

Chapter 149: HISTORIC PRESERVATION

§ 149-1. Title.

This chapter shall be known and cited as the "Historic Preservation Law of the Town of Perinton."

§ 149-2. Authority.

In accordance with § 96-a of the General Municipal Law of the State of New York entitled "Protection of historical places, buildings and works of art," the Town Board of the Town of Perinton has authority to provide by regulations, special conditions and restrictions for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, works of art and other objects having special character or special historical or other aesthetic interest or value. Pursuant to that authority, the Town Board has prepared and adopted this chapter, setting forth standards to be followed in historic preservation.

§ 149-3. Purpose.

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts is necessary to promote the economic, cultural, educational and general welfare of the public. Inasmuch as the identity of a people is founded on its past and inasmuch as Perinton has many significant historic, architectural and cultural resources which constitute its heritage, this chapter is intended to:

- A. Protect and enhance the landmarks and historic districts which represent distinctive elements of Perinton's historic, architectural and cultural heritage.
- B. Foster civic pride in the accomplishments of the past.
- C. Protect and enhance Perinton's attractiveness to visitors and the support and stimulus to the economy thereby provided.
- D. Ensure the harmonious, orderly and efficient growth and development of the Town of Perinton.
- E. Stabilize and improve property values.

§ 149-4. Historic Architecture Commission.

There is hereby created a commission to be known as the "Perinton Historic Architecture Commission."

- A. The Commission shall consist of five members to be appointed by the Town Board. Members shall be residents of the Town of Perinton who shall have a known interest in historic preservation and architectural development within the Town of Perinton.
- B. Commission members shall serve for a term of three years, with the exception of the initial term of two of the members, which shall be one year, two which shall be two years and one which shall be three years. **[Amended 7-14-1993 by L.L. No. 9-1993]**
- C. The Chairman of the Commission shall be appointed by the Town Board to a two-year term, and the Vice Chairman shall be elected by and from among the members of the Commission.
- D. The powers of the Commission shall include:

- (1) Appointment of staff and professional consultants as necessary to carry out the duties of the Commission, with compensation only as approved by the Town Board.
 - (2) Promulgation of rules and regulations as necessary for the conduct of its business.
 - (3) Adoption of criteria for the identification of significant historic, architectural and cultural landmarks and for the delineation of historic districts.
 - (4) Provisions for surveys of significant historic, architectural and cultural landmarks and historic districts within the Town.
 - (5) Designation of identified structures or resources as landmarks and historic districts.
 - (6) Acceptance on behalf of the Town government of the donation of facade easements and development rights and the making of recommendations to the Town government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this chapter.
 - (7) Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.
 - (8) Making recommendations to Town government concerning the utilization of state, federal or private funds to promote preservation of landmarks and historic districts within the Town.
 - (9) Recommending acquisition of landmark structures by the Town government where their preservation is essential to the purposes of this chapter and where private preservation is not feasible.
 - (10) Approval or disapproval of applications for certificates of appropriateness pursuant to this chapter.
- E. The Commission shall meet at least quarterly, but meetings may be held at any time on the written request of any two of the Commission members or on the call of the Chairman or the Supervisor.
- F. A quorum for the transaction of business shall consist of three of the Commission's members, and not fewer than three may grant or deny a certificate of appropriateness.
- G. All voting members shall have inspected the property concerned before voting on a certificate of appropriateness.

§ 149-5. Designation of landmarks and historic districts.

- A. The Commission may designate an individual property as a landmark if it:
- (1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation;
 - (2) Is identified with historic personages;
 - (3) Embodies the distinguishing characteristics of an architectural style;
 - (4) Is the work of a designer whose work has significantly influenced an age; or
 - (5) Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.
- B. The Commission may designate a group of properties as a historic district if it:
- (1) Contains properties which meet one or more of the criteria for designation of a landmark.
 - (2) By reason of possessing such qualities, constitutes a distinct section of the Town.
- C. The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the Town Clerk's office for public inspection.
- D. Notice of a proposed designation shall be sent by first class mail to the owners of each of the properties proposed for designation, describing the properties proposed and announcing the date, time and place of a public hearing by the Commission to consider the designation. Such notice must be posted on the signboard maintained by the Town Clerk at least 10 but not more than 20 days prior to the date of the public hearing. Once the Commission has issued notice of a proposed designation, no building permits nor demolition permits shall be issued by the Building Inspector until the Commission has made its decision. A property owner who wants to do work on his property may request, by first class mail sent to the Town's Director of the Building Department, that a determination on the proposed designation be made within 62 days of receipt of such request. Failure of the Historic Architecture Commission to timely comply with a request for such determination shall release the hold on a requested building or demolition permit. **[Amended 5-24-**

2000 by L.L. No. 3-2000]

- E. The Commission shall hold a public hearing prior to designation of any landmark or historic district. The Commission, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The record may also contain staff reports, public comments or other evidence offered outside of the hearing.
- F. Local preservation districts and/or individual landmarks are decided by the Commission.
- G. The Town Clerk shall forward notice of each property designated as a landmark and of the boundaries of each designated historic district to the office of the Monroe County Clerk for recordation.

§ 149-6. Certificate of appropriateness for alteration; demolition or new construction affecting landmarks or historic districts. [Amended 7-14-1993 by L.L. No. 9-1993; 11-29-2006 by L.L. No. 7-2006]

No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or property within a historic district, nor shall any person make any material changes in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley or the public right-of-way, without first obtaining a certificate of appropriateness from the Commission. All certificates of appropriateness will automatically terminate one year after they are granted unless significant work has commenced on the project.

§ 149-7. Criteria for approval of application. [Amended 7-14-1993 by L.L. No. 9-1993; 11-29-2006 by L.L. No. 7-2006]

In approving applications for certificates of appropriateness, the Historic Architecture Commission shall consider and evaluate the propriety of issuing the certificate in terms of its effect on the purposes for which landmarks and preservation districts are designated. When acting upon an application for a certificate of appropriateness, the Historic Architecture Commission shall not consider changes to interior spaces unless they are open to the public or to architectural features that are not visible from a public street or alley or the public right-of-way. In approving applications for certificates of appropriateness, the Historic Architecture Commission shall be guided by the following standards and considerations.

- A. Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible. Any alteration of an existing property shall be compatible with its historic character, as well as with the surrounding district.
- B. New construction shall be compatible with the district in which it is located.
- C. In applying the principle of compatibility, the Commission shall consider the following factors:

- (1) The quality of the open spaces between buildings and in setback spaces between street and facade.
- (2) The quality of materials and their relationship to those in existing adjacent structures.
- (3) The quality of the design in general and its relationship to the overall character of the neighborhood.
- (4) The quality of the site development in terms of recreation, pedestrian access, automobile access, parking and servicing, and the retention of trees and shrubs to the extent possible.
- (5) The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood.
- (6) Texture and materials and their relation to similar features of other properties in the neighborhood.
- (7) Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape and the rhythm of spacing of properties on streets, including setback. New and existing buildings and structures, and appurtenances thereof, which are moved, reconstructed, materially altered, or repaired shall be visually compatible in terms of the following criteria:
 - (a) Height. The height of the proposed buildings and structures shall be visually compatible with adjacent buildings.
 - (b) Proportion of front facade. The relationship of the width to the height of the front elevation shall be visually compatible with buildings, public ways, and places to which it is visually related.
 - (c) Proportion of openings. The relationship of the width to height of windows shall be visually compatible with buildings, public ways, and places to which the building is visually related.
 - (d) Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with buildings, public ways, and places to which it is visually related.
 - (e) Rhythm of spacing and buildings on streets. The relationship of a building or structure to the open space between it and adjoining buildings or structures shall be visually compatible with the buildings, public ways and places to which it is visually related.
 - (f) Rhythm of entrance porch and other projections. The relationship of entrances and other projections to sidewalks shall be visually compatible with the buildings, public ways, and places to which it is visually related.
 - (g) Relationship of materials, texture, and color. The relationship of the materials, texture, and color of the facade shall be visually compatible with the predominant materials used in the buildings and structures to which it is visually related.
 - (h) Roof shapes. The roof shape of a building shall be visually compatible with the buildings to which it is visually related.
 - (i) Walls of continuity. Building facades and appurtenances, such as walls, fences and landscape masses, shall, when it is a characteristic of the area, form cohesive walls of enclosure along a street, to ensure visual compatibility with the buildings, public ways and places to which such elements are visually related.
 - (j) Scale of a building. The size and mass of buildings and structures in relation to open spaces, windows, door openings, porches and balconies shall be visually compatible with the buildings, public ways and places to which they are visually related.
 - (k) Directional expression of front elevation. A building shall be visually compatible with the buildings, public ways, and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.
- (8) The importance of historic, architectural, or other features to the significance of the property.
- (9) Special considerations for existing buildings. For existing buildings, the Historic Architecture Commission shall consider the availability of materials, technology, and craftsmanship to duplicate existing styles, patterns, textures and overall detailing. When several acceptable alternatives are appropriate, costs may be considered by the Historic Architecture Commission.

§ 149-8. Application procedure; building permit.

- A. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Commission. Such filing is to take place in the Town Building Department on such forms as may be prepared. The application shall contain:
- (1) The name, address and telephone number of the applicant.
 - (2) The location and photographs of the property.
 - (3) Elevation drawings of proposed changes, if available.
 - (4) Perspective drawings, including the 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.
 - (7) Any other information which the Commission may deem necessary in order to visualize the proposed work.
- B. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Commission. The certificate of appropriateness required by this chapter shall be in addition to and not in lieu of any building permit that may be required by any other chapter of the Code of the Town of Perinton.
- C. The Commission shall approve, approve with modifications or deny the application within 60 days from the receipt of the completed application. The Commission may hold a public hearing on the application, at which an opportunity will be provided for proponents and opponents of the application to present their views. The applicant will be required to post a sign provided by the Town in the front yard of the property subject to application for a period of 10 days prior to the scheduled meeting.
- D. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by first class mail and a copy filed with the Town Clerk. The Commission's decision shall state the reasons for its decision.
- E. A fee as set from time to time by the Town Board shall accompany the application. **[Amended 12-10-1997 by L.L. No. 6-1997]**

§ 149-9. Hardship criteria. [Amended 11-29-2006 by L.L. No. 7-2006]

- A. Certificate of economic hardship.
- (1) Authority. The Historic Architecture Commission shall have authority to issue certificates of economic hardship in accordance with the provisions of this section.
 - (2) Purpose. The certificate of economic hardship is intended to provide a means by which relief may be granted from a certificate of appropriateness decision that creates an economic hardship. The hardship procedure shall be utilized only in conjunction with the denial of a certificate of appropriateness application.
 - (3) Certificate of economic hardship standards.
 - (a) General. The Historic Architecture Commission shall have the power to vary or modify adherence to the standards for a certificate of appropriateness and issue certificates of economic hardship which shall function as a certificate of appropriateness when:
 - [1] Based on extraordinary replacement or maintenance costs, there is a lack of reasonable return for income-producing property.
 - [2] There is a lack of reasonable use for residential purposes for non-income-producing property.
 - (b) Demolition. Specifically in the case of a demolition, the applicant is required to show all of the following:
 - [1] That the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - [2] That 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;
 - [3] Efforts to find a purchaser interested in acquiring the property and preserving it have failed; and
 - [4] That the claimed hardship is not self-imposed or self-created.

§ 149-10. Hardship application procedure.

- A. After receiving written notification from the Commission of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.
- B. The Commission shall hold a public hearing on the hardship application, at which an opportunity will be provided for proponents and opponents of the application to present their views.
- C. The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- D. The application shall contain all of the following information and documentation at the discretion of the HAC. **[Amended 11-29-2006 by L.L. No. 7-2006]**
- (1) Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture or other.
 - (2) Amount paid for the property, the date of purchase and the party from which purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and the buyer.
 - (3) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years.
 - (4) Any appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property or, if no such appraisal exists, a new appraisal and purposes for which money has/will be expended which the property has been used to secure.
 - (5) Any listing of the property within the past two years for sale or rent, price asked and offer received, if any, and sale prices of properties of comparable size and/or construction in a rehabilitated condition.
 - (6) If the property is income-producing, the annual gross income from the property for at least the previous two years, itemized income revenue, operating and maintenance expenses for the previous two years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period.
 - (7) Assessed value of the property according to the two most recent assessments and assessment value of comparable property.
 - (8) Real estate taxes and other governmental surcharges for the previous two years.
 - (9) A report from a licensed engineer or architect with demonstrated experience in rehabilitation of historic structures as to the structural soundness of any structures on the property and their suitability for rehabilitation.
 - (10) An appraisal of the market value of the property in its current condition, including estimates of market value after completion of the proposed construction, alteration or removal.
 - (11) Cost estimates by three different contractors with demonstrated experience within the last five years in the rehabilitation of historic structures qualified to perform the proposed work as planned and as required.
 - (12) In the case of a proposed demolition, an estimate from a licensed architect or engineer, or developer with demonstrated experience within the last five years in rehabilitation of historic structures, as to the economic feasibility of rehabilitation or reuse of the existing structure on the property; such professional may be asked to submit a listing of projects completed within the last five years.
 - (13) Any other information considered necessary by the Historic Architecture Commission to make a determination on an applicant's claim of economic hardship.
- E. All decisions of the Commission shall be in writing, and shall be made within 62 days following the conclusion of the public hearing. A copy shall be sent to the applicant by first-class mail and a copy filed with the Town Clerk. The Commission's decision shall state the reasons for its decision. **[Added 11-29-2006 by L.L. No. 7-2006]**

§ 149-11. Compliance required; inspection; stop-work order.

All work performed pursuant to a certificate of appropriateness issued under this chapter shall conform to any requirements included therein. It shall be the duty of the Building Code Enforcement Officer to inspect periodically and, upon completion of any such work, to assure compliance. If work is found that is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Commission, the Building Code Enforcement

Officer shall issue a stop-work order, and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.

§ 149-12. Maintenance and repair required.

- A. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district which does not involve a change in design, material or outward appearance.
- B. No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. Examples of such deterioration include:
 - (1) Deterioration of exterior walls or other vertical supports.
 - (2) Deterioration of roofs or other horizontal members.
 - (3) Deterioration of exterior chimneys.
 - (4) Deterioration or crumbling of exterior stucco or mortar.
 - (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
 - (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

§ 149-13. Penalties for offenses.

- A. Failure to comply with any of the provisions of this chapter shall result in the termination of any permits issued or any proceedings commenced under the provisions of this chapter, and penalties for violations thereof shall be under the Enforcement Procedures Law, Chapter 115 of the Code of the Town of Perinton, as the same may be amended from time to time.
- B. Any person who demolishes, alters, constructs or permits a designated property or a property proposed for designation to fall into a serious state of disrepair in violation of this chapter shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the Town Attorney upon authorization by the Town Board. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty. **[Amended 5-24-2000 by L.L. No. 3-2000]**

§ 149-14. Appeals.

Any person aggrieved by a decision of the Commission relating to designation, hardship or a certificate of appropriateness may, within 30 days of the filing of the decision in the Town Clerk's office, file a written application with the Town Board for review of the decision. The Town Board shall schedule a public hearing on the matter without unnecessary delay.

§ 149-15. Conflict with other provisions.

Where this chapter imposes greater restrictions than are imposed by the provisions of any law, ordinance, regulation or private agreement, the provisions of this chapter shall control. Where greater restrictions are imposed by any law, ordinance, regulation or private agreement than are imposed by this chapter, such greater restrictions shall not be affected by this chapter.

§ 149-16. Compliance with provisions required.

No decision to carry out or approve an action subject to the provisions of this chapter shall be rendered by any department, board, commission, officer or employee of the Town of Perinton until there has been full compliance with all requirements of this chapter. This shall not prohibit environmental, engineering, economic feasibility or other studies, preliminary planning or budgetary processes, nor the granting of an application relating only to technical specifications and requirements, but not authorizing commencement of action until full compliance with this chapter has been met.

§ 149-17. Applicability.

This chapter shall apply to the entire area of the Town of Perinton, excluding that area within the corporate limits of the Village of Fairport.

§ 149-18. Amendment of provisions.

The Town Board may from time to time amend, supplement, change, modify or repeal this chapter pursuant to the provisions of the Town Law and the General Municipal Law applicable thereto.