

**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in order to **modify procedural requirements, eliminate duplicative and conflicting provisions, update certain outdated provisions and to include a mechanism for the expedited review of certain common but minor exterior alterations, restorations and changes of material that do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.**

**Section 2.**

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

Article 1 General Provisions

§ 27-1 Findings and intent.

- A. The Town Board hereby finds and declares that it is desirable to take measures to provide for the designation of historic landmarks and districts in furtherance of the following public purposes, which are found to promote the general health, safety and welfare of our residents:
- (1) To preserve historic landmarks and districts within the Town in order to foster a greater stability in our neighborhoods, create an appreciation of our historical heritage and further the education of our future generations.
  - (2) To provide for the protection, enhancement, preservation, perpetuation and use of those landmarks and districts which are illustrative of the growth and development of our [n]Nation, our [s]State and our Town and which are of particular historic or aesthetic value to the Town of North Hempstead.
  - (3) To recognize and [~~insure~~] **ensure** the preservation of those elements of the Town's past which represent the many and varied architectural, artistic, technological, cultural, and/or historic achievements.

- (4) To promote the preservation of historic landmarks and districts as a means of providing appreciation and unique educational benefits by perpetuating the physical evidence of the Town's past.
- (5) To stabilize and improve property values of such historic landmarks and districts and otherwise promote their utilization.
- (6) To foster civic pride in those elements of the Town's past which create its unique character and set it apart from other communities.

B. It is the intent of this chapter to establish procedures and criteria to evaluate and preserve historic landmarks and districts deemed to be significant in the history of our Town and prevent the destruction, decay or incompatible alteration of those historic landmarks and districts.

§ 27-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**ALTERATION**

Any act, ~~or~~ process **or work that** ~~[which]~~ changes ~~[one or more of]~~ the **exterior appearance, exterior architectural ~~or natural~~ features, or landscape features, as defined herein,** of a ~~[a historic]~~ landmark ~~[or a building or site located within an historic landmark district],~~ including ~~[but not limited to]~~ the ~~[replacement of roofing or siding materials, the erection, construction,]~~ restoration, renovation, reconstruction, **obstruction, addition to or** ~~[demolition in part or whole, the]~~ removal of **any part of such a landmark** ~~[such structure or alteration to the landscape or topography of a site. Alteration shall not include ordinary repair and maintenance of a building or landscape which does not change the building materials and/or the appearance of the subject property].~~

**APPLICANT**

Any individual, partnership, unincorporated association, corporation, or any other entity that submits an application for designation of a landmark or district or for a certificate of appropriateness.

**BUILDING**

**A combination of materials, other than a structure, to form a construction that is safe and stable and adapted to permanent or continuous occupancy for public, institutional, residence, business or storage purposes; the term "building" shall be construed as if followed by the words "or part thereof."**

**COMMISSION**

The **Town of North Hempstead** Historic Landmarks Preservation Commission established

pursuant to this chapter.

#### COMMISSIONER

The Commissioner of Building and Safety Inspection and Enforcement of the Town of North Hempstead.

#### CONSTRUCTION

Any act of erecting an addition to an existing structure, building, site, ~~or~~ object or the erection of a new principal or accessory structure on a lot or property.

#### DEMOLITION

Any act or process that destroys, in part or in whole, **a historic** landmark or a structure, building, site or object within a ~~an~~ historic landmark district.

#### DEPARTMENT

The Department of Building and Safety Inspection and Enforcement of the Town of North Hempstead.

#### ~~DISTRICT~~

~~[An historic landmark district as defined in this chapter.]~~

#### EXTERIOR ARCHITECTURAL FEATURES

The **exterior** architectural style, design, general arrangement and components of all of the outer surfaces of any building, structure, site or object, including but not limited to the kind and texture of the building material and the type and style of all windows, window frames, shutters, doors, door frames, **roofing or siding materials**, lights, signs, fences, railings, porches, balconies, ~~swings~~ **pools**, ornamentation and other fixtures appurtenant to said building or structure or significant changes to the landscaping and/or topography of a site.

#### HISTORIC LANDMARK

A building, structure, site, ~~or~~ object or parcel of land designated pursuant to this chapter, which may or may not be located in a designated historic landmark district and which possesses one or more of the following characteristics:

- A. Is associated with persons or events of historic significance to the Town, region, ~~s~~State or ~~n~~Nation;
- B. Is illustrative of historic growth and development of the Town, region, ~~s~~State or ~~n~~Nation;
- C. Embodies distinctive characteristics of a type, period or method of construction;
- D. Contains unique architectural, archaeological, landscaping or artistic qualities.

#### HISTORIC LANDMARK DISTRICT

An area of the Town, designated pursuant to this chapter, which possesses the following characteristics:

- A. Has special character and/or special historic value; **and**
- B. Represents one or more periods or styles of art or architecture typical of one or more past eras; and
- C. Geographically is an identifiable portion of the Town[-]; **and**
- D. Has a contiguous boundary.**

~~[HISTORIC LANDMARK SITE]~~

~~[A parcel or part thereof on which is situated an historic landmark, and any abutting parcel or part thereof constituting part of the premises on which the landmark is situated and designated as an “historic landmark site” pursuant to this chapter. An historic landmark site may also be a parcel of land so designated due to its historic significance.]~~

HISTORIC SITE MAP

A map prepared and maintained by the Department of Planning and ~~[Economic Development]~~ **Environmental Protection** of the Town of North Hempstead on which the location of all designated historic landmarks and districts within the Town shall be identified.

LANDMARK

A[~~n~~] historic landmark as defined in this chapter.

**LANDSCAPE FEATURE**

**Any natural topographic feature or man-made landscape element.**

**NONCONTRIBUTING**

**A building, structure, site or object which is not an integral component of a historic district because it neither dates from a time period for which the district is significant nor represents an architectural type, period or method for which the district is significant.**

**OBJECT**

**A material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.**

PERSON

An individual, partnership, unincorporated association, corporation or any other entity or organization.

RELOCATION

Any change to the location of a building, structure or object on its site or removal to another site.

#### **REPAIR AND MAINTENANCE**

Any mechanical or physical change to a building, structure, site or object that is not construction, demolition, relocation or alteration, whether or not such change requires a building permit.

#### **REPLACEMENT IN KIND**

**The act or process of replicating any historic exterior architectural feature to substitute for the existing and deteriorated or damaged architectural feature with like materials of similar quality as the original feature.**

#### **SITE**

**Includes the land and all buildings or structures thereon.**

#### **STRUCTURE**

~~[Any assembly of materials forming a construction framed of component materials intended for occupancy or use, whether or not it is being actually used or occupied,]~~ **A combination of materials, other than a building, to form a construction that is safe and stable, including, among others, [including, but without limiting the generality of the foregoing.]: [buildings], gazebos, walls, sidewalks, signs, billboards, radio and television antennas, retaining walls, paving, [and] swimming pools, fences, fixed outdoor fireplaces, sheds and pergolas. The term "structure" shall be construed as if followed by the words "or part thereof."**

#### **STYLES OF ARCHITECTURE**

A style recognized by any one of the following:

- A. National Register of Historic Places.
- B. Historic American Buildings Survey, Historic American Engineering Record[s], **Historic American Landscapes Survey**, United States Department of the Interior.
- C. Historic Preservation Field Services Bureau of the New York State Office of Parks, Recreation, and Historic Preservation.
- D. ~~[Nassau County Museum]~~ **New York City Landmarks Preservation Commission.**
- E. National Trust for Historic Preservation.
- F. Society of Architectural Historians.

#### **TOWN**

The unincorporated area within the Town of North Hempstead, New York.

Article II Historic Landmarks Preservation Commission

§ 27-3 Establishment, membership, terms, vacancies, compensation, ethics.

- A. There is hereby established a~~n~~ Historic Landmarks Preservation Commission for the Town of North Hempstead.
- B. The Commission shall consist of seven members appointed by the Town Board, **all of whom shall be residents of the Town of North Hempstead at the time of his or her appointment and throughout the term of his or her appointment. This requirement may be waived by resolution of the Town Board for nonresidents with special expertise pertinent to the Commission. All Commission members shall have a demonstrated interest in or competence in or knowledge of historic preservation. The Town Historian shall serve as a permanent member of the Commission. At least one member shall be an attorney at law licensed by the State of New York. At least two members shall be architects licensed by the State of New York.**
- C. ~~[All Commission members shall have a demonstrated interest in competence in or knowledge of historic preservation. The Town Historian shall serve as a permanent member of the Commission. At least one member shall be an attorney at law licensed by the State of New York. At least two members shall be architects licensed by the State of New York with experience in working with historic buildings.]~~ **Each member shall be appointed for a term of three years. All members may continue to hold office until their successors have been appointed and qualified. Whenever a vacancy occurs, the Town Board shall appoint a person with the requisite qualifications to fill the unexpired term of the former member. Each member shall serve for a term of three years.**
- D. The Commissioner of Planning and ~~[Economic Development]~~ **Environmental Protection**, ~~[or a designee, shall be an ex officio nonvoting member of the Commission and]~~ **or a designee, shall serve as the Executive Secretary. The Executive Secretary shall not be a member of the Commission. The Executive Secretary shall provide for minutes of the proceedings of the Commission to be kept, including a record of the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall maintain permanent records of all Commission meetings, hearings and proceedings and all correspondence of the Commission. The Executive Secretary shall provide for keeping a file of all records of the Commission, and such records shall be public records open to inspection at reasonable times and upon reasonable notice.** The Commissioner of Planning and Environmental Protection shall **also** provide staff for the Commission for the purpose of: **i) conducting and/or coordinating studies and research and providing other material and information necessary for the Commission to exercise its powers and duties[-]; and ii) maintaining and periodically revising, at least every five years, a public listing of designated historical sites, buildings, structures, objects or**

**districts and data about them, appropriately classified with respect to national, state or local significance.**

- E. ~~[Each member shall serve for a term of three years, except for the first appointments to the Commission, of whom two shall serve for three years, two shall serve for two years and two shall serve for one year. All members shall continue to hold office until their successors have been appointed and qualified. Whenever a vacancy occurs, the Town Board shall appoint a person with the requisite qualifications to fill the unexpired term of the former member.] **Reserved.**~~
- F. The Supervisor shall annually designate one of the appointed members of the Commission to serve as its Chair. The Commission members shall annually designate a Vice Chair, who shall act as the Chair in the absence of the Chair. The Chair and the Vice Chair shall continue to serve in their positions until their successors shall have been appointed.
- G. ~~[The Commissioner, or a designee, shall serve as the Executive Secretary. The Executive Secretary shall not be a member of the Commission. The Executive Secretary shall provide for minutes of the proceedings of the Commission to be kept, including a record of the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall maintain permanent records of all Commission meetings, hearings and proceedings and all correspondence of the Commission. The Executive Secretary shall provide for keeping a file of all records of the Commission, and such records shall be public records open to inspection at reasonable times and upon reasonable notice.] **Reserved.**~~
- H. The members of the Commission shall serve without compensation, but may be fully reimbursed for expenses incurred in the performance of their duties, provided the Town's budget shall include monies for such purpose.
- I. The Commission shall set meeting dates and adopt such procedures pertaining to its duties as are necessary for it to properly perform its functions as set forth herein and as are consistent with the laws of the Town.
- J. Four members shall constitute a quorum, and actions may be taken by a majority of members present and voting, except that the affirmative vote of at least four voting members shall be required to recommend designation of a~~n~~ historic landmark or historic landmark district or to recommend rescission of such a designation.
- K. Commission members shall be familiar with and shall be governed by Chapter 16A of the Code of the Town of North Hempstead, entitled "Ethics, Code of."
- L. A member who misses two consecutive meetings without an excuse may, upon a

recommendation adopted by a majority of the voting members of the Commission, be removed from office by the Town Board.

§ 27-4 **Duties of Commission.**

The Commission shall have the authority to:

- A. Nominate and/or designate areas, buildings, structures, sites or objects as historic landmarks or historic landmark districts and prepare reports, studies and/or surveys related to consideration for designation.
- B. Issue or deny certificates of appropriateness for designated historic landmarks or buildings, structures, sites or objects ~~[in]~~ **within** historic landmark districts.
- C. ~~[Maintain and periodically revise, at least every five years, a public listing of designated historical sites, buildings, structures, objects or districts and data about them, appropriately classified with respect to national, state or local significance.]~~ **Reserved.**
- D. Establish procedures for the identification and nomination of historic landmarks and districts.
- E. Formulate recommendations concerning the establishment of an appropriate system of markers for historic landmarks and districts and/or architecturally significant buildings, structures, sites and objects within a~~[n]~~ historic landmark district.
- F. Advise the owners of ~~[historic]~~ buildings, structures, sites or objects **that may have historic character** on the preservation of their properties and as to procedures for inclusion on the State and National Registers of Historic Places **and/or designation by the Commission as a historic landmark.**
- G. As ~~[defined]~~ **provided for** in this article, submit nominations to the State and National Registers of Historic Places.
- H. Formulate recommendations concerning the preparation and publication of maps, brochures and descriptive material about the Town's historic and/or architectural features and resources.
- I. Cooperate with and advise the Town Board, the Board of Zoning and Appeals and other Town departments regarding proposed zoning amendments, applications for variances or special use permits that affect proposed or designated historic landmarks and districts.
- J. Recommend to the Town Board that the Town apply for and/or accept grants, private donations and other funds and recommend to the Town Board how such funds shall be appropriated.



- K. Adopt **written** rules and regulations with respect to the duties granted herein, subject to the approval of the Town Board.
- L. Submit a **periodic written** ~~[report]~~ **summary** ~~[on]~~ **of** its activities to the Town Board.

### 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 ~~a[n]~~ historic landmark or an area **as** a ~~a[n]~~ 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 be in writing and]~~ shall include the following:
  - (1) An application to designate a building, structure, site or object for preservation as a ~~a[n]~~ 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 ~~[subject property]~~ 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 ~~[submitted]~~ **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 ~~[subject property]~~ **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[~~n~~] historic landmark district shall include:
  - (a) A concise statement of the physical elements which make the area a[~~n~~] 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[~~n~~] 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[~~n~~] 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 [~~scaled~~] map [~~showing~~] 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. ~~[The Commission can choose to amend an application in any manner, including but not limited to, adding or deleting properties proposed for inclusion in an historic landmark district, or by limiting an application to the structure only and eliminating a site or outbuilding included in an application for an 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.]~~ **Reserved.**
- C. Public hearing and decision by the Commission.
- (1) Upon ~~[a Commission decision to accept the]~~ **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** ~~[Board of Zoning and Appeals],~~ **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,**~~[F]t~~ the applicant shall ~~[notify the]~~ **provide notice of the hearing to property** owners of record ~~[of the subject property and other owners of record]~~ as they appear on the tax rolls of the Town, of property located within 300 feet of the **site,** ~~[boundary lines of the affected property, by certified mail, return receipt requested. Said notice shall be mailed]~~ **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.** ~~[n]~~ Not less than 10 ~~[days]~~ nor more than 20 days ~~[prior to]~~ **before** the ~~[date of the]~~ hearing~~[-]~~, ~~[F]t~~ 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 at least five days before the public hearing]~~ **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. ~~[The notice shall be published at least 14 days prior to the date of the 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 subsections (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.

- (23) The Commission shall have [45] 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 27-5.D below.

(35) If the Commission shall deny an application, the proceeding shall terminate, and the Commission shall not consider a new application for the same [site] **proposed historic landmark or proposed historic landmark district for one year thereafter.**

(46) 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 [Board of Zoning and Appeals] Town Board [Councilmembers] and shall mail a copy to the applicant and the owner[s] of the [subject] **affected** propert[y]ies 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 [submitted] **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 27-5(C)(2) herein.** [Notice of this public hearing shall be given by the applicant in accordance with the provisions of this chapter.] **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 [45] **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.

~~[(3) The Town Board shall make a determination under the State Environmental Quality Review Act. If the Town Board issues a positive declaration, the person who submitted the application shall pay for all expenses incurred in the preparation of the environmental impact statement. In the event of a positive declaration by the Town Board, the time allowed for the Town Board to take action on a recommendation of the Commission shall be stayed until the State Environmental Quality Review Act process has been completed.]~~

E. Within 10 days of the Town Board's final action, the Town Clerk shall notify the

Commission, the Building Department, the ~~[Board of Zoning and Appeals]~~ **Department of Planning and Environmental Protection**, the applicant, and the owner~~[s]~~ of the ~~[subject]~~**affected** property~~[ies]~~. If the Town Board accepts the recommendation, the Town Clerk shall also notify the Nassau County ~~[Board of Assessors]~~ **Department of Assessment**.

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

**A** ~~[H]~~ 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~~[n]~~ 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~~[n]~~ 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.

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 section ~~[L]~~ **K** herein ~~[which causes any material change in appearance of any feature of a building, structure, site or object in a designated historic landmark district or of a designated historic landmark.]~~
- (2) Any ~~[new]~~ 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.

~~[(4) Consideration by the Board of Zoning and Appeals of an application for a variance or conditional use permit.]~~

- 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** ~~[Prior to]~~ the Commission reviews~~[ing]~~ 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** ~~[, return receipt requested.]~~, **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 substance of the application and]~~ 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.** ~~[The Commission shall not act on any application until at least 30 days after the date of mailing of the notice.]~~
- (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** [~~property~~] 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 [~~n~~] 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 [~~n~~] historic place or area of historic interest in the Town.
- H. If the Commission approves an application which involves demolition or relocation of a [~~n~~] historic landmark or **building, structure or object** or portions thereof within a [~~n~~] historic landmark district, it shall find the building, [~~or~~] 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, [~~or~~] 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. The Commission may permit a structure designated as an historic landmark, site, or located within an historic landmark district to be moved as an alternative to demolition.]~~

~~[L]~~**K.** Nothing in this chapter shall be construed to prevent **the following:**

**(1)** ~~[ø]~~**Ordinary maintenance,** ~~[œ]~~ repair **or replacement in kind** with like materials of similar quality, of any place, site, structure, object or building designated as a~~[ñ]~~ historic site, or any property located wholly or partially within the boundaries of a~~[ñ]~~ 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 façade of a building or structure **visible to the public** street without prior review by the Commission.

[M]**L.** New construction shall be consistent with the architectural styles, **massing, spacing and height of the structures** of historic value in a[~~an~~] historic landmark district. However, the Commission may approve the construction of buildings or structures which have a dissimilar architectural style to that of a[~~an~~] 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.**

[N.—Approval.

~~(1) Notwithstanding any other provisions of this chapter, the Commission shall approve an application for a modification of a historic landmark if the applicant establishes that:~~

~~(a) The land or improvement in question cannot yield a reasonable return if the proposed action is denied;~~

~~(b) The hardship of the applicant is due to unique circumstances of the property and not because of the general nature of the neighborhood;~~

~~(c) The proposed action will not alter the essential character of the area; and~~

~~(d) The hardship is the result of the provisions of this chapter and not created by the action or omission of the applicant.~~

~~(2) To the extent possible, any approval granted on the above factors shall conform to the purposes of this chapter.]~~

§ 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[~~an~~] historic landmark [~~site~~] or located within a[~~an~~] 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 [~~, an historic site,~~] or a structure within a[~~an~~] 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 [~~Building~~] Commissioner.

**B. A completed building permit application filed with the Department of Buildings pursuant to section 27-9.A 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 (G) herein, with the Commission.**

**C. Applications filed herein shall be subject to: (i) a hearing before the Commission pursuant to § 27-8 or (ii) expedited review pursuant to subsection (G) below.**

**[B]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 back-up 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.**

**D. 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[n] 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 (2) 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 Section 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 above-ground swimming pool or free-standing 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 (5) 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 (5) 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 (5) 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.**

#### § 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, [~~reconstruction~~], 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[~~n~~] historic landmark or in a[~~n~~] 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.

[Amended 4-11-2006 by L.L. No. 5-2006]

Any application for designation of a[~~n~~] 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 [~~more~~] **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~~ [14] 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 3.**

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