

TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. 14 OF 2003.MISCELLANEOUS
& STATE RECORDSLOCAL LAW REPEALING AND RE-ADOPTING CHAPTER 27
OF THE TOWN CODE**Section 1. Legislative Intent.**

It is the intent of the Town Board to promote the general health, safety, and welfare of Town residents by taking measures to provide for the designation of historic landmark sites, structures, and districts. The Town Board further finds that Chapter 27 of the Town Code, originally adopted on May 1, 1984 as Local Law No. 2, 1984, requires significant improvements to function as an effective tool in preventing the destruction, decay or incompatible alteration of historic landmark sites, structures, and districts.

The proposed Local Law repeals Chapter 27 of the Town Code, and re-adopts said Chapter to expand the powers of the Landmarks Preservation Commission and the Town Board. The re-adopted Chapter streamlines landmark designation procedures, will facilitate the consideration of landmark applications, and will effectuate consideration of applications to alter or demolish landmark buildings, sites, and districts.

Section 2. Chapter 27 of the Town Code is hereby repealed as follows:~~Chapter 27, HISTORIC LANDMARKS PRESERVATION~~~~ARTICLE I, General Provisions~~~~§ 27-1. Findings and intent.~~

~~A. The Town Board finds that the preservation of historic landmarks, sites or districts within the town fosters a greater stability in our neighborhood, creates an appreciation of our historical heritage and furthers the education of our future generations. Therefore, preservation of historical sites and districts will further the general health, safety and welfare of our residents.~~

~~B. It is the intent of this chapter to set forth procedures and criteria to preserve certain landmarks, sites and districts deemed to be significant in the history of our town and to remedy circumstances which would permit the needless alteration or destruction of these landmarks, sites and districts.~~

~~§ 27-2. Definitions.~~

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

~~ALTERATION-- Any act or process which changes one (1) or more of the exterior architectural features of a structure designated as an historic site or located within an historic district.~~

~~COMMISSION-- The Landmarks Preservation Commission created by this chapter.~~

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

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

~~EXTERIOR ARCHITECTURAL FEATURES-- The architectural style, design, general arrangement and components of all the outer surfaces of any structure, including but not limited to the kind, color and texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to the structure.~~

~~HISTORIC LANDMARK-- Any premises or structure or part thereof of historical value or aesthetic interest by reason of its antiquity or uniqueness of architectural design or as part of the development, heritage or cultural characteristics of the town, county, state or nation.~~

~~HISTORIC LANDMARK DISTRICT-- Any area that contains places, sites, structures or buildings that have a special character and ambience of historic, architectural or aesthetic interest and that represent one (1) or more periods or styles of architecture of an era of history and that cause such area to constitute a distinct and identifiable district.~~

~~HISTORIC LANDMARK SITE-- A parcel or part thereof on which is situated a landmark, and any abutting parcel or part thereof constituting part of the premises on which the landmark is situated.~~

~~HISTORIC SITE MAP-- A map to be prepared and maintained by the Department of Planning and Research Development identifying the location of all designated historic sites and districts in the town.~~

~~PERSON-- An individual, partnership, unincorporated corporation, corporation or any other organization.~~

~~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.~~

~~STYLES OF ARCHITECTURE-- A style recognized by any one (1) of the following organizations:~~

~~A. --- The National Register of Historic Places.~~

~~B. --- Historic American Buildings Survey.~~

~~C. --- Historic American Engineering Records, United States Department of the Interior, National Park Service.~~

~~D. --- Division of Historic Preservation, New York State Office of Parks and Recreation.~~

~~E. --- Nassau County Museum.~~

~~F. --- National Trust for Historic Preservation.~~

~~G. --- Society of Architectural Historians.~~

~~TOWN-- The unincorporated areas of the Town of North Hempstead.~~

ARTICLE II, Historic Landmarks Preservation Commission

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

~~A. --- There is established an Historic Landmarks Preservation Commission consisting of seven members.~~

~~B. --- Membership, terms:~~

~~(1) --- The Commissioner of Planning and Research Development, during his tenure, or his designee, shall serve as a permanent member of the Commission.~~

~~(2) --- The Town Historian, during his tenure, shall serve as a permanent member of the Commission.~~

~~(3) --- The remaining five members shall be appointed by the Town Board for terms of three years. One member shall be a member of the New York Bar, two shall be architects licensed by the State~~

of New York, and the remaining two shall be persons reasonably versed in Town history. All five members must reside or maintain a business within the corporate boundaries of the Town of North Hempstead.

(4) — Of those five appointed members first taking office, one shall be appointed for one year, two shall be appointed for two years and two shall be appointed for three years, and thereafter their successors shall be appointed for three years.

C. — Whenever a vacancy on the Commission occurs, the Town Board may appoint a person with the required qualifications to fill the unexpired term.

D. — The seven members of the Commission shall serve without compensation, but shall be fully reimbursed for expenses necessarily incurred in the performance of their duties.

E. — Ethics:

(1) — All members of this Commission shall be familiar with and shall be governed by Chapter 16A of the Code of the Town of North Hempstead, entitled "Ethics, Code of."

(2) — A detailed code of conduct dealing with conflicts of interest shall be adopted by the Commission and contained in its rules and regulations:

§ 27-4. Officers:

A. — The Supervisor shall designate one of the five appointed members to serve as Chairman and another of the five appointed members to serve as Vice Chairman.

B. — The Commissioner or his designee shall serve as the Executive Secretary. The Executive Secretary shall not be a voting member of the Commission.

§ 27-5. Quorum; notice of meetings; removal of members:

A. — Four members of the Commission, of which one shall be the Chairman or Vice Chairman, shall constitute a quorum for the transaction of business. The concurring vote of four members shall be required for the adoption of any recommendations, motions or other actions.

B. — Meetings shall be called by the Chairman or Vice Chairman, and no meeting of the Commission convened to transact business may be held unless all members of the Commission receive actual written notice of such meeting specifying the meeting time and place at least five days in advance. This requirement is waived if all members attend the meeting.

C. — A member who misses two consecutive business meetings without an excuse may be removed from office by the Town Board.

§ 27-6. Powers and duties:

A. — The Commission shall have the powers and duties granted to it by this chapter.

B. — The Commission may conduct studies and surveys and prepare reports for the purpose of identifying sites and districts for designation as provided in this chapter and to develop information to assist the Commission in the exercise of its powers and duties.

C. — In addition, the Commission shall have the power to retain consultants, including but not limited to technical experts, engineers, architects and historians, to advise in the preparation of any plans or projects or to render assistance and advice in connection with any project in order to fulfill the mandate of the Commission. Any contract to retain these consultants involving expenditures of any funds shall be subject to Town Board approval.

D. — The Commission may, at its discretion, accept grants, private donations and other funds and spend such funds for projects contemplated by the foregoing Subsections A, B and

ARTICLE III, Designation of Historic Landmarks, Sites or Districts

§ 27-7. Procedure for designation:

A. — Application. Any person may request the Commission to designate a parcel or structure as an historic landmark, site or district by submitting an application for such designation to the Executive Secretary of the Commission on a form designed by the Commissioner for such purpose. In addition, the Commission, on its own motion, may initiate a proceeding for the designation of an historic landmark, site or district.

B. — Action by Commission on application:

(1) — At such times as the Commission considers an application for designation, the Executive Secretary shall notify the applicant and the owners of the affected property.

(2) — The Commission shall meet to consider whether to accept or reject the application. All interested parties shall have the right to be heard at such meeting. In reaching a decision, the Commission shall consider all factors relevant to the purpose of this chapter, including but not limited to the special character, ambience, historical significance, aesthetic value and uniqueness of the architectural design of the proposed historic landmark, site or district. All meetings of the Commission in which an application is being considered shall be open to the public. Within thirty (30) days of such meeting, the Commission shall either reject or accept the application, and the Executive Secretary shall notify the applicant accordingly.

(3) — Upon a Commission decision to reject the application, the proceeding shall terminate, and the Commission may not consider a new application for the same site for one (1) year thereafter.

(4) — Upon a Commission decision to accept the application, a public hearing by the Commission shall be held within sixty (60) days of that decision. The Executive Secretary shall notify the Building Department, the Board of Zoning and Appeals and the applicant. The Executive Secretary shall notify the owners of record as they appear on the tax rolls of the Town of North Hempstead of property located within two hundred (200) feet of the boundary lines of the affected property by registered or certified mail, return receipt requested. The notice shall recite the nature of the application and the place and date of the public hearing by the Commission. The notice shall be postmarked at least ten (10) days prior to the date of the public hearing.

C. — Public hearing by the Commission:

(1) — A public hearing by the Commission shall be held to allow all interested parties the right to be heard prior to its decision for recommendation to the Town Board. A notice of such hearing shall be advertised in the official newspaper of the town citing the location of the affected property at least ten (10) days prior to the date of the public hearing and notice thereof served upon those entitled to notice pursuant to § 27-7B(4). Such public hearing shall be concluded upon determination made by the Chairman of the Commission.

(2) — Within forty-five (45) days after the close of such public hearing, the Commission shall make its decision to deny or recommend approval of the application.

(3) — Upon a Commission decision to deny an application, the proceeding shall terminate, and the Commission may not consider a new application for the same site for one (1) year thereafter.

D. — Action by the Town Board:

(1) — The Executive Secretary shall file the written decision of the Commission with the Town Clerk, the Building Department and the Board of Zoning and Appeals and shall mail a copy to the applicant and the owner of the subject property within five (5) days after the decision of the Commission.

(2) — Upon a Commission decision to recommend approval of the application, the Town Board, by resolution, shall affirm or deny designation for such historic landmark, site or district within sixty (60) days unless a public hearing is held pursuant to the following section:

~~(3) — The Town Board, in its discretion, may call a public hearing on any application recommended for approval by the Commission. The hearing, if called, shall occur no later than ninety (90) days after the filing of the decision of the Commission with the Town Clerk. A notice of such hearing shall be advertised in the official newspaper of the town citing the location of the affected property at least ten (10) days prior to the date of the public hearing. The Town Board shall affirm or deny the designation within forty-five (45) days after the close of the public hearing.~~

~~E. — Within ten (10) days of the Town Board's approval or disapproval of the application, the Town Clerk shall notify the Commission, the Department, the Board of Zoning and Appeals and the applicant. If the Town Board affirms the designation, the Town Clerk shall also notify the Nassau County Board of Assessors.~~

~~F. — Whenever an historic landmark, site or district has been designated, the Commissioner shall cause it to be identified on the Historic Site Map.~~

~~§ 27-8. Restrictions on issuance of permits:~~

~~A. — The Department shall not issue any permits for a site being considered for historic landmark, site or district designation by the Commission while an application is pending. If the property is designated, no permit may be issued except in conformity with Article V of this chapter.~~

~~B. — If the property is denied designation by the Commission or Town Board, the Department may issue any permits heretofore restricted.~~

~~§ 27-9. Fees:~~

~~— Any application for designation of an historic landmark, site or permit pursuant to Article V of this chapter shall be submitted to the Executive Secretary, accompanied by payment of a nonrefundable fee of fifty dollars (\$50.) payable to the Town of North Hempstead. Any application made by the Commission on its own motion shall require no fee.~~

~~ARTICLE IV, Assessment Relief for Certain Sites and Districts~~

~~§ 27-10. Grant of relief:~~

~~— The Town Board, when designating an historic landmark, site or district or deciding an application pursuant to Article V of this chapter, may, at the request of any person or on its own motion, recommend in an advisory capacity to the Nassau County Board of Assessors that the assessment of the affected property for general town tax or highway tax purposes, or both, be frozen at present levels or reduced prospectively.~~

~~ARTICLE V, Construction, Alteration, Removal or Demolition~~

~~§ 27-11. Compliance required; review by Commission:~~

~~A. — No structure, site, place or building designated as an historic landmark, site or district located within the unincorporated area of the Town of North Hempstead may be constructed, altered, repaired, moved or demolished nor may any person make any material change in the appearance of such property unless there is compliance with the provisions of this Article.~~

~~B. — The Commission shall review all plans for construction, alteration, repairing, moving or demolition of structures located on an historic landmark, site or district located within the unincorporated area of the Town of North Hempstead prior to the performance of such work.~~

~~C. — Jurisdiction to review plans shall be limited to those portions of a proposal relating to the~~

exterior architectural features of a structure visible from a public way and shall not include interior features.

D. — In reviewing the plans, the Commission shall consider the following:

(1) — The historical and architectural value and significance of the historic landmark, site or district and its relationship to the surrounding area.

(2) — The general appropriateness of the proposed exterior design.

(3) — Any other factors which the Commission deems pertinent to the benefit of the town and to the historic significance of the historic landmark, site or district and surrounding area.

E. — Alterations, repairs and additions to structures which are designated as historic landmarks, sites or districts shall be consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

F. — Subject to final approval by the Town Board pursuant to § 27-12 of this chapter, the Commission may permit a structure designated as an historic landmark, site or within an historic district to be moved as an alternative to demolition.

§ 27-12. Procedure for review of applications and plans.

A. — Applications for a building permit to construct, alter, repair, move or demolish any place designated as an historic landmark, site or located within an historic landmark district shall be made to the Department pursuant to Chapter 2 of the Code of the Town of North Hempstead, except as provided hereafter. The application shall indicate the historic landmark, site or district to be a designated historic landmark, site or district. The plans submitted shall show the structure in question, its relation to adjacent structures and the proposed construction, alteration, repair, moving or demolition. The applicant is to submit a two-hundred-foot-radius map and list of property owners.

B. — The Commissioner shall not grant a building permit without Commission approval of the application and plans.

C. — The Commissioner shall submit the application for a building permit and plans to the Commission. The Commission shall review the plans pursuant to this Article and, in doing so, may confer with the applicant, his authorized representative or any other interested party concerning the application.

D. — The Commission shall approve, modify or disapprove the application for a modification of an historic landmark within sixty (60) days after receiving the application for a building permit and, if modified or disapproved, transmit its findings to the Commissioner and the applicant. In a case where the Commission modifies the application for a building permit and the applicant is aware of and consents to the modification, such modification shall be incorporated into the application. If the application for a building permit is approved by the Commission, the applicant shall be so informed.

E. — Notwithstanding any other provisions of this chapter, the Commission shall approve the application for a modification of an historic landmark if the applicant establishes that:

(1) — The land or improvement in question cannot yield a reasonable return if the proposed action is not permitted;

(2) — The hardship of the applicant is due to unique circumstances of the land and not because of the general nature of the neighborhood;

(3) — The proposed action will not alter the essential character of the area; and

(4) — The hardship is the result of the provisions of this chapter and not created by the actions or omissions of the applicant.

F. — Upon a Commission decision to deny an application for a building permit, the proceeding shall terminate.

G. — Upon a Commission decision to approve an application for a building permit, it shall transmit its findings to the Department for further review and final determination. The Department shall approve, modify or disapprove the application for a building permit within sixty (60) days after receiving the Commission's findings. The Department shall be free to review any representations made by the applicant pursuant to § 27-12E of this chapter. The Department shall transmit its findings to the Commission and the applicant. Whenever possible, any relief granted shall conform to the purposes of this chapter.

I. — Nothing in this chapter shall be construed to prevent ordinary maintenance or repair with like materials of similar quality and color of any historic site or district.

~~§ 27-13. Exemptions.~~

~~—This chapter shall not apply to actions undertaken by any persons pursuant to an order issued pursuant to Chapter 2A of this Code for the purpose of remedying conditions determined to be unsafe or dangerous to the life, health or property of any person.~~

~~ARTICLE VI, Penalties for Offenses, Severability~~

~~§ 27-14. Penalties for offenses.~~

~~A. — An offense against any provisions of this chapter shall be a violation punishable by a fine not to exceed two hundred fifty dollars (\$250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. Each day's offense against this chapter shall constitute a separate and distinct violation.~~

~~B. — In addition to the penalties set forth in this section, the Town Attorney may institute appropriate proceedings in the Supreme Court to prevent, restrain, correct or abate a violation of this chapter.~~

~~§ 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 clause, sentence, paragraph, section or part of this chapter directly involved in the controversy in which judgment is rendered.~~

Section 3. Chapter 27 of the Town Code is hereby re-adopted as follows:

CHAPTER 27, HISTORIC LANDMARKS PRESERVATION

**ARTICLE I
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 nation, our state and our Town and which are of particular historic or aesthetic value to the Town of North Hempstead.
 - (3) To recognize and insure 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 which changes one (1) or more of the architectural or natural features of an 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, demolition in part or whole, the removal of 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.

COMMISSION – The 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 landmark or a structure, building, site or object within 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 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, lights, signs, fences, railings, porches, balconies, swings, 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:

- (1) is associated with persons or events of historic significance to the town, region, state or nation;
- (2) Is illustrative of historic growth and development of the town, region, state or nation;
- (3) embodies distinctive characteristics of a type, period or method of construction;
- (4) 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:

- (1) Has special character and/or special historic value;
- (2) Represents one (1) or more periods or style of art or architecture typical of one (1) or more past eras; and
- (3) Geographically is an identifiable portion of the town

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 of the Town of North Hempstead on which the location of all designated historic landmarks and districts within the town shall be identified.

LANDMARK - An historic landmark as defined in this Chapter.

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 – 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.

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 including, but without limiting the generality of the foregoing, buildings, gazebos, walls, sidewalks, signs, billboards, radio and television antennae, retaining walls, paving and swimming pools.

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 Records, 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

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 Historic Landmarks Preservation Commission for the Town of North Hempstead.
- B. The Commission shall consist of seven (7) members appointed by the Town Board.
- C. All Commission members shall have a demonstrated interest, competence or knowledge of historic preservation. The Town Historian shall serve as a permanent member of the Commission. At least one (1) member shall be an attorney at law licensed by the State of New York. At least two (2) members shall be architects licensed by the State of New York with experience in working with historic buildings.
- D. The Commissioner of Planning and Economic Development, or a designee, shall be an ex officio nonvoting member of the Commission and shall provide staff for the Commission for the purpose of conducting and/or coordinating studies and research and providing other material and information necessary for the Commission to exercise its powers and duties.
- E. Each member shall serve for a term of three (3) years, except for the first appointments to the Commission of whom two shall serve for three (3) years, two shall serve for two (2) years and two shall serve for one (1) 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.
- 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 position until their successor 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.
- 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 (4) 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 (4) voting members shall be required to recommend designation of an historic landmark or historic 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 historic landmark districts.

- C. Maintain and periodically revise, at least every five (5) 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.
- 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 historic landmark district.
- F. Advise the owners of historic buildings, structures, sites or objects on the preservation of their properties and as to procedures for inclusion on the State and National Registers of Historic Places.
- G. As defined 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 rules and regulations with respect to the duties granted herein, subject to the approval of the Town Board.
- L. Submit a report on 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 an historic landmark or an area an historic landmark district may be submitted to the Commission by any person. 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 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 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.
- (d) The name and address of the subject property owner(s).
- (e) The name, address and telephone number of the person who submitted 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.
- (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 an 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 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, (a) contribute to the overall visual enhancement of the proposed district or (b) 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 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.

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 a historic landmark district, or by limiting an application to the structure only and eliminating a site or outbuilding 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.

C. Public Hearing and Decision by the Commission.

- (1) Upon a Commission decision to accept the application, a public hearing shall be held by the Commission within sixty (60) days. The Executive Secretary shall notify the Building Department, the Board of Zoning and Appeals and the applicant. The applicant shall notify the 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 three hundred (300) feet of the boundary lines of the affected property, by certified mail, return receipt requested. Said notice shall be mailed not less than ten (10) days nor more than twenty (20) days prior to the date of the hearing. 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 (5) days before the public hearing. The Commission shall place a notice of the public hearing in an official newspaper of the Town, which circulates in the affected area. 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 fourteen (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.

- (2) The Commission shall have forty-five (45) 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.
- (3) If the Commission shall deny an application, the proceeding shall terminate, and the Commission shall not consider a new application for the same site for one (1) year thereafter.
- (4) The Executive Secretary shall file the written decision of the Commission with the Town Clerk, the Building Department and the Board of Zoning and Appeals and shall mail a copy to the applicant and the owner of the subject property within ten (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 historic landmark district shall be submitted to the Town Board. The Town Board shall schedule a public hearing on the recommendation within ninety (90) days after the filing of the Commission's decision with the Town Clerk. Notice of this public hearing shall be given by the applicant in accordance with the provisions of this chapter.

(2) The Town Board shall, within forty-five (45) 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.

- (1) 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 ten (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, the applicant, and the owner of the subject property. If the Town Board accepts the recommendation, the Town Clerk shall also notify the Nassau County Board of Assessors.

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

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 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 & 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 without the issuance of a Certificate of Appropriateness.
- (1) Any alteration 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. Prior to the Commission reviewing 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 three hundred (300) feet of the boundary lines of the subject property, by certified mail, return receipt requested. This Notice shall 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. The Commission shall not act on any application until at least thirty days after the date of mailing of the 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 property in question and existing buildings, structures, sites or objects either immediately adjacent to or in the surrounding area and the character of the 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 district.

G. With respect to demolition or relocation in whole or in part of a historic landmark or building, structure, site or object in a historic landmark district, the Commission shall consider whether:

- (1) The 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 an 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 structure or portions thereof within an historic landmark district, it shall find the building or structure 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 structure. 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 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.

I. In making its determination whether to approve an application for a Certificate of Appropriateness, the Commission shall apply 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. Nothing in this local law shall be construed to prevent ordinary maintenance or repair with like materials of similar quality, of any place, site, structure, object or building designated as an historic site, or any property located wholly or partially within the boundaries of a Historic Landmark District.
- M. New construction shall be consistent with the architectural styles 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.
- N. 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:
 - (1) The land or improvement in question cannot yield a reasonable return if the proposed action is denied;
 - (2) The hardship of the applicant is due to unique circumstances of the property and not because of the general nature of the neighborhood;
 - (3) The proposed action will not alter the essential character of the area; and
 - (4) The hardship is the result of the provisions of this chapter and not created by the action or omission of the applicant.

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 an historic landmark site or located within 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, a historic site, or a structure within a historic landmark district, and shall include the following information:
 - (i) Name, address and telephone number of applicant;

- (ii) Location and photographs of the subject property and properties within the immediate vicinity;
- (iii) Elevation drawings of proposed changes, if any;
- (iv) Perspective drawings, including relationship to adjacent properties, if available;
- (v) Samples of materials to be used;
- (vi) 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
- (vii) Any other information as requested by the Building Commissioner.

B. The Commissioner shall not issue a building permit until the Commission has issued a Certificate of Appropriateness. If the Commission denies a Certificate of Appropriateness, no building permit shall be issued.

C. If the Commission issues a Certificate of Appropriateness, the Building Department shall review the application for a permit in accordance with its usual procedures and standards and shall make its determination based on same.

D. Every owner or other person in charge of a landmark building, structure, site or object or a building, structure, site or object in an 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.

§ 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.

§ 27-11. Publicly Owned Property.

Plans for the construction, reconstruction, alteration or demolition of any structure or proposed structure which:

(1) 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

(2) 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 sixty (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 sixty (60) days shall be deemed approval by the Commission.

ARTICLE V

Fees

§ 27-12. Fees.

Any application for designation of a historic landmark shall be submitted to the Executive Secretary and shall be accompanied by a fee of Two Hundred Fifty (\$250.00) Dollars. An application for an historic landmark district shall be accompanied by a fee of Three Hundred Fifty (\$350.00) Dollars. No fee shall be required for any application made by the Commission on its own motion.

ARTICLE VI

Penalties for Offenses; Severability

§ 27-13. Penalties for Offenses.

- A. Any offense against any provision of this chapter, except a violation of Article IV, Section 27-8 A, shall be a violation punishable by a fine not to exceed two hundred fifty (\$250.00) Dollars, or by imprisonment for a term not to exceed fifteen (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, Section 27-8 A of this Chapter shall be a misdemeanor, punishable by a fine of not more than One Thousand (\$1,000.00) Dollars 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. 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.

Local Law Filing

New York State Department of State
41 State Street, Albany, NY 12231

Town of North Hempstead

Local Law No. 14 of the year 2003.

A local law amending Chapter 27 of the Town Code of North Hempstead entitled "Historic Landmarks Preservation".

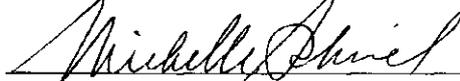
Be it enacted by the Town Board of the Town of North Hempstead as follows:

PLEASE SEE ATTACHED:

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 14 of 2003 of the Town of North Hempstead was duly passed by the Town Board on November 18, 2003, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

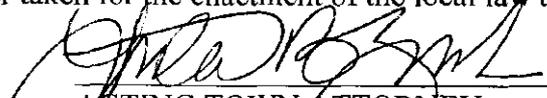

Clerk of the Town legislative body

Date: 11/24/03

(Seal)

STATE OF NEW YORK
COUNTY OF NASSAU

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


ACTING TOWN ATTORNEY
TOWN OF NORTH HEMPSTEAD

Date: 11-24-03