

Topic:	Historic District Preservation; Comprehensive Planning; Local Boards Regulations
Resource Type:	
State:	New York
Jurisdiction Type:	Municipal
Municipality:	Town of Brookhaven
Year (adopted, written, etc.):	2004
Community Type - applicable to:	Suburban; Rural
Title:	Town of Brookhaven Historic Preservation District
Document Last Updated in Database:	April 28, 2017

Abstract

This law empowers the Town Planning Board to create a Historic Preservation District in the Town of Brookhaven. The law also includes provisions for: creating the Historic District Advisory Committee, the possible exclusion of religious institutions from the district, the maintenance and taxation requirements for structures within the district, and the penalties for disobeying the requirements of the law for persons owning buildings within the district.

Resource

Town of Brookhaven NY Historic District

Code of the Town of Brookhaven NY

Chapter 85: Zoning

Article XVII

Note: Transitional area

General Code

[http://www.e-](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0012%2D085%2Ehtm%23ArticleXVI&cn=1719&n=[1][1343][1478][1626][1738][1719])

[codes.generalcode.com/codebook_frameset.asp?t=tc&p=0012%2D085%2Ehtm%23ArticleXVI&cn=1719&n=\[1\]\[1343\]\[1478\]\[1626\]\[1738\]\[1719\]](http://www.e-codes.generalcode.com/codebook_frameset.asp?t=tc&p=0012%2D085%2Ehtm%23ArticleXVI&cn=1719&n=[1][1343][1478][1626][1738][1719])

ARTICLE XVII HD Historic District

§ 85-183. Purpose and policy.

The Town Board finds that the Town of Brookhaven possesses many buildings, structures and areas of historical, architectural and unique aesthetic value which contribute to its physical well-being and cultural heritage and that these tangible assets, which provide a sense of identity and place, should be perpetuated, conserved, protected and enhanced as a public necessity in harmony with the Comprehensive Town Plan and to promote the

general welfare. Therefore, it is the purpose and policy of the Town Board to establish historic districts in which special regulations may be necessary to safeguard these buildings, structures and areas of significance in an appropriate manner and to ensure that new buildings, structures and uses within and, adjacent to historic districts will be in harmony with their special character to be preserved.

§ 85-184. Definitions.

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

HISTORIC DISTRICT — An area containing buildings, structures or places which have a special character and ambiance based on historical value, notable architectural features representing one or more periods or styles of architecture of an era of history or the cultural and aesthetic heritage of the community and which area constitutes a distinct physical section of the Town of such significance as to warrant its conservation, preservation and protection from adverse influences.

HISTORIC DISTRICT TRANSITIONAL AREA — An area extending for a distance of 500 feet from and contiguous to the perimeter boundary of an historic district. The purpose of such transitional area shall be to control the effect of potentially adverse environmental, visual and developmental influences on an historic district.

HISTORIC LANDMARK — Any site designated an historic landmark pursuant to this article.

§ 85-185. Role of Planning Board.

In order to carry out the purposes of this article, the Town Planning Board shall be empowered to serve as the general administrative and review agency with the specific powers and duties enumerated elsewhere in this article. The Planning Board shall make the necessary studies, research investigations and consultations, prepare the necessary maps, reports and other material and undertake such other assignments as it deems appropriate and as may be requested by the Town Board, all directed toward the establishment and preservation of historic districts or historic landmarks.

§ 85-186. Historic District Advisory Committee.

- A. The Town Board shall establish an Historic District Advisory Committee, to be consulted by the Planning Board on all matters relative to existing or proposed historic districts or historic landmarks prior to the time that said Board makes its recommendations to the appropriate governmental agency or acts in its own capacity in accordance with the powers and duties enumerated elsewhere in this article.

- B. The Historic District Advisory Committee shall be appointed by the Town and shall initially be composed of five Town citizen members who are neither elected nor appointed Town officials and who are not Town employees. Additional members at the rate of one from each historic district established hereafter shall also be appointed. Commencing with January 1, 1984, all members shall be reappointed according to the following schedule: one member for a term of one year, one member for a term of 18 months; one member for a term of two years; one member for a term of two years and six months; and all other members for terms of three years. Upon the expiration of each of said terms, reappointments shall serve for terms of three years each. Said members, except the Chairman, shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties. The Chairman will receive an annual salary, which shall be set from time to time by the Town Board, in addition to being reimbursed for expenses incurred in the performance of his duties.
- C. At least one member of the Historic District Advisory Committee shall be a registered architect, and the remaining members shall be qualified to serve by reason of their interest, training or experience in achieving the objectives of this article. The Town Historian shall serve ex officio on this Committee.
- D. The Town Board shall appoint one member to be the Chairman of said Committee and shall appoint all new members in the event that vacancies occur.

§ 85-187. Establishment of historic districts or historic landmarks; exclusion of religious institutions.

- A. An historic district shall be established by the Town Board after holding a duly advertised public hearing on the matter and after receiving a written recommendation or report by the Planning Board. A petition with the signatures of owners of a minimum of 20% of the area to be designated by the Planning Board will be required before the Planning Board makes its recommendation. All historic districts shall be officially shown on the Town Zoning Map.
- B. Upon application to the Town Board, said Board may, by an affirmative vote of five members thereof, exclude a religious institution from an historic district. For purposes of this subsection, a "religious institution" shall be defined as such organization, association or corporation as complies with the requirements set forth in §§ 420-a, 420-b (Nonprofit organizations), 460 and 462 of the New York Real Property Tax Law and shall have tax-exempt status as determined by the Assessor of the Town of Brookhaven.
- C. An historic landmark may be established by the Town Board after holding a duly advertised public hearing on the matter and after receiving a written recommendation or report by the Planning Board. Written notice of the public hearing must be given to the owner of said property as shown on the current Town of Brookhaven assessment

roll not less than 10 days prior to the date of the public hearing.

§ 85-188. Powers and duties of Planning Board.

In carrying out the purposes of this article, the Planning Board shall have the following powers and duties:

- A. To recommend to the Town Board the establishment of historic districts or historic landmarks, including their boundaries and a general description of the special features and characteristics of such districts or landmarks. Such recommendations may come on the Planning Board's own motion or upon petition as per § 85-187 and after study.
- B. To review all applications for building permits, moving permits, demolition permits, special use permits, sign permits and variances in historic districts or historic landmarks to determine what effect their granting may have on their special character to be preserved.
- C. To review all applications for building permits, special use permits, sign permits and variances concerning the exterior of buildings in historic district transitional areas to determine what effect their granting may have on the special character to be preserved in the adjacent historic district. [Amended 9-4-1990, effective 9-24-1990]
- D. To review all municipal proposals relative to structures within an historic district or historic landmark. [Amended 9-4-1990, effective 9-24-1990]
- E. To utilize the services of special consultants to assist in the resolution of specific problems. [Amended 9-4-1990, effective 9-24-1990]
- F. To consult with and offer suggestions to property owners, residents and tenants in an historic district or historic landmark to help implement the objectives of this article.

§ 85-189. Review procedure.

- A. Applications for building permits, moving permits, demolition permits, special use permits, sign permits and variances within historic districts or historic landmarks and historic district transitional areas as specified in § 85-187B and C of this article shall be referred to the Planning Board by the Chief Building Inspector or the Board of Appeals.
- B. The Planning Board shall then review the applications and plans in accordance with the provisions of this article. In making its review, the Planning Board may confer with the applicant or its authorized representative and shall, in making its determination,

consider the following:

- (1) The compatibility of the proposed building, structure, alteration thereof of the property with neighboring properties and the historic district or historic landmark as a whole. [Amended 9-4-1990, effective 9-24-1990]
 - (2) The visual and locational relationship between the property in question and the historic district's or historic landmark's existing buildings, structures, special character and general appearance in regard to style, material, scale, proposition, composition, mass, line, detail, setback, landscaping and related items.
 - (3) Any other factors relating to aesthetic considerations which are deemed pertinent to the benefit of the historic district or historic landmark.
- C. By specific request in a particular case, the Planning Board may require the submission of such plans, reports, maps, exhibits, photographs or drawings as are necessary for its determinations. These submissions shall include but not be limited to site plans, architectural plans, landscaping plans, proposed signs, proposed exterior lighting, proposed construction materials, proposed door, window and facade design details and photographs or drawings indicating visual relationships to adjoining buildings and spaces in the historic district or historic landmark.
- D. After its review and examination of the items submitted and subsequent to such further deliberations as it deems necessary, but within 45 days of the receipt of the application and accompanying items for review, unless the time period is extended as mutually agreed upon by the Planning Board and the applicant, the Planning Board shall issue a favorable recommendation to the Chief Building Inspector or Chairman of the Board of Appeals only if it finds that the proposal or a modification thereof is in fact appropriate to the character, appearance and efficient functioning of the historic district. When the recommendation is for denial, the Planning Board shall state the reasons given for such recommendation.
- E. In an historic district or historic landmark, no permit shall be issued to erect or alter a building, structure or sign or to move or demolish a building, structure or sign in such manner as to change the outside dimensions or exterior appearance unless and until a recommendation has been received by the Planning Board. Likewise, no special use permit or variance shall be granted by the Board of Appeals until a recommendation by the Planning Board has been received.
- F. Demolition permits.
- (1) No permit shall be issued for demolishing all or part of a building or structure within an historic district or historic landmark until the Planning Board has

reviewed such demolition permit application and its potential effect upon said historic district or historic landmark.

(a) If the Planning Board finds that preservation is physically or economically not feasible, it shall recommend in favor of issuing such demolition permit.

(b) If preservation is found to be physically or economically feasible, the Planning Board shall take or encourage the taking of whatever steps appear most likely to lead to such preservation, either on the site on which the building or structure is located or on another site to which it might appropriately be removed.

(2) Within six months from date of referral of application for a demolition permit, unless the owner of the property agrees to an extension of the time period or unless means acceptable to the owner have been found to preserve the building or structure, the Planning Board shall give its recommendation to the Chief Building Inspector, who shall thereupon be authorized to act upon such application.

G. In such instances where the Planning Board shall recommend more- or less-restrictive regulations than those authorized in this article, in the Town Subdivision Regulations and in other Town ordinances in order to accomplish the purposes of this article, the Town Board, Planning Board, Chief Building Inspector and the Board of Appeals shall be empowered to adopt and enforce such more- or less-restrictive regulations.

H. Any person aggrieved by any decision of the Planning Board or Chief Building Inspector under this article may appeal such decision to the Board of Appeals in the same manner as is provided for zoning appeals; and the Board of Appeals, after proceeding in the same manner as is provided for zoning appeals and with the same power and authority vested in said Board of Appeals, when passing upon appeals before it, under the provisions of Town Law, may reverse, modify or affirm the decision of the Planning Board or Chief Building Inspector.

§ 85-190. Maintenance. [Amended 11-4-2004 by L.L. No. 35-2004, effective 11-8-2004]

A. No owner, person or entity with a legal interest in a property included within a designated historic district or a designated historic landmark shall fail to maintain the landmark or property in accordance with the standards set forth at § 82-3 and/or Chapter 49 of the Code of the Town of Brookhaven, nor shall any such owner, person or entity permit the property to fall into a 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 designated historic district as a whole or the life and character of the designated landmark itself. Examples of such deterioration include:

- (1) Deterioration of exterior walls, other vertical supports, or other structures.
 - (2) Deterioration of roofs or other horizontal members.
 - (3) Deterioration of window and door surrounds, eaves, and other architectural details.
 - (4) Deterioration of exterior chimneys.
 - (5) Deterioration or crumbling of exterior stucco or mortar.
 - (6) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
 - (7) Deterioration of any feature so as to create a hazardous condition that could lead to the claim that demolition is necessary for the public safety.
- B. Nothing contained in this article shall be construed to prevent the maintenance and repair of any exterior architectural feature or premises in an historic district or historic landmark which does not involve a change in design, material or the outward appearance thereof.
- C. In order to prevent property owners from allowing buildings and structures in historic districts or historic landmarks to deteriorate and decay through neglect so that they may ultimately have to be demolished because of unsafe or dangerous conditions, the Chief Building Inspector, after conferring with the Planning Board, may require that the defects be corrected at the earliest possible time.
- D. This article shall not apply in any case where the Building Inspector, after conferring with the Planning Board, orders or directs the construction, alteration, removal or demolition of any building or structure in an historic district or historic landmark for the purpose of remedying conditions determined to be unsafe or dangerous to the life, health or property of any person.

§ 85-191. Limitation or remission of taxes.

A property owner whose property is affected by the establishment of an historic district or historic landmark including or bordering upon his property may make application to the Town Assessor for a limitation or remission of the taxes assessed on said property. Said limitation or remission shall be solely for the purpose of and in an amount calculated to compensate said property owner for added costs, if any, of maintaining his property in

accordance with the requirements of the historic district or historic landmark. Said application must be accompanied by a written, signed and notarized statement by the property owner that it is his intention to maintain said property as required or recommended pursuant to the terms of this article.

§ 85-192. Violations; historic districts, historic landmarks. [Added 11-4-2004 by L.L. No. 35-2004, effective 11-8-2004]

- A. Any owner, person or entity who demolishes, alters, constructs or permits a property within a designated historic district or a designated historic landmark to fall into a state of disrepair or otherwise in violation of this chapter, or causes, allows or permits a violation of any permit, approval, covenant or restriction, or any condition imposed by the Town Board, the Zoning Board of Appeals or the Planning Board, shall be required to restore the property and the site to its appearance before the violation, in full compliance with this chapter, and in full compliance with any permit, approval, covenant or restriction and any condition imposed in said grant/permit. Any action to enforce this provision shall be in addition to and not in lieu of criminal penalties and other available remedies.
- B. Any owner, person or entity who partially or totally demolishes a property within a designated historic district or designated historic landmark, without obtaining the required permit, approval or authorization, shall also be subject to a civil fine of up to the market value of the property, either before or after the violation, whichever is greater. Said civil fine shall be imposed by the Town Board after a public hearing providing for prior notice to the property owner listed on the most recent Town assessment roll, and an opportunity to be heard at the public hearing. In determining an appropriate civil fine, the Town Board may consider evidence of the willfulness of the offense; the extent of the demolition and its aesthetic effect; the overall effect on the surrounding community; the administrative costs avoided by the violation and the profit realized as a result of the violation. The Town Board's determination may then be judicially reviewed in a proceeding brought pursuant to Article 78 of the New York State Civil Practice Law and Rules, provided it is commenced within the governing statute of limitations. The Town Attorney may file and record a lis pendens for the civil fine during the pendency of any litigation. Upon expiration of the time within which to seek judicial review, or upon completion of the litigation, the civil fine imposed by the Town Board shall be assessed against the land on which the building or structure is or was located. The amount of such civil fine shall be reported to the Assessor of the Town as an amount to be levied and assessed against said premises to be included in the next succeeding assessment roll of the Town of Brookhaven to be thereafter prepared.