

Chapter 10
OLD TOWN DISTRICT PRESERVATION CODE

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10.01 DEFINITIONS

In addition to the definitions found in Appendix A, terms, whether capitalized or not, used within this Chapter 10 are defined as follows:

Alteration: Any act or process that changes one or more of the exterior architectural features of a structure, including but not limited to, the erection, construction, reconstruction or removal of any structure.

Addition: Any act or process which changes one or more of the “exterior architectural features” of a structure designated for preservation by adding to, joining with or increasing the size capacity of the structure.

Appellant: Any person aggrieved by a ruling of the Building Commissioner charged with the enforcement of this Preservation Code or by any officer, department, board or bureau of the Village concerning the interpretation of the Preservation Code may take an appeal to the Village Board.

Architectural Significance: Embodying the distinctive characteristics of a type, period, style or method of construction or use of indigenous construction, or representing the work of an important builder, designer, architect or craftsman who has contributed to the development of the community, county, state or country.

Building: Any structure created for the support, shelter or enclosure of persons, animals or property of any kind and which is permanently affixed to the land.

Certificate of Appropriateness: A certificate issued by the Building Commissioner indicating that the new construction, alteration or demolition within the Old Town District is in accordance with the standards and requirements of this Preservation Code authorizing plans for alterations,

construction, removal or demolition of a structure or site within the Old Town District.

Construction: The act of adding to an existing structure or the erection of a new principal or accessory structure on a lot or property.

Distinctive Feature: A unique architectural element of a structure which presents a clear and unmistakable impression which has architectural or historic significance.

Demolition: Any act or process that destroys in part or in whole a site or a structure within the Old Town District.

Design Guideline: A standard of appropriate activity that will preserve the historic and architectural character of a structure or area.

Directional Expression: The primary face of a building which typically fronts onto a public right of way and acts as the main entrance.

Exterior Architectural Appearance: The architectural and general composition of the exterior of a structure, including, but not limited to, the kind, color and texture of the building or structure material and the type, design and character of all windows, doors, light fixtures, signs and appurtenant elements.

Historic Commission: The Algonquin Historic Commission as defined in Chapter 17 of this Code.

Historic Significance: Character, interest or value as part of the development, heritage or culture of the community, county, state or country; as the location of an important local, county, state or nation event; or through identification with a person or persons who made important contributions to the development of the community, county, state or country.

Improvement: Any building, structure, fence, gate, wall, walkway, parking facility, light fixture, bench, fountain, sign, work of art, earth work or other man-made object constituting a physical betterment of real property.

Old Town District: As defined in Section 3 of the Zoning Code.

Owner of Record: The person, corporation, or other legal entity listed as the owner on the records in the office of the McHenry County Recorder of Deeds.

Preservation: The act or process of applying measures necessary to sustain the existing form, integrity and materials of a property. Work including preliminary measures to protect and stabilize the property generally focus upon the ongoing maintenance and repair of materials and features rather than extensive replacement and new construction. The limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

Preservation Code: Chapter 10, Old Town District Preservation Code, of this Code.

Reconstruction: The act or process of depicting, by means of new construction, the form, features and detailing of a non-surviving site, landscape, building structure or object for the purpose of rep-

licating its appearance at a specific period of time and in its historic location.

Rehabilitation: The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

Removal: Any relocation of a structure on its site or to another site.

Repair: Any change that does not require a building permit that is not construction, relocation or alteration.

Restoration: The act or process of accurately depicting the form, features and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within the restoration project.

Site: Any parcel, or portion thereof, of real property within the Old Town District.

Structural Change: Any change or repair in the supporting members of a building, structure, roof, or exterior walls which would expand the building or structure in height, width, or bulk of the building or structure.

Structure: Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing: building or structures, fences, gazebos, advertising signs, billboards, backstops for tennis courts, radio and television antennae, including supporting towers, swimming pools, satellite dishes, solar panels and wind generation.

10.02 PURPOSE

The purpose of this Preservation Code is to preserve and maintain those structures, sites and neighborhoods in the Old Town District that have historic, architectural and aesthetic significance, and to preserve and maintain them for current and future residents by encouraging renovation, rehabilitation, repair and adaptive reuse that is consistent with their historic, architectural and aesthetic character by:

1. Providing guidance and insight into proper preservation objectives for the restoration and maintenance of the old, historic or architecturally worthy structures and neighborhoods in the Old Town District and to impose special regulations governing construction, rehabilitation, reconstruction, restoration, alteration, demolition and utilization of those structures.
2. Promoting civic pride in the beauty, history and accomplishments of the past as represented in the Old Town District.
3. Stabilizing and improving the economic vitality and value of the Old Town District.
4. Fostering and encouraging preservation and restoration of structures thereby preventing future blight.

5. Protecting and enhancing the attractiveness of the Old Town District so local residents, visitors and shoppers will support business, commerce, industry and provide economic benefit to the Village.
6. Developing and maintaining reference materials that would provide assistance to property and business owners interested in restoration, maintenance and adaptive reuse sympathetic to the architectural style of the existing structures.

10.03 AREA OF APPLICABILITY

All properties and structures within the Old Town District shall be subject to the rules and regulations set forth in this Chapter.

10.04 GENERAL STANDARDS AND CRITERIA APPLICABLE TO ALL USES WITHIN THE OLD TOWN DISTRICT

In accordance with the following standards, all property within the Old Town District shall retain the exterior appearance of the period in which it was built or constructed, and any new construction, alterations or repairs in the Old Town District shall be designed and constructed with essentially the same exterior appearance as was the previous and/or original structure that was located on the same premises:

1. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure or site and its environment.
2. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature shall be prohibited unless said material is deteriorated beyond repair.
3. All buildings, structures and sites shall be recognized as products of their own time. Changes that create a false sense of historical development, such as adding conjectural features or architectural features from other buildings or structures, shall not be undertaken when not compatible with the original design of the building.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. Those changes that have acquired significance in their own right shall be retained.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated architectural features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of an architectural feature, the new feature shall match the old in design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence whenever possible rather than on conjectural designs or the availability of different architectural elements from other building or structures.

7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting, grinding or other cleaning methods that will damage the historic building or structure materials shall not be undertaken.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigating measures shall be undertaken.
9. New additions, exterior alterations or related new construction shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is visually compatible with the size, color, scale, material and character of the property, neighborhood and environment in the vicinity of the improvement project.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
11. The quality of materials and craftsmanship used in a rehabilitation project must be commensurate with the visual quality of materials and craftsmanship of the historic building or structure in question. Certain treatments, if improperly applied, or certain materials, by their physical properties, may cause or accelerate physical deterioration of historic building or structure. Inappropriate physical treatments include, but are not limited to: improper tuck-pointing techniques; improper exterior masonry cleaning methods; or improper introduction of insulation if damage to historic fabric would result. In almost all situations, use of these materials and treatments will result in denial of certification. Similarly, exterior additions that duplicate the form material and detailing of the structure to the extent that they compromise the historic character of the structure will result in denial of a building or structure permit. For further information on appropriate and inappropriate rehabilitation treatments, owners are to consult the *Guidelines for Rehabilitating Historic Building or Structures* published by the National Park Service, the Village Historic Commission Resource Library or contact the Community Development Department. "Preservation Briefs" and additional technical information to help property owners formulate plans for the rehabilitation, preservation and continued use of historic properties consistent with the intent of the Secretary's Standards for Rehabilitation are available from the Illinois Historic Preservation Officer and the National Park Service regional offices.

10.05 DESIGN GUIDELINES

Prior to the issuance of any building permit within the Old Town District, the Building Commissioner will consider the following architectural criteria:

1. Height: The height of any proposed alteration or construction shall be compatible with the style and character of the subject building or structure and with surrounding structures in the Old Town District.
2. Relationship of Structure Masses and Spaces: The relationship of a structure within the Old Town District to the open space between and adjoining structures should be compatible.
3. Scale: The scale of the structure after alteration, construction or partial demolition should be compatible with its predominant architectural style and character and with the surround-

ing structures in the Old Town District contiguous thereto.

4. Proportions of Windows and Doors: The proportions and relationships between windows and doors should be compatible with the architectural style and character of the building or structure.
5. Roof Shape: The design of the roof, fascia and cornice should be compatible with the architectural style and character of the building or structure.
6. Landscaping: Landscaping should be compatible with the architectural character and appearance of the building or structure.
7. Directional Expression: Facades within the Old Town District should blend with other structures with regard to directional expression. The directional expression of a building or structure after alteration, construction or partial demolition should be compatible with its original architectural style and character. Special care should be given to those properties with multiple entrances to ensure appropriate directional expression from all public rights-of-way.
8. Architectural Details: Architectural details including types of materials, colors and textures should be treated so as to make the building or structure compatible with its original architectural style and character of the building or structure within the Old Town District.
9. New Construction: New structures within the Old Town District shall be compatible with the architectural styles and designs within the Old Town District. The implementation of modern design techniques for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is visually compatible with the size, scale, color, material and character of the property, neighborhood or environment.

10.06 **CERTIFICATE OF APPROPRIATENESS --- SCOPE AND EXEMPTIONS**

A. Unless expressly exempted herein, no permits for new construction, demolition, alteration, repair, signage or any other physical modifications of a property within the Old Town District may be issued by the Village without the prior or simultaneous issuance of a Certificate of Appropriateness in accordance with the procedures specified herein.

B. A Certificate of Appropriateness shall not be required in connection with:

1. Applications for permits not involving any alteration to the exterior features of a structure.
2. Permits necessary for compliance of a lawful order of the Village, including any permit necessary to correct an immediate health or safety problem.

10.07 **CERTIFICATE OF APPROPRIATENESS --- APPLICATION, SUBMISSION REQUIREMENTS, REVIEW, AND APPROVAL PROCESS**

A. Application: Prior to requesting a building or demolition permit, an applicant in the Old Town District shall submit an application for a Certificate of Appropriateness on a form pro-

vided by the Village. The application shall include, but not be limited to, a site plan drawn to scale showing the location of proposed construction, floor plan showing existing conditions and proposed changes, elevations - all exterior views, current photographs showing all elevations of the building or structure and existing conditions, historic photographs if available, a list of materials including product sources and color description.

B. Coordination: If the proposed improvement involves a public hearing before the Planning and Zoning Commission pursuant to the Zoning Code, the review and approval process for the Certificate of Appropriateness shall be coordinated, to the maximum extent possible, with the review by the Planning and Zoning Commission so that all aspects of the proposed activity are considered at one time by both the Historic Commission and the Planning and Zoning Commission. The Historic Commission shall, in accordance with the procedures specific in Section 10.07-C.4, supply its findings and recommendations to the Planning and Zoning Commission prior to any public hearing before the Planning and Zoning Commission.

C. Submission, Review, and Approval: Upon receipt of an application for a Certificate of Appropriateness, the Building Commissioner shall determine if the proposed construction is of a major or minor alteration consistent with the Major and Minor Alteration Chart which is available for review at the Community Development Department.

1. Types and kinds of improvements to be considered minor that do not require a building permit or any review by Village Staff are:
 - a) Painting and other related exterior maintenance.
 - b) Addition or deletion of awnings, shutters, gutters, canopies and similar appurtenances.
 - c) Application or use of exterior materials of the same kind, type, color or texture already in use on that structure which substantially cover one or more sides of the structure.
 - d) Repair of existing architectural details with materials of the same kind, type, color, texture and design as those already in use on the structure.
2. For minor alterations, the Certificate of Appropriateness need only be approved by the Building Commissioner. The Building Commissioner may forward a Certificate of Appropriateness application to the Historic Commission for its recommendation if the Building Commissioner deems the proposed alteration falls into the major alteration category.
3. Types and kinds of improvements to be considered major are:
 - a) Construction of any new building or auxiliary structure.
 - b) Any addition to or alteration of an existing structure which increases the square footage in that structure or otherwise alters its size, height, contour or outline.

- c) Change or alteration of a structure's architectural style.
 - d) Alteration of a roof line.
 - e) Demolition of any structure or portion of a structure.
4. For major alterations, the Building Commissioner shall forward the application to the Historic Commission for review in accordance with this Preservation Code. The Historic Commission shall return its decision to the Building Commissioner within 30 days after the application is submitted for its review. The Historic Commission shall conduct a public meeting on the application as outlined hereafter. Upon receipt of such application, the Building Commissioner shall set a time and place for a public meeting before the Historic Commission and give the applicant notification thereof. Between 15 and 30 days prior to the public meeting, a public meeting sign announcing the meeting shall be posted on the property where the alteration is proposed. Public meeting signs shall be provided by the Village. The signs shall be clearly visible from the public right-of-way. At the meeting, the applicant shall be given an opportunity to be heard and show why relief from such provisions shall be granted.
 5. The Building Commissioner, with the recommendation of the Historic Commission where appropriate as outlined in this Section, shall grant the Certificate of Appropriateness, deny the Certificate of Appropriateness or grant the Certificate of Appropriateness with conditions.
 6. If the application is approved without conditions, a Certificate of Appropriateness shall be issued.
 7. If the application is approved with conditions, the Building Commissioner shall notify the applicant in writing and shall specify the conditions to be imposed and the reasons therefore in light of the standards and criteria defined in Sections 10.03 and 10.04. If the applicant accepts all of the conditions or takes no other action, such approval, with conditions, shall be effective, and a Certificate of Appropriateness shall be issued. If the applicant notifies the Building Commissioner in writing within 30 days of the date of such approval with conditions of his refusal to accept all of said conditions, the application shall be deemed to be denied.
 8. If the Certificate of Appropriateness is denied, the Building Commissioner shall notify the applicant in writing and shall specify the particulars in which the application is inconsistent with the standards and criteria defined in Sections 10.03 and 10.04.

10.08 APPEALS AND REVIEW

- A. Any person aggrieved by a ruling of the Historic Commission may appeal the decision to the Village Board through the appropriate Village Board committee.
- B. Disagreements between the Building Commissioner and the Historic Commission

shall be forwarded jointly to the Village Board through the appropriate committee for resolution of any conflict.

C. Timing of Appeal: Such appeal shall be undertaken within 30 days to the Village Board by filing with the Building Commissioner a notice of appeal specifying the grounds thereof, together with such plats and exhibits as are deemed reasonably necessary by the Building Commissioner. Such appeals shall be made on forms provided by the Village. The Historic Commission secretary shall transmit to the Building Commissioner all of the papers constituting the record upon which the action considered was taken.

D. Powers of the Village Board When Considering An Appeal: The Village Board may reverse or affirm, wholly or partly, or may modify or amend the order, requirement, decision, conditions or determination appealed from, to the extent and in the manner that the Village Board may decide to be fitting and proper on the premises.

10.09 STANDARDS AND GUIDELINES FOR REVIEW OF APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS

In reviewing an application for a Certificate of Appropriateness for the erection, construction, reconstruction, remodeling, exterior alteration or restoration of a building or structure, the Building Commissioner, Historic Commission and/or Village Board shall consider the standards and criteria defined in Sections 10.04 and 10.05, with particular scrutiny of the following:

1. The exterior architectural features, including all signs, which are subject to public view from a public street, way or place;
2. The general design, arrangement, texture, material and color of the building or structure and the relation of such factors to similar features of building or structures or structures in the Old Town District;
3. The extent to which the building or structure would be harmonious with or architecturally incompatible with the Old Town District;
4. The extent to which the building or structure will promote the general welfare of the Village and all citizens by the preservation and protection of historic places, areas of historic interest in the Village and the Old Town District;
5. Photographs shall be used whenever possible to establish the true historic appearance of a structure.

10.10 ADDITIONAL STANDARDS AND GUIDELINES FOR REVIEW OF CERTIFICATES OF APPROPRIATENESS THAT INCLUDE DEMOLITION

In reviewing an application for a Certificate of Appropriateness to demolish a building or structure, the following shall be considered:

1. Is the building or structure of such architectural interest that its removal would be a detriment to the public interest?
2. Is the building or structure of such old and unusual or uncommon design, texture and mate-

rial that it could not be reproduced or reproduced only with great difficulty?

3. Would retention of the building or structure help preserve and protect the general standards of the Old Town District as stated in Section 10.03?
4. Would retention of the building or structure promote the general welfare by maintaining and increasing real estate values, generating additional business in the Old Town District, creating new employment opportunities, attracting tourists, encouraging study and interest in the Village's history, and making the Village a more attractive and desirable place to live?
5. Would demolition of the building or structure adversely affect the cohesiveness and historical significance of the Old Town District as a whole?

10.11 ADDITIONAL STANDARDS AND GUIDELINES FOR REVIEW OF CERTIFICATES OF APPROPRIATENESS THAT INCLUDE RELOCATION

In reviewing an application for a Certificate of Appropriateness to relocate a building or structure, the following shall be considered:

1. Would the proposed relocation have a detrimental effect on the structural soundness of the building or structure?
2. Would the proposed relocation have a detrimental effect on other structures and buildings in the Old Town District?
3. Would relocation provide new surroundings that would be harmonious with or incongruous to the architectural aspects of the structure or building?
4. Would relocation of the building or structure help preserve and protect the general standards of the Old Town District as stated in Section 10.03?
5. Would relocation of the building or structure promote the general welfare by maintaining and increasing real estate values, generating additional business in the Old Town District, creating new employment opportunities, attracting tourists, encouraging study and interest in the Village's history, and making the Village a more attractive and desirable place to live?

10.12 WAITING PERIOD FOR A DEMOLITION PERMIT

In order to permit adequate time for consideration of alternatives to demolition of an existing building or structure, and to ensure development consistent with the goals of the Village, a demolition permit shall be issued only after two years following action by the Historic Commission or Village Board on a demolition permit, unless one of the following exceptions shall cause said permit to be issued earlier:

1. Fire or other casualty damage or structural deterioration shall have rendered the structure and/or remains, in the opinion of the Building Commissioner, an immediate health or safety hazard.

2. If it is determined that, after a public meeting before the Historic Commission, in consideration of the criteria and purpose of this Section, a delay in demolition would not further the purpose of this Section because:
 - a) The structure itself, or in relation to its environs, has no significant historical, architectural, aesthetic or cultural value in its present or potentially restored condition; or
 - b) Realistic alternatives (including adaptive uses) are not likely because of the nature or cost of work necessary to preserve such structure or realize any appreciable part of such value; or
 - c) The demolition is consistent with or materially furthers the criteria and purpose of this Chapter 10.

3. In cases where the applicant for a demolition permit intends to construct a replacement building or structure, an exemption from the two-year waiting period may also be granted if it is determined that the redevelopment is consistent with the criteria and purpose of this Chapter or an Old Town District Downtown Redevelopment Plan approved by the Village Board.

10.13 **FEES AND PENALTIES** *Amended, 2007-O-38*

A. A processing fee pursuant to Appendix B shall be assessed by the Building Commissioner for all Certificates of Appropriateness that include major improvements.

B. Any person who undertakes or causes an alteration of any property within the Old Town District without a Certificate of Appropriateness or violates the conditions of the Certificate of Appropriateness shall be guilty of a misdemeanor and, upon conviction, shall be fined pursuant to Appendix B, plus the Village's cost of prosecution, including reasonable attorneys' fees. Any person who undertakes or causes the demolition or removal of any building or structure in the Old Town District without a Certificate of Appropriateness shall be guilty of a misdemeanor and, upon conviction, shall be fined pursuant to Appendix B, plus the Village's cost of prosecution, including reasonable attorneys' fees. Every day such violation shall continue to exist shall constitute a separate violation. Every structure that is altered, demolished or moved without a Certificate of Appropriateness shall constitute a separate violation. The Building Commissioner may institute any appropriate action or proceeding in the name of the Village to enjoin, correct or abate any violation of this Preservation Code.

10.14 **EXCEPTION FOR PUBLIC IMPROVEMENT PROJECTS**

Nothing in this Chapter shall be construed to prevent the maintenance, repair or enhancement of any public facility or infrastructure project that is deemed necessary by the state, county, the Village or any public utility company.

10.15 **ECONOMIC ASSISTANCE**

The Village, at its discretion, may offer economic assistance to qualified business property owners pursuing exterior restoration or rehabilitation of property in the Old Town District pursuant to this Chapter. Said assistance shall be made in accordance with policies that may be adopted or revised by the Village from time to time.