

ORDINANCE # 2020- 11

**AMENDMENTS TO THE KENDALL COUNTY HISTORIC PRESERVATION
ORDINANCE PERTAINING TO DEFINITIONS, HISTORIC PRESERVATION
COMMISSION POWERS AND AUTHORITIES, NOMINATION PROCEDURES OF
LANDMARKS AND HISTORIC DISTRICTS, ALTERATION, CONSTRUCTION,
DEMOLITION AND MAINTENANCE PROVISIONS, AND PENALTIES**

WHEREAS, 55 ILCS 5/Div. 5-30 allows counties to establish Historic Preservation Ordinances;
and

WHEREAS, the Kendall County Board established the Kendall County Historic Preservation Ordinance through Ordinance 2006-67; and

WHEREAS, Article II, Section 2, of the Kendall County Historic Preservation Ordinance grants the Kendall County Historic Preservation Commission the authority to recommend changes to the Kendall County Historic Preservation Ordinance; and

WHEREAS, the Kendall County Historic Preservation Commission reviewed the provisions of the Kendall County Historic Preservation Ordinance at several of its meetings during 2019; and

WHEREAS, on January 21, 2020, the Kendall County Historic Preservation Commission recommended several amendments to the Kendall County Historic Preservation Ordinance to the Kendall County Board; and

WHEREAS, the Kendall County Planning, Building and Zoning Committee of the Kendall County Board has reviewed the amendments proposed to the Kendall County Historic Preservation Ordinance by the Kendall County Historic Preservation Commission at its meeting on February 10, 2020, and recommended approval with of these proposed amendments with the addition of a fee amendment; and

WHEREAS, the Kendall County Board has considered the recommendations of the Planning, Building and Zoning Committee and the Kendall County Historic Preservation Commission and has determined that said petition is in conformance with the provisions and intent of the Kendall County Historic Preservation Ordinance; and

NOW, THEREFORE, BE IT ORDAINED, BY THE COUNTY BOARD OF KENDALL COUNTY, ILLINOIS, that the Kendall County Historic Preservation Ordinance be amended as follows:

- I. Recitals: The recitals set forth above are incorporated as if fully set forth herein.
- II. Amended Text: Article I.2.U is amended by adding the following sentence to the end of the definition of *Historic District*:

“For the purposes of this definition, “historic district” shall be the same as “preservation district” as defined by State law.”

III. Amended Text: Article I.2 is amended by adding the following definition in the appropriate place alphabetically in the list of definitions:

“BB) *Super Majority Vote*: At least three-fourths approval of the vote of the entire Kendall County Board.”

IV. Amended Text: Article II.1.C is amended by deleting the present text and replacing it with the following:

“C) *Terms*. Terms of the initial members shall be staggered so that at least five serve respectively for the following terms: one for one year; one for two years; one for three years; one for four years; and one for five years. Any additional initial members shall also serve terms staggered in the same sequence. Successors to initial members so appointed shall serve for five year terms. All ex officio members shall serve the term of their elected or appointed office. All members shall serve until their successors are appointed. Vacancies shall be filled by the Kendall County Board from names submitted by the County Board Chair. Any preservation commission member may be removed by the County Board for cause, after public hearing.”

V. Amended Text: Article II.1.D is amended by deleting the present text of the first paragraph and replacing it with the following:

“D) *Officers*. Officers shall consist of a Chair, Vice-Chair and a Secretary. The Chair shall preside over meetings. In the absence of the Chair, the Vice Chair shall perform the duties of the Chair. If both the Chair and the Vice-Chair are absent, a temporary Chair shall be elected by those present. One (1) of the members so appointed by the County Board shall be named as chairman at the time of appointment and other officers may be elected by the Preservation Commission. The Vice-Chair and Secretary shall serve a term of one (1) year and shall be eligible for re-election. No member shall serve as a Vice-Chair or Secretary in the same capacity for more than three (3) consecutive years. Once the member has served in the same capacity for three (3) years, a one (1) year hiatus from that office must be followed. The Chair shall ensure that the following duties are performed:”

VI. Amended Text: Article II.2.M is amended by deleting the present text and replacing it with the following:

“M) To review proposed amendments to zoning regulations and map amendments, applications for special uses or applications for zoning variations that affect any and all landmarks or historic districts. Proposed zoning amendments, applications for special use, or zoning variations that affect any landmark or historic district as defined in this ordinance shall be reviewed by support staff and forwarded to the Preservation Commission for review within seven (7) working days.”

VII. Amended Text: Article II.2.N is amended by deleting the present text and replacing it with the following:

“N) To administer on behalf of the County Board any County owned property, or full or partial interest in real property, including a conservation right, by approval of the County Board.”

VIII. Amended Text: Article III.3.A.d is amended by deleting the present text and replacing it with the following:

“d) If the applicant is not the current owner of record, written documentation and evidence establishing that the applicant notified the current owner of record of the nominated property and whether the owner of record consents or objects to the proposed landmark designation. Such documentation or evidence of record ownership shall include a recent title policy in the name of the applicant or other evidence of record ownership acceptable to the Historic Preservation Commission.”

VII. Amended Text: Article III.3.B.e is amended by deleting the present text and replacing it with the following:

“e) If the applicant is not the current owner of record, written documentation and evidence establishing that applicants notified the current owners of record of property in the area nominated for designation and that such owner comprise the owners of record of at least fifty-one percent (51%) of all sites contained in the nominated area. Such documentation or evidence of record ownership shall include recent title policies in the names of the applicants or other evidence of record ownership acceptable to the Historic Preservation Commission.”

VIII. Amended Text: Article III.5 is amended by deleting the present text of the first paragraph and replacing it with the following:

“The Preservation Commission shall, within thirty (30) calendar days from receipt of a completed application for designation, cause to be written an initial recommendation and report stating whether the nominated landmark or historic district does or does not meet the criteria for designation as provided for in Article III, Section 4 herein. The report shall contain the following information:”

IX. Amended Text: Article III.12 is amended by deleting the present text and replacing it with the following:

“12. PUBLICATION OF MAP

A map showing the location of all designated landmarks and historic districts shall be published and amended upon each designation. Copies of the map shall be available to the public at the Kendall County Planning, Building & Zoning office, the Kendall County website, and the same location and in the same manner as any County zoning map.”

X. Amended Text: Article III.18 is amended by adding the following:

“18. APPLICATION FEE

All applicants for landmark or historic district designation shall pay a fee of Five Hundred Dollars (\$500) at the time of application submittal. Said fee shall be waived upon approval by a majority vote of the Kendall County Historic Preservation Commission, if requested by the property owner or property owners.”

XI. Amended Text: Article IV.2.I is amended by deleting the present text in the final paragraph and replacing it with the following:

“In cases of historic districts or if structures remain a landmark, if a demolition permit is issued, the Preservation Commission shall require the applicant to submit for review and consideration post-demolition plans which shall include drawings and sketches with sufficient detail to show, as far as they relate to exterior appearance, the architectural design of any and all improvements incorporated in such plans.”

XII. Amended Text: Article IV.3.B is amended by deleting the present text and replacing it with the following:

“B) The Preservation Commission may solicit expert testimony.”

XIII. Amended Text: Article IV.3.C is amended by deleting the present text and replacing it with the following:

“C) The applicant for a Certificate of Economic Hardship shall submit the following information if requested by the Planning, Building and Zoning Department or the Preservation Commission in order to assist the Preservation Commission in its determination on the application:

i) An estimate of the cost of the proposed construction, alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the recommendations of the Preservation Commission for changes necessary for the issuance of a Certificate of Appropriateness;

ii) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;

iii) Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition, or removal; after any changes recommended by the Preservation Commission; and, in the case of a proposed demolition, after renovation of the existing property for continued use;

iv) In the case of a proposed demolition, an estimate from a person or entity experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;

v) Amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, of any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer;

vi) If the property is income-producing, the annual gross income from the property for the previous two (2) years; itemized operating and maintenance expenses for the previous two (2) years; and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;

vii) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two (2) years;

viii) Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two (2) years;

ix) Assessed value of the property according to the two (2) most recent assessments;

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

xi) Form of ownership or operation of the property, whether sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture, or other.

xii) Any other information, including the income tax bracket of the owner, applicant, or principal investors in the property considered necessary by the Preservation Commission to make a determination as to whether the property does yield or may yield a reasonable return to the owners.”

XIV. Amended Text: Article IV.3.D is amended by deleting the present text and replacing it with the following:

“D) Determination of Economic Hardship. Within sixty (60) days from receiving a request for a Certificate of Economic Hardship, the Commission, upon a determination that the denial of a Certificate of Appropriateness has denied, or will deny the owner of a landmark or of a property within a historic district all reasonable use of or return on the property, may undertake one of the following actions:

i) Offer the owner of the property reasonable financing, tax or other incentives sufficient to allow a reasonable use of, or return on, the property; or

ii) Issue a Certificate of Appropriateness for the proposed construction, alteration, demolition or removal.

Written notice of the determination shall be provided in the same manner as required by Article IV, Section 2(e) of this Ordinance. This time limit may be waived only by mutual consent of the applicant and the Commission.”

XV. Amended Text: Article IV.3.E is amended by adding the following:

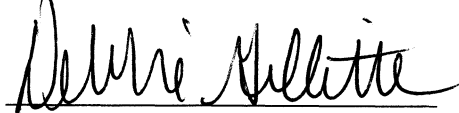
“E) Appeals. A denial of a Certificate of Economic Hardship is an administrative decision as defined in Section 3-101 of the Illinois Administrative Review Law, and it shall be subject to judicial review pursuant to provisions of said law and all amendments and modifications thereof, and the rules adopted thereto.”

XVI. Amended Text: Article V.2 is amended by deleting the second paragraph and replacing it with the following:

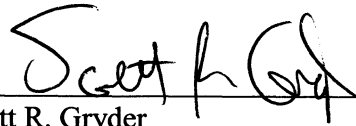
“In addition to the fine listed in the previous paragraph, a court of competent jurisdiction or a hearing officer in cases of administrative adjudication may direct the Kendall County Planning, Building and Zoning Department to withhold the issuance of a building property for period not to exceed five (5) years after the date of demolition in cases of unauthorized demolition of a landmark or any property within a designated preservation district at the property where the unauthorized demolition occurred.”

IN WITNESS OF, this ordinance has been enacted by a majority vote of the Kendall County Board and is effective this 16th day of June, 2020.

Attest:



Debbie Gillette
Kendall County Clerk



Scott R. Gryder
Kendall County Board Chairman

