

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2022**

**A LOCAL LAW AMENDING CHAPTER 27 OF THE TOWN CODE
ENTITLED “HISTORIC LANDMARKS PRESERVATION”**

BE IT ENACTED by the Town Board of the Town of North Hempstead, as follows:

Section 1. Legislative Intent.

The Board finds that it is in the best interest of the Town of North Hempstead to amend Chapter 27 of the Town Code entitled “Historic Landmarks Preservation” in order to include a provision for written findings where a proposed landmark designation is rejected by the Town Board, to provide a basis for the approval of certain alterations, demolitions or relocations where there is a finding of economic hardship, and to attach a time limitation to certificates of appropriateness.

Section 2.

Article III of Chapter 27 of the Town Code is hereby amended as follows:

Article III Procedures

§ 27-5 Establishment of historic districts, sites and landmarks.

Historic landmarks and districts shall be designated as provided herein:

- A. An application for the designation of a building, structure, site or object as a historic landmark or an area as a historic landmark district may be submitted to the Commission by any person on a form or in a format supplied by the Town. In addition, the Commission may, on its own motion, initiate such an application. The application shall include the following:
- (1) An application to designate a building, structure, site or object for preservation as a historic landmark shall include:
 - (a) A concise description of the physical elements, age, architectural style, period and historical significance represented by the building, structure, site or object, including a consideration of design, scale, material, workmanship and spatial qualities, as relevant.
 - (b) A concise statement of how the building, structure, site or object meets the definition of "historic landmark" as defined in this chapter.
 - (c) Exterior photographs of the building, structure, site or object in its entirety and surrounding property and a site map illustrating the characteristics enumerated in the definition of "historic landmark" as provided in this chapter. The area to be considered for landmarking

shall be clearly defined in the site map. An aerial map showing the areas surrounding the proposed historic landmark shall be included with the application.

- (d) The name and address of the owner(s) of the building, structure, site or object. In the case of a building, structure or object, the owner of the real property, as shown in the records maintained by the Nassau County Clerk's Office, upon which the building, structure or object is situated, is presumed to be the owner of the building, structure or object.
 - (e) The name, address and telephone number of the person who is submitting the proposal and the person represented, if any.
 - (f) The relationship, if any, between the applicant(s) and the owner(s) of the structure, site or object.
 - (g) If required by the Commission, architectural drawings, including scaled plans and elevations.
 - (h) Such other information as the Commission deems necessary.
- (2) An application to designate an area for preservation as a historic landmark district shall include:
- (a) A concise statement of the physical elements which make the area a historic landmark district and a description of all buildings, structures, sites or objects located within the proposed district, with special note of types, architectural styles and periods represented which would qualify for designation as a historic landmark district under the chapter.
 - (b) A concise statement identifying other buildings, structures, sites or objects located within the proposed district that, while not qualifying under this chapter for designation as a historic landmark, contribute to the overall visual enhancement of the proposed district or are within the boundaries of the proposed district but do not contribute to it.
 - (c) A concise statement of how the proposed district meets the definition of "historic landmark district" as prescribed by this chapter.
 - (d) A map clearly depicting the boundaries of the proposed district and the locations of buildings, structures, sites or objects therein, with contributing properties noted as such.
 - (e) A justification of the boundaries of the proposed district.
 - (f) The street address and section, block and lot, as shown on the most recent tax roll, of every property within the proposed district and the owners of record thereof.

- (g) The name, address and telephone number of the person who submitted the application and the person represented, if any.
- (h) The relationship, if any, between the applicant(s) and any of the properties, buildings, sites, objects or structures within the proposed district.
- (i) A photo or photos of the sides of all buildings, structures, sites or objects visible from the public right-of-way within the proposed historic landmark district by designated street address and section, block and lot.
- (j) A written description of each building, structure, site or object which shall include the year of construction (if a building or structure), any applicable historic personage or event associated with the building, structure, site or object, if known, or any other information that will assist the Commission in its proceedings.

B. (Reserved)

C. Public hearing and decision by the Commission.

- (1) Upon the submission of an application, a public hearing shall be held by the Commission within 60 days. The Executive Secretary shall notify the Building Department, the Department of Planning and Environmental Protection, the Town Attorney's Office, the Town Clerk, the Town Board and the applicant of the pending application.
- (2) Notification.
 - (a) In the case of an application to designate a historic landmark, the applicant shall provide notice of the hearing to property owners of record as they appear on the tax rolls of the Town, of property located within 300 feet of the site, in the manner provided herein, and must file an affidavit as to the mailing of such notices in accordance with this section with the Executive Secretary not less than five days before the hearing. Not less than 10 nor more than 20 days before the hearing, the applicant shall send, by first-class mail and by registered or certified mail, a notice to each affected owner as described above. The Commission shall place a notice of the public hearing in an official newspaper of the Town, which circulates in the affected area, at least 10 days prior to the date of the public hearing. All notices required herein shall state the nature of the application, including the location(s) of the affected property, and the date, time and place of public hearing. If, prior to the close of the public hearing, the Commission shall determine that there is a failure to comply with the notice provisions of this chapter, the public hearing may be recessed until there is compliance with these notice provisions.
 - (b) In the case of an application to establish a historic landmark district, the applicant shall notify the owners of record of each property within the proposed historic landmark district,

as well as owners of record of property located within 300 feet of the boundary lines of the proposed historic landmark district, all as they appear on the tax rolls of the Town, in the manner provided herein, and must file an affidavit as to the mailing of such notices in accordance with this section with the Executive Secretary not less than five days before the hearing. Not less than 10 nor more than 20 days before the hearing, the applicant shall send, by first-class mail and by registered or certified mail, a notice to each affected owner as described above. The Commission shall place a notice of the public hearing in an official newspaper of the Town, which circulates in the affected area, at least 10 days prior to the date of the public hearing. All notices required herein shall state the nature of the application, including the boundaries of the proposed historic landmark district, and the date, time and place of public hearing. If, prior to the close of the public hearing, the Commission shall determine that there is a failure to comply with the notice provisions of this chapter, the public hearing may be recessed until there is compliance with these notice provisions.

- (c) Where an application to designate a historic landmark or to establish a historic landmark district is adjourned on the record to a date certain, the applicant must notice the new hearing date in the manner provided herein. Not less than 10 nor more than 20 days before the hearing, the applicant shall send, via first-class mail, a notice to each affected owner as specified in the above Subsection C(2)(a) and (b). The applicant must file an affidavit as to the mailing of such notices in accordance with this subsection with the Executive Secretary not less than five days before the hearing. The Commission shall publish notice of the new hearing date in the local newspapers at least 10 days before the date of the new hearing in the same manner as the original notice.
- (3) The Commission shall have 60 days after the close of the public hearing to make its decision to deny or recommend approval of the application to the Town Board. Such decisions shall be made at a meeting of the Commission.
- (4) The Commission can choose to amend an application in any manner, including, but not limited to, adding or deleting properties proposed for inclusion in a historic landmark district, or by limiting an application to the structure only and eliminating a site or structure included in an application for a historic landmark. In the event the Commission amends an application, it shall adopt a written statement of the reasons for doing so, which shall be included as an addendum to the application as part of its submission to the Town Board pursuant to Subsection D below.
- (5) If the Commission shall deny an application, the proceeding shall terminate, and the Commission shall not consider a new application for the same proposed historic landmark or proposed historic landmark district for one year thereafter.

(6) The Executive Secretary shall file the written decision of the Commission with the Town Clerk, the Town Attorney's Office, the Building Department, the Department of Planning and Environmental Protection, and the Town Board and shall mail a copy to the applicant and the owner(s) of the affected properties within 10 business days after the decision of the Commission.

D. Submission to the Town Board.

(1) A Commission recommendation to designate a proposed historic landmark or establish a proposed historic landmark district shall be delivered by the Town Clerk to the Town Board. The Town Board shall schedule a public hearing on the recommendation within 90 days after the filing of the Commission's decision with the Town Clerk. The Executive Secretary shall notify the applicant of the date for the public hearing at which the Town Board will consider the recommendation, and the applicant shall provide notice of such hearing in accordance with Subsection C(2) herein. The Town Clerk shall publish notice of the public hearing in the local newspapers at least 10 days before the date the recommendation is to be considered by the Town Board.

(2) The Town Board shall, within 60 days after the close of the public hearing:

(a) Accept the recommendation of the Commission;

(b) Remand the recommendation of the Commission for further consideration or information with written findings of the Town Board in which it states specific concerns and its reasons for the remand; or

(c) Reject the recommendation of the Commission, **setting forth written findings of the Town Board in which it states its reasons for the decision.**

E. Within 10 days of the Town Board's final action, the Town Clerk shall notify the Commission, the Building Department, the Department of Planning and Environmental Protection, the applicant, and the owner(s) of the affected properties. If the Town Board accepts the recommendation, the Town Clerk shall also notify the Nassau County Department of Assessment.

§ 27-6 Rescission of historic landmark or historic landmark district designation.

A historic landmark or historic landmark district designation may be rescinded by the Town Board as follows:

A. Upon a written recommendation from the Commission in which the Commission states that the historic landmark or historic landmark district no longer meets the eligibility criteria established in this chapter; and

- B. After full compliance with all of the procedures and notice requirements in this article for the designation of a historic landmark or historic landmark district.

§ 27-7 Limitations on activity regarding property proposed for historic landmark or historic landmark district designation.

No approval of a zone change, variance, conditional use permit, site plan, building permit demolition permit, sign permit or any other permit issued by the Town shall be granted by the Town for any property proposed as a ~~an~~ historic landmark or historic landmark district from the date of the filing of the application with the Commission until the final disposition of the application by the Commission or Town Board.

Section 3.

Article IV of Chapter 27 of the Town Code is hereby amended as follows:

Article IV Construction, Alteration, Demolition and Removal

§ 27-8 Certificate of appropriateness.

- A. Notwithstanding any other ordinance, code, rule or regulation concerning the issuance of a building permit, and whether or not a proposed activity requires a building permit, none of the following activities shall be commenced on a designated historic landmark or in a designated historic landmark district without the issuance of a certificate of appropriateness:
 - (1) Any alteration, subject to the exclusions in Subsection K.
 - (2) Any construction within a designated historic landmark district.
 - (3) Any demolition or relocation of a building, structure, site or object in a designated historic landmark district or of a designated historic landmark.
- B. The certificate of appropriateness required by this article shall be in addition to and not in lieu of any building, sign or other permit or approval that may be required by any agency having jurisdiction or authority.
- C. An application for a certificate of appropriateness shall be submitted to the Commission in such form and including such written information and such plans, elevations, drawings or other data as the Commission may require.
- D. Not less than 10 nor more than 20 days before the Commission reviews any application for a certificate of appropriateness, the applicant shall be required to notify the owners of record as they appear on the tax rolls of the Town of property located within 300 feet of the boundary lines of the subject property, by first-class mail and by registered or certified mail,

identifying the subject property, stating the nature of the application and the date, time and place for the hearing. This notice shall also provide the address designated by the Commission to which comments may be submitted to the Commission on the application. The applicant must submit an affidavit of mailing along with a copy of the notice and certified mail receipts postmarked by the U.S. Postal Service to the Executive Secretary not less than five days before the hearing. The Commission shall publish notice of the public hearing for the certificate of appropriateness in the local newspapers at least 10 days before the hearing date. The notice shall state the nature of the application, including the location(s) of the affected property, and the date, time and place of public hearing. If, prior to the close of the public hearing, the Commission shall determine that there is a failure to comply with the notice provisions of this chapter, the public hearing may be recessed until there is compliance with these notice provisions.

- (1) Where an application for a certificate of appropriateness is adjourned on the record to a date certain, the applicant must notice the new hearing date in the manner provided herein. Not less than 10 nor more than 20 days before the hearing, the applicant shall send, via first-class mail, a notice to each affected owner as specified in this Subsection D. The applicant must file an affidavit as to the mailing of such notices in accordance with this subsection with the Executive Secretary not less than five days before the hearing. The Commission shall publish notice of the new hearing date in the local newspapers at least 10 days before the date of the new hearing in the same manner as the original notice.
- E. In reviewing an application for a certificate of appropriateness, the Commission shall be limited to those portions of an application relating to the exterior architectural features.
- F. The Commission shall determine whether the proposed change will be appropriate to the preservation of the historic landmark or historic landmark district in view of the purposes of this chapter. In exercising this power, the Commission shall:
- (1) With respect to historic landmarks, consider, in addition to any other pertinent factors, the historical and architectural value, the general appropriateness of the proposed design arrangement, texture and material of component(s) or sign(s) involved and the relationship thereof to other buildings, structures, sites or objects in the immediate neighborhood.
 - (2) With respect to historic landmark districts, consider, in addition to any other pertinent factors and those set forth above, the visual relationship between the building, structure, site or object that is the subject of the application in question and existing buildings, structures, sites or objects either immediately adjacent to or in the surrounding area and the character of the historic landmark district and the extent to which a new or altered building, structure, site or object would be harmonious with or incongruous to the historic and architectural qualities or distinctive aspects of the historic landmark district.

- G. With respect to demolition or relocation in whole or in part of a historic landmark or a building, structure, site or object in a historic landmark district, the Commission shall consider whether:
- (1) The historic landmark or building, structure, site or object is of such architectural or historic interest that its demolition or relocation would be to the detriment of the public interest;
 - (2) Retention of the building, structure, site or object would help preserve and protect a historic place or area of historic interest in the Town.
- H. If the Commission approves an application which involves demolition or relocation of a historic landmark or building, structure or object or portions thereof within a historic landmark district, ~~it shall find the building, structure or object or portion thereof is in such condition that it is not feasible to preserve or restore it; or that relocation is appropriate to preserve the historic landmark or building, structure or object. The Commission shall take into consideration the economic feasibility of alternatives to the application, and balance the interest of the public in preserving the building, structure or object or portion thereof and the interest of the owner in its utilization. In the event the demolition or relocation is approved,~~ the property shall be cleared and left in a manner which will have no adverse impact on any adjacent properties or present a public danger. As an alternative to demolition, the Commission may permit a building, structure or object within a historic landmark district, or a building, structure or object designated as a historic landmark, to be moved to another site.
- I. In making its determination whether to approve an application for a certificate of appropriateness, the Commission shall apply the standards set forth in the United States Secretary of the Interior's Standards for Rehabilitation and the Illustrated Guidelines for Rehabilitating Historic Buildings issued by the National Park Service, except that for applications related to historic landmark districts, such should be considered only a guideline.
- J. Where the Commission approves an application under circumstances where the permitted activity is likely to uncover or affect archaeological resources the Commission shall require reasonable efforts to identify, protect and preserve such resources. Where such protection and preservation is not feasible, the Commission shall nevertheless impose appropriate and reasonable conditions to insure that the archaeological resources are made accessible for a reasonable period of time to qualified persons.
- K. Nothing in this chapter shall be construed to prevent the following:
- (1) Ordinary maintenance, repair or replacement in kind with like materials of similar quality, of any place, site, structure, object or building designated as a historic site, or any property

located wholly or partially within the boundaries of a historic landmark district; or

- (2) The installation, replacement or relocation of ground-mounted generators or heating, ventilation and air-conditioning (HVAC) units and appurtenances, provided that a permit is obtained from the Building Department and that such generators or HVAC units and appurtenances, shall be screened from adjoining lots and the public street by a completely planted visual barrier consisting of evergreen plantings to be a minimum of six inches above the top of the unit.
 - (a) All screening shall be maintained in a healthy condition. Any planting or landscaping which may become diseased, or die shall be removed and promptly replaced with plantings similar in size and type.
 - (b) The proposed use of fencing or other manmade screening to shield generators or HVAC units and appurtenances, is not exempt by this provision and shall require prior review by the Commission.
 - (c) Nothing in this section shall be construed as to permit the exterior installation, replacement or relocation of appurtenant ductwork to the facade of a building or structure visible to the public street without prior review by the Commission.
- L. New construction shall be consistent with the architectural styles, massing, spacing and height of the structures of historic value in a historic landmark district. However, the Commission may approve the construction of buildings or structures which have a dissimilar architectural style to that of a historic landmark district, if the Commission determines that such new construction will be consistent with the goals of this chapter.
- M. After conducting a hearing to consider an application described in this section, the Commission shall vote to either approve or deny the application. The Executive Secretary shall notify the applicant of the Commission's approval or denial. The Commission shall only approve an application if the proposed modification is compliant with the provisions and purposes of this chapter.

§ 27-8.1 Economic hardship.

- A. An applicant whose certificate of appropriateness has been denied may apply for appropriate relief from the requirements of this article or conditions imposed by the Commission on the grounds that such requirements or conditions imposed will result in an economic hardship. Consideration of economic hardship may occur at the same meeting as consideration of an application for a certificate of appropriateness, or by separate application to the Commission within 60 days of the denial of a certificate of appropriateness.**

B. Alteration or Construction. Notwithstanding any other provisions of this chapter, a certificate of appropriateness for a proposed alteration or construction will be granted by the Commission based on economic hardship if the applicant establishes that the following facts and conditions exist:

- (1) The land or improvement in question cannot yield a reasonable return if the proposed construction or alteration is not permitted; or**
- (2) The hardship of the applicant is due to unique circumstances, the proposed alteration or construction will not alter the essential character of the area, the cost of the alternative acceptable to the Commission is prohibitive as compared to the cost of the alternative proposed by the applicant, and the hardship is a result of the application of the chapter and is not the result of any act or omission by the applicant.**

C. Demolition or Relocation. Notwithstanding any other provisions of this chapter, a certificate of appropriateness for a demolition or relocation application shall be issued by the Commission if the application meets the criteria set forth in Section 27-8 (G) (1) or (2) above, and the applicant establishes an economic hardship based on the existence of the following facts and conditions:

- (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and**
- (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return, regardless of whether that return represents the most profitable return possible; and**
- (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.**

D. The Commission shall consider whether the owner has created its own hardship through waste and neglect, thereby permitting the property to fall into a serious state of disrepair.

E. Economic hardship shall not be determined on the basis of the personal finances of the applicant.

F. If a hardship applicant's primary purpose or mission is philanthropic, eleemosynary, religious or charitable, and whose request for a certificate of appropriateness was made in furtherance of philanthropic, eleemosynary, religious or charitable purposes, such applicant must establish that the Commission's action seriously interferes with the applicant's ability to continue the current use of the property and seriously interferes with the applicant's philanthropic, eleemosynary, religious or charitable

purposes.

G. The Commission may solicit expert testimony or require that the applicant make submissions concerning any information deemed necessary by the Commission to make a determination of economic hardship.

H. All decisions by the Commission with respect to hardship applications shall be in writing. The Commission's decision shall state the reasons for granting or denying the hardship application. A copy of the decision shall be sent to the applicant by the Executive Secretary.

§ 27-9 Procedure for review of applications and plan.

- A. Applications for a building permit to construct, alter, move or demolish any place designated as a historic landmark or located within a historic landmark district shall be made to the Department of Buildings pursuant to Chapter 2 of the Code of the Town of North Hempstead, except as provided hereafter. A location map and plan drawing shall be submitted with the application. The application shall identify the structure as either a designated historic landmark or a structure within a historic landmark district, and shall include the following information:
- (1) Name, address and telephone number of applicant;
 - (2) Location and photographs of the subject property and properties within the immediate vicinity;
 - (3) Elevation drawings of proposed changes, if any;
 - (4) Perspective drawings, including relationship to adjacent properties, if available;
 - (5) Samples of materials to be used;
 - (6) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property; and
 - (7) Any other information as requested by the Commissioner.
- B. A completed building permit application filed with the Department of Buildings pursuant to § 27-9A herein shall be subject to expedited review by the Department of Buildings. Upon completion of the Department of Buildings initial review, the Commissioner or his or her designee shall promptly cause a copy of the application and all supporting materials to be transferred to the Executive Secretary for review and compliance with this section and shall

notify the applicant of the need to file an application for a certificate of appropriateness or, if applicable, an administrative certificate of appropriateness pursuant to Subsection H herein, with the Commission.

- C. Applications filed herein shall be subject to:
 - (1) A hearing before the Commission pursuant to § 27-8; or
 - (2) Expedited review pursuant to Subsection H below.
- D. In the event that an application is approved, the Executive Secretary shall produce and sign a certificate of appropriateness consistent with the Commission's approval, or an administrative certificate of appropriateness consistent with the Expedited Review Committee's approval. Copies of the certificate of appropriateness or administrative certificate of appropriateness shall be provided by the Executive Secretary to the applicant and the Supervisor of Plan Examination in the Department of Buildings, together with any required backup documentation. The Commissioner shall not issue a building permit until the Commission has issued a certificate of appropriateness or an administrative certificate of appropriateness. If the Commission denies a certificate of appropriateness, no building permit shall be issued.
- E. If the Commission issues a certificate of appropriateness or an administrative certificate of appropriateness, the Building Department shall continue its review of the application for a building permit in accordance with its usual procedures and standards and shall make its determination based on same.
- F. Where a proposed activity on a designated historic landmark or in a designated historic landmark district does not require a building permit, the applicant may proceed to file an application with the Executive Secretary for a certificate of appropriateness or administrative certificate of appropriateness.
- G. Every owner or other person in charge of a landmark building, structure, site or object or a building, structure, site or object in a historic landmark district shall keep in good and proper repair the property and all portions thereof which, if not so maintained, may cause or tend to cause the property to deteriorate, decay or become damaged or otherwise to fall into a state of disrepair.
- H. Expedited review; administrative certificate of appropriateness.
 - (1) Certain minor exterior alterations, restorations and changes of material that do not have a substantial adverse impact on the historic character of a designated historic landmark or designated historic landmark district, where applicable, and which conform to the Secretary of the Interior's Standards for Historic Preservation, may be approved on behalf of the

Commission without a formal hearing and issued an administrative certificate of appropriateness. Such approval shall be made by the Expedited Review Committee which shall be comprised of the Executive Secretary and two members of the Commission, one of whom shall be an architect.

- (2) An applicant may apply, in writing, to the Executive Secretary requesting expedited review, which request shall include such supportive documentation as the Executive Secretary may require. The Executive Secretary shall review the request to determine whether the proposed action may have a substantial adverse impact on the historic character of a designated historic landmark or designated historic landmark district, and if it meets one of the following eligible activities:
 - (a) Replacement of existing retaining walls with materials which are not replacement in kind.
 - (b) Replacement of existing roofing materials with materials which are not replacement in kind.
 - (c) Removal, installation or replacement of fences, excluding the installation or replacement of fences composed of vinyl, PVC or similar material.
 - (d) Removal of trees not in the Town's right-of-way, provided a certified arborist letter or multiple photos with a written explanation indicating imminent danger accompanies the request.
 - (e) The restoration of fire or storm damage not exempted from this chapter pursuant to § 27-10, with materials which are not replacement in kind. A material list shall be provided to the Plan Examiner and the Building Inspector in the Department to assure accuracy of the replacement materials.
 - (f) Awnings. Installation of new awning fabric, without signage, to be canvas or treated fabric on an existing awning frame.
 - (g) Installation of an aboveground swimming pool or freestanding hot tub.
 - (h) Alteration, construction, demolition or relocation of a noncontributing building or structure, or part thereof, located within a historic district.
- (3) Within five business days following receipt of an application for expedited review, the Executive Secretary shall:
 - (a) Review the application, together with the documentation supporting it;
 - (b) Render a preliminary written determination as to eligibility; and
 - (c) Forward the application, preliminary written eligibility determination, and all supporting

documentation to the Expedited Review Committee for confirmation of eligibility and approval or denial of the application for an administrative certificate of appropriateness.

- (4) The following items shall be considered by the Expedited Review Committee in making a determination when reviewing an application for an administrative certificate of appropriateness:
 - (a) Whether the application requires full review by the Commission for a certificate of appropriateness.
 - (b) Whether the application involves an emergency situation which has created a danger to health and/or safety that is preventing all or part of the building or structure from being occupied.
 - (c) Whether the application if granted could create a potential danger to persons, the building or structure or other surrounding buildings or structures.
- (5) The members of the Expedited Review Committee shall have five business days to consider the application for an administrative certificate of appropriateness and to make one of the following determinations: a) approval of the application; b) denial of the application; or c) require full review by the Commission for a certificate of appropriateness. The applicant shall be promptly notified, in writing, by the Executive Secretary of the determination.
- (6) Where the two members of the Expedited Review Committee make recommendations contrary to one another, the application under consideration shall be scheduled for full review by the Commission for a certificate of appropriateness.
- (7) Each application denied by expedited review shall be scheduled for full review by the Commission for a certificate of appropriateness.
- (8) For each application granted by expedited review, the Executive Secretary shall, within five business days, draft an administrative certificate of appropriateness for review and approval by the Chairman. A copy of the final administrative certificate of appropriateness shall be forwarded to the applicant by the Executive Secretary.
- (9) The Executive Secretary shall provide written notice to the Commission of each application decided by expedited review.

I. Expiration of Approval; Extension of Approval.

- (1) A certificate of appropriateness shall expire three years from the date of issuance if the applicant has not obtained a building permit to develop the property that is the subject of the application for a certificate of appropriateness in accordance with the**

plans for which the certificate of appropriateness was granted, unless an extension of time has been granted by the Commission pursuant to subsection (2) herein. In those instances where an activity subject to a certificate of appropriateness does not require a building permit, the certificate of appropriateness shall expire three years from the date of issuance if the work authorized thereby is not commenced by the end of such three-year period, unless an extension of time has been granted by the Commission pursuant to subsection (2) herein.

(2) Upon the request of the applicant, the Commission may extend a certificate of appropriateness for not more than one year per application, up to a maximum of three one-year extensions. The applicant seeking an extension of a certificate of appropriateness shall submit a written request to the Commission, together with any supporting documentation. Such request shall be filed prior to the expiration date of the certificate of appropriateness or previous extension. Failure to file a timely request shall result in a lapse of the certificate of appropriateness.

§ 27-10 Exemptions.

This chapter shall not apply to actions undertaken by any person pursuant to an order issued pursuant to Chapter 2A of the Code of the Town of North Hempstead for the purpose of remedying conditions determined to be unsafe or dangerous to the life, health or property of any person. Where feasible, the replacement of damaged materials shall be replacement in kind. Where replacement in kind materials are feasible but would cause a delay in remedying the conditions determined to be unsafe or dangerous, temporary measures to prevent further damage should be used if possible, provided these measures are reversible without damage to the building or structure. In complying with an order as described above, a copy of any compliance plan shall be provided to the Commission.

§ 27-11 Publicly owned property.

Plans for the construction, alteration or demolition of any structure or object or proposed structure which is owned by Nassau County, the Town of North Hempstead or any other local government, or is to be constructed upon property owned by Nassau County, the Town of North Hempstead, or any other local government; and is located on a historic landmark or in a historic landmark district shall, prior to final Town action approving or otherwise authorizing the use of such plans with respect to securing the performance of such work, be referred to the Commission by the governmental agency having responsibility for the preparation of such plans. Within 60 days after such referral, the Commission shall submit its recommendations thereon to the Town Board and the referring agency. Failure of the Commission to submit such recommendations within said 60 days shall be deemed approval by the Commission.

§ 27-12 Fees established.

Any application for designation of a historic landmark or historic landmark district shall be submitted to the Executive Secretary and shall be accompanied by fees in the amount indicated

in the Town of North Hempstead Fee Schedule. No fee shall be required for any application made by the Commission on its own motion.

§ 27-13 Penalties for offenses.

- A. Any offense against any provision of this chapter, except a violation of Article IV, § 27-8A, shall be a violation punishable by a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or both such fine and imprisonment. Each day's offense against this chapter shall constitute a separate and distinct violation.
- B. A violation of Article IV, § 27-8A, of this chapter shall be a misdemeanor, punishable by a fine of not less than \$1,000 nor more than \$5,000 or by imprisonment for a term not to exceed one year, or both such fine and imprisonment.
- C. In addition to the penalties set forth in this section, the Town Attorney may institute appropriate proceedings to prevent, restrain, correct or abate a violation of this chapter.

§ 27-14 Appeals.

Those aggrieved by any decision of the Commission may appeal such decision to the Supreme Court in the State of New York pursuant to Article 78 of the Civil Practice Law and Rules, provided it is commenced within the governing statute of limitations.

§ 27-15 Severability.

If any clause, sentence, paragraph, section, word or part of this chapter is adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder of this chapter, but shall be confined in its operation to the, sentence, paragraph, section or part of this chapter directly involved in the controversy to which the judgment is rendered.

Section 4.

This Local Law shall take effect immediately upon filing with the Secretary of State.