within the proposed *district* have consented to such application. One vote shall be allotted per each tax parcel within the proposed *historic district*. Failure to respond shall be counted as a consent vote.
4. Proof of notice of the request for a vote as to consent or opposition to the designation must be provided for each tax parcel.

D. Applications shall be filed with the *director* on forms provided by the *commission*. With respect to the property proposed for designation, the application shall include or be accompanied by the following:

1. If the applicant is the *commission* or a person who is not a property *owner*; the name and address of the *owner of record*.
2. For each tax parcel in the proposed district, a statement as to the manner in which an attempt has been made to obtain the *owners'* consent to the proposed designation. Such statement should be accompanied by proof showing consent, opposition or undecided/non-response for each tax parcel in the proposed *district*.
3. If the applicant is an *owner*, the name and address of both the legal and beneficial *owner*.
4. The legal description and common street address.
5. A map delineating the property's boundaries and location.
6. A written statement describing the property and setting forth reasons in support of the proposed designation.
7. Such other information as may be required by the *director* or the *commission*.

E. No application relating to the same property may be filed during the twelve (12) months following a denial.

Sec. 37-43. Period of *interim control* for a proposed *historic district*.

From the date of filing a completed *application for designation* until the date of a *final administrative decision*, the provisions of article VI shall apply as if the subject property were designated as requested. This *interim control* shall in no case apply for more than two hundred ten (210) days after the application is filed. The *owner of record* shall be notified by mail of this period of *interim control* by the *director* within seven (7) days of the filing of the completed *application for designation*. This notice shall inform the *owner* that any contract for the sale of the subject property must disclose this status to the prospective buyer.

(Code 1969, § 37-14)

(Code 1969, § 37-11)

Sec. 37-44. Notification and preliminary review as to a *historic district application for designation*.

A. Upon receipt of a fully completed *application for designation*, the *director* shall schedule a preliminary review by the *commission*. The *director* shall notify the applicant of the time and place of the preliminary review. The *director* shall also notify the division of inspections, permits and zoning enforcement, the division of planning and the public works department that an *application for designation* has been received. The notification shall request that each report to the *commission* on any matters that might affect the subject property or surrounding area.

B. The *director* shall notify the applicant if additional materials are required.

C. At the preliminary review, the *commission* shall consider the application and decide whether it appears that there is sufficient merit to the *application for designation* to proceed to a public hearing. If the *commission* determines that the *site* clearly will not meet the standards for designation as set forth in this chapter, it shall enter a formal denial of the *application for designation*, which shall constitute a *final administrative decision*.

D. If the *commission* finds, upon completing the preliminary review, that an application merits further consideration, then a public hearing shall be scheduled to be held within forty-five (45) days of the completion of the preliminary review. The applicant is notified if additional materials are required.

(Code 1969, § 37-12)

Sec. 37-45. Public hearing on a *historic district application for designation*.

A. The *director* shall notify in writing the applicant and *owner or owners* of the subject property as to the date, time, place and purpose of the public hearing.

B. The *director* shall also publish newspaper notice of the public hearing.

C. The applicant shall be required to produce the following information at the hearing:

1. All information that was required to be submitted on or with the *application for designation*.

2. Clear photographs of the *improvements* on the subject property, together with information as to the age, condition and current and historical use of each *improvement*.

3. Proposals for the *restoration, rehabilitation* or enhancement of the subject property.

4. Any other materials required by the *commission*.

D. The applicant, the *owners* of the subject property and property *owners* immediately adjacent to the subject property shall be entitled to speak at the public hearing. The *commission* may, in the sole discretion of the chairman, accept comments from any other interested parties. The *commission* shall review and evaluate the information that it deems appropriate according to the standards set forth in this article IV. A record of the proceedings shall be made and retained as a public record.

(Code 1969, § 37-13)

Sec. 37-46. Decisions on *historic district* designation applications.

A. *Commission* action:

1. The *commission* shall deny, grant or grant with modifications, the requested *historic district* designation within thirty (30) days after the public hearing.

2. The *commission* may not modify the area of a proposed *historic district* designation such that the *site* extends beyond the exact physical boundary of the subject property as described in the application.

B. Decisions

1. A decision denying an application for *historic district* designation shall be a *final administrative decision*.

2. Each decision, as applicable, shall be in writing and shall include findings of fact. The *director* shall mail copies of the decision or recommendation to the applicant and the *owner* of the subject property.

3. The *director* shall forward copies of any *final administrative decision* to the applicant, the *owner* of the subject property, the city clerk and the department of building and permits.

4. If a designation is granted, the *director* shall record a copy with the county in which the property is located.

5. A designation may be amended or rescinded pursuant to the same procedure and according to the same standards and considerations set forth for designation.

C. Appeals to the city council:

1. A decision that grants or grants with modifications any designation may be appealed to the city council only by an owner of the subject property. The appeal must be filed in writing with the city clerk within fifteen (15) business days after the *commission's* decision to grant the designation.

2. If an appeal is not filed within such time, the designation of the *commission* shall be a *final administrative decision*.

3. An appeal to the city council shall only be by a review of the record established before the *commission*. No new evidence may be introduced into the record on the appeal. However, the *commission*, the applicant, and an *owner* may be permitted an opportunity to make a statement as to their respective positions.

4. Within thirty (30) days after an appeal is filed, the city council shall, by resolution, affirm, reverse or modify the *commission's* designation. A decision of the city council to affirm or reverse shall be a *final administrative decision*. If the city council modifies the *commission's* designation, such modification shall be subject to approval by the *commission* at its next regular meeting. If the *commission* does not approve such modification, the designation shall be deemed to have been denied by the city council and shall be a *final administrative decision*.

Sec. 37-47. *Alteration of a site within a historic district.*

No *alteration* may be performed on a *site* within a *historic district* except as set forth in article VI of this chapter.

Secs. 37-48 -- 37-50. Reserved.

ARTICLE V

URBAN CONSERVATION DISTRICTS

(Code 1969, § 37-9)

Sec. 37-51. *Urban conservation district designation standards.*

The *commission* shall consider the following in reviewing property and *improvements* for designation as *urban conservation districts*.

- A. Any of the standards listed in sec. 37-41.
- B. The proposed district is identifiable as a traditional Aurora neighborhood, commercial area or public activity center.
- C. Whether the proposed district is characterized by housing or commercial buildings in good condition but which are not necessarily *significant* or homogeneous in architectural design.
- D. Whether the proposed district is threatened with deterioration, *demolition* or disharmonious *alteration*.
- E. Whether the proposed designation will make the district eligible for special tax treatment pursuant to state law.

Sec. 37-52. *Urban conservation district designation process.*

The designation process for an *urban conservation district* shall be the same as for *historic districts* as provided in section 37-42 through section 37-47.

Secs. 37-52 -- 37-60. Reserved.

ARTICLE VI

ALTERATION OF DESIGNATED SITES*

*Cross reference(s)--Fine schedule for certain violations, § 1-11.

Sec. 37-61. Jurisdiction of *commission* with respect to *alterations*.

Alterations to designated sites may be performed only pursuant to the following:

- A. *Landmarks*.

1. No *alteration* may be performed on a *site* that has been designated under this chapter as a *landmark*, except as may be approved by a *certificate of appropriateness*.

B. *Historic or urban conservation districts.*

1. No *alteration* of a *site* may be performed within a *historic district* or *urban conservation district*, except as may be approved by a *certificate of appropriateness*.

2. Provided however, that where, in the opinion of the appropriate code official, a *structure* has been damaged by fire or other catastrophic event, and pursuant to the applicable provisions of the Aurora building code, must be demolished, a *certificate of appropriateness* shall not be required.

3. *Structures* owned by the city shall not require a *certificate of appropriateness* where there has been a determination by the city council that a *demolition* is in the best interest of the city or the safety of its residents. The applicable code official shall forward a notice of the proposed *demolition* to the *commission* at least four weeks prior to the city council's call for a vote, unless it is a month where there is a fifth (5th) Wednesday, in which case such notice shall be sent six (6) weeks prior to the city council's call for a vote on the proposed *demolition*. The *commission* may prepare and present to city council an alternative plan for consideration. All other *alterations* on property owned by the city shall require a *certificate of appropriateness* by the *commission*.

Sec. 37-62. Standards and criteria for obtaining any *certificate of appropriateness*.

The *commission* shall consider the following criteria, as each may be applicable, in determining whether or not a *certificate of appropriateness* may be granted:

A. The extent to which the proposed *alteration* will affect any *exterior architectural feature* of the *site*.

B. Whether any proposed *alteration* will have a positive effect on and harmonize with the external appearance of the *site* as a whole or on neighboring properties.

C. The extent and process of any *demolition* associated with the proposed *alteration*.

D. Whether the proposed work will result in the loss of vegetation, the keeping of existing vegetation or the addition of new vegetation on the subject property.

E. The effect of the proposed *alteration* on the appearance of the landscape scheme for the whole subject property.

F. When the proposed *alteration* is for an *improvement*, a report from the building inspector on the state of repair and structural stability of the *improvement*.

G. Any changes in the essential character of the area which would occur as a result of approval of the *certificate of appropriateness*. This is especially important if the proposed work is to take place in a *historic district*.

H. Whether the proposed work conforms to the following design criteria:

1. Height. The height of any proposed new *structure* or any proposed *additions* or *alterations* should be compatible with the existing *structure* and with surrounding *structures*.
2. Proportions of front facade. The relationship between the width and height of the proposed *structure* or the existing *improvement* with the proposed *additions* or *alterations* should be compatible with and in proportion to each other and to nearby *structures*.
3. Relationship of doors and windows. The relationship between and among doors and windows, pursuant to the proposed *alteration*, should be compatible with and in proportion to each other and with the existing *improvements*.
4. Relationship of building mass and space. The relationship of an *improvement*, pursuant to the proposed *alteration*, to the open space between the *structure* and adjoining *structures* should be proportionate and compatible.
5. Roof shape. The design of the roof and the *alteration* should be compatible with the existing roof and nearby *structures*.
6. Landscaping and appurtenances. Landscaping and the use of appurtenances, pursuant to the proposed *alteration*, should remain sensitive to the individual *structure*, its occupants and their needs. Further, the landscape treatment should remain compatible with surrounding *structures* and landscapes.
7. Scale of *structure*. The scale of the *structure* after the proposed *alteration* should be compatible with surrounding *structures*.
8. Directional expression of front elevation. The proposed *alteration* should have no negative impact on the manner in which the street facades blend with other *structures*. When the existing and

adjacent *structures* have a dominant horizontal or vertical expression, this should be carried over and reflected in the *alteration*.

9. Architectural details. Architectural details and materials should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the existing *structures* and neighboring properties.

10. Other guidelines. Any other specific guidelines which the *commission* may recommend for approval by the city council.

Sec. 37-63. Certificate of appropriateness of a designated site.

A. Application for any *certificate of appropriateness*. The application for any *certificate of appropriateness* shall be filed with the *director* on a form provided by the *commission*. The application shall be accompanied by such information, plans, elevations, specifications and other documents as may be required. Any applicant may request a meeting with the *commission* before submitting an application and may consult with the *commission* during the review of the application. An application for *alteration* may be filed by the *owner*, or an agent acting on their behalf, of the subject property. The *director* shall expeditiously set a date for the *commission* to review the application.

B. Processing *certificates of appropriateness*.

1. Granting *certificate of appropriateness* by a designee of *commission*. Under section 37-23, the *commission* may delegate authority for proposed *alterations* that are clearly appropriate and so consistent with the purpose of this chapter that further review is not required provided:

a) The *certificate of appropriateness* being requested meets the criteria, as specified by the *commission* for a *certificate of appropriateness* that may be granted at this initial review by the person empowered by the *commission* to do so.

b) No public hearing is required.

c) There is no request for a *certificate of economic hardship*.

d) The granting of a *certificate of appropriateness* by a designee of the *commission* shall be a *final administrative decision*.

e) All *certificates of appropriateness* granted by a designee of the *commission* shall be reported to the *commission* at its next regular meeting.

2. *Commission granting of certificate of appropriateness.*

a. An initial review shall be scheduled with the *commission*, at which time the *commission* may grant the *certificate of appropriateness* immediately. If the *commission* does not find the proposed work clearly appropriate and in accordance with this chapter, then a public hearing shall be scheduled to be held within forty-five (45) days of the initial review by the *commission*. The applicant shall be notified of the time, date, place and purpose of such hearing. Notice of the hearing shall also be given by first class mail to the *owners of record* of property within two hundred fifty (250) feet of the perimeter of the subject property. The *commission* may also require that written notification be made to the *owners* or occupants of other properties.

b. The *owner* of the subject property and immediately adjacent property *owners* shall be entitled to speak at the public hearing. The *commission* may accept comments from other interested parties. A record of the proceedings shall be made and retained as a public record.

c. The *commission* shall render a decision to grant, deny or modify the requested *certificate of appropriateness* on the basis of the criteria set forth in section 37-62, within thirty (30) days after the public hearing. The decision of the *commission* shall be a *final administrative decision*.

d. If the *certificate of appropriateness* is granted, but with modifications, the applicant shall have fifteen (15) days to notify the *director*, in writing, if it agrees to the modifications. If no such written notification is given, the modified application shall be deemed approved and granted.

e. Following a denial, an application for *alteration* may not be resubmitted within the next twelve (12) months.

f. After the issuance of a *certificate of appropriateness*, no change may be made in the proposed work without re-submittal of an application.

3. *Certificate of economic hardship.*

a. Notwithstanding any of the provisions of this chapter to the contrary, the *commission* may issue a *certificate of economic hardship* in circumstances where the maintenance of the *site* is economically difficult or not feasible. This may allow an *alteration*

in circumstances where a *certificate of appropriateness* would not otherwise be available.

b. Economic hardship may be considered by the *commission* if an applicant, at the time of the public hearing, has produced the following information in an affidavit signed by the *owner* of and with respect to the subject property:

i. The amount paid, the date of purchase and the party from whom purchased (including a description of the relationship between the current *owner* and the person from whom purchased);

ii. The assessed value according to the two (2) most recent assessments;

iii. Real estate taxes for the previous two (2) years;

iv. Annual debt service, if any, for the previous two (2) years;

v. All appraisals obtained within the previous two (2) years;

vi. Any listing sheet for sale or rent along with the price asked and offers received, if any;

vii. Any uses that have been proposed or considered by the *owner*;

viii. If income-producing, the annual gross income from the subject property for the previous two (2) years, and the itemized operating and maintenance expenses for the previous two (2) years.

ix. Any other information, including the current tax bracket of the *owner*, applicant or principle investor in the property.

c. The *commission* shall then consider the application in light of the following:

i. Items (i) through (ix) of b above; and

ii. Whether or not the *site* can be put to a reasonable use without the *alteration*; and

iii. Whether or not the *owner* can obtain a reasonable economic return on the subject property without the *alteration*.

d. If the *commission* finds that, without approval of the proposed work, the property and *improvements* cannot be put to a reasonable beneficial use or the *owner* cannot obtain a reasonable economic return there from, then the application shall be delayed for a period not to exceed six (6) months. During this period of delay, the *commission* shall investigate plans to allow for a reasonably beneficial use or a reasonable economic return, or to otherwise preserve the subject property and *improvements*. Such plans may include, but are not limited to, a relaxation of the provisions of this chapter.

e. If by the end of this six-month period the *commission* has found that, without approval of the proposed work, the property and *improvements* cannot be put to a reasonably beneficial use or the *owner* cannot obtain a reasonable economic return there from, then the commission shall issue a *certificate of economic hardship* approving the proposed work. If the *commission* finds otherwise, it shall issue, deny or modify the requested *certificate of appropriateness* as provided in section 37.63.

Secs. 37-64 -- 37-80. Reserved.