

Topic: Historic Preservation; Quality of Life
Resource Type: Regulations
State: New York
Jurisdiction Type: Municipal
Municipality: Town of Yorktown
Year (adopted, written, etc.): 2004
Community Type - applicable to: Suburban; Rural
Title: Town of Yorktown Landmark Preservation Ordinance
Document Last Updated in Database: August 27, 2016

Abstract

This enactment declares as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts are necessary to promote the economic, cultural, educational, and general welfare of the public. In response to this policy, the legislature created the Landmark Preservation Commission in Chapter 198 of the Town Code.

Resource

Town of Yorktown NY Landmark Preservation
Code of the Town of Yorktown NY
Chapter 198: Landmark Preservation
General Code

[http://www.codes.generalcode.com/codebook_frameset.asp?t=tc&p=1560%2D198%2Ehtm&cn=505&n=\[1\]\[141\]](http://www.codes.generalcode.com/codebook_frameset.asp?t=tc&p=1560%2D198%2Ehtm&cn=505&n=[1][141])

HISTORY: Adopted by the Town Board of the Town of Yorktown 4-29-1975 as Ch. 60 of the 1975 Code; amended in its entirety 3-16-2004 by L.L. No. 5-2004. Subsequent amendments noted where applicable.]

§ 198-1. Declaration of policy and purpose.

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts are 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 Yorktown 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 the Town's cultural, social, economic, political, historic and architectural heritage.
- B. Insure the harmonious, orderly, and efficient growth and development of the Town, while safeguarding the Town's historic, aesthetic and cultural heritage as embodied and reflected in such landmarks and districts.
- C. Protect and enhance the Town's attractiveness to visitors and the support and stimulus to the economy thereby provided, and promote the use of historic districts and landmark sites for the education, pleasure and welfare of the Town.

§ 198-2. Definitions.

For the purpose of this chapter, the following definitions shall apply:

AGGRIEVED PERSON — A person whose pecuniary or proprietary interests are or may be adversely affected by a decision of the Landmarks Preservation Commission or the Town Board, including an owner, mortgagee or contract vendee of an affected property.

ALTERATION — Any act or process which changes the architectural features of:

- A. A structure designated for preservation.
- B. Any structure in a district designated for preservation.

ARCHITECTURAL FEATURE — The architectural style, design, general arrangement and/or components of all of the surfaces of an improvement, including but not limited to the kind, color and texture of the building material and the type and style of windows, doors, lights, signs and other fixtures appurtenant to such improvement.

DESIGNATED LANDMARK — Any landmark which has been designated as a landmark pursuant to the provisions of this chapter.

LANDMARK — Any natural area, a building, a group of structures in an area, architectural features, an historical highway, path or monument, a tree or trees, natural or man-made objects, including waterways, lakes, ponds, dams, rock formations, caves and hills, or places where identifiable historic events occurred, each of which has a special character or special historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the Town of Yorktown, the State of New York or of the United States.

LANDMARK SITE — A parcel or part thereof on which is situated a landmark used as and constituting part of the premises on which the landmark is situated and which has been designated as a landmark site pursuant to the provisions of this chapter.

NOTICE OF PROPOSED DESIGNATION — Notice required to be sent to owner(s) of property being recommended for designation as a landmark or an historic district, pursuant to § 198-4E.

§ 198-3. Landmark Preservation Commission.

There is hereby redesignated a Commission to be known as the “Landmarks Preservation Commission of the Town of Yorktown.”

- A. The Commission shall consist of a minimum of five members to be appointed, to the extent available in the community, by the Town Board as follows:
 - (1) At least one shall be an architect experienced in working with historic buildings;
 - (2) At least one shall be a historian;
 - (3) At least one shall have demonstrated significant interest in and commitment to the field of historic preservation evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field; and
 - (4) All members shall have a known interest in historic preservation and architectural development within the Town of Yorktown.

- B. Commission members shall serve for a term of three years with staggered terms and may serve consecutive terms upon approval of the Town Board. The terms of the first appointments to the Board will be as follows: two members shall serve three years, two members shall serve two years, and one member shall serve one year. The Town Board may appoint a liaison member from the Town staff without a vote. **[Amended 6-15-2004 by Ord No. 19-2004]**

- C. The powers of the Commission shall include:
 - (1) Employment of staff and professional consultants as necessary to carry out the duties of the Commission with budget approval from the Town Board;
 - (2) Promulgation of rules and regulations as necessary to carry out the duties of the

Commission;

- (3) Adoption of criteria for the identification of significant historic, architectural, and cultural landmarks and for the delineation of historic districts;
 - (4) Conduct of surveys of significant historic, architectural, and cultural landmarks and historic districts within the Town;
 - (5) Recommend to the Town Board that identified structures or resources be designated as landmarks and historic districts, respectively;
 - (6) Acceptance on behalf of the Town of the donation of facade easements, and development rights and the making of recommendations to the Town 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 historical, cultural and architectural preservation by developing and participating in public education programs;
 - (8) Making recommendations to Town concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the Town;
 - (9) Recommending acquisition of a landmark structure by the Town where its 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; and
 - (11) Commenting upon nominations and approvals of state and national landmarks.
- D. The Commission will be authorized to spend money in furtherance of the listed purposes within the allocation set forth in the adopted Town budget or within an appropriation approved by the Town Board.
- E. The Commission shall meet monthly, 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 Town Board.
- F. A quorum for the transaction of business shall consist of three of the Commission

members, but not less than a majority of the full-authorized membership may grant or deny a certificate of appropriateness.

- G. The Town Board shall designate a Chairman and a Vice Chairman, whose terms of office shall be fixed by the Town Board. The Chairman shall preside over the meetings of the Commission and shall have the right to vote and speak on all matters as other Commission members. The Vice Chairman shall, in the absence or disability of the Chairman, perform the duties of the Chairman. In the case of the absence or disability of both the Chairman and Vice Chairman, the Commission shall, by majority vote of those present, choose one of their number to perform the duties of the Chairman.

§ 198-4. Designation of landmarks or historic districts.

- A. The Commission may recommend to the Town Board an individual property for designation 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; or
 - (2) Is identified with historic personages; or
 - (3) Embodies the distinguishing characteristics of an architectural style; or
 - (4) Is the work of a designer whose work has significantly influenced an age; or
 - (5) Because of unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.
- B. The Commission may recommend a group of properties for designation as an historic district if it:
- (1) Contains properties which meet one or more of the criteria for designation of a landmark; and
 - (2) By reason of possessing such qualities, it constitutes a distinct section of the Town.
- C. The boundaries of each historic district actually designated by the Town Board henceforth shall be specified in detail and shall be filed, in writing, in the Town Clerk's office for public inspection.

- D. Before issuing a notice of proposed designation pursuant to Subsection E below, the Commission shall notify and discuss with affected property owners, and refer to appropriate interested agencies for comment, the designation proposal.
- E. Prior to forwarding a designation recommendation to the Town Board, the Commission shall send a notice of proposed designation to the owner(s) of the property proposed for designation. The notice shall identify the affected property by street address and Tax Map designation and shall include a location map (such as a copy of the Tax Map or its equivalent) sufficient to show the property included in the proposed designation as well as the properties immediately adjacent thereto and directly opposite therefrom, without regard to any intervening alleys, easements, highways, rights-of-way, roads, or streets. A copy of the notice shall be given to the Building Department. Once the Commission has issued notice of a proposed designation, no building permits or demolition permits shall be issued by the Building Department with respect to the affected property until the Town Board has made its decision.
- F. Following receipt of a designation recommendation from the Commission, the Town Board shall schedule a public hearing to consider whether the Town Board should accept the designation recommendation and adopt a resolution effecting the designation. The public hearing shall be convened within 45 days from the receipt of the Commission's recommendation report. Not less than 10 days in advance of the date of the public hearing, notice of the public hearing shall be published in a newspaper having general circulation in the Town and written notice of the hearing shall be sent by certified mail to the owner of the affected property. The latest tax assessment roll on file in the office of the Town Assessor shall be conclusive as to the name and mailing address of the owner or owners of the property.
- G. Within 15 days after closing the public hearing, the Town Board shall adopt a resolution rendering its decision with respect to the Commission's recommendation. The Town Board may either approve the recommendation (with or without modifications), reject the recommendation, or remand the matter to the Commission with instructions for further review and consideration.
- H. Following adoption of a resolution approving designation of a landmark or historic district, the affected site or area shall be so indicated on the Official Map of the Town and the resolution or other appropriate certificate of designation shall be filed for recording in the office of the Westchester County Clerk, Land Records Division.
- I. Any designation made under this chapter shall be in full force and effect from and after the date of adoption.

§ 198-5. Certificate of appropriateness for alteration, demolition or new construction affecting landmarks or historic districts.

No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or moving of a landmark or property, nor shall any person make any material change in the appearance of such property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements which affect the appearance and cohesiveness of the landmark or historic district, nor be issued a building permit, without first obtaining a certificate of appropriateness from the Landmarks Preservation Commission.

§ 198-6. Criteria for approval of certificate of appropriateness.

A. In passing upon an application for a certificate of appropriateness, the Landmarks Preservation Commission shall not consider changes to interior spaces, unless they are open to the public. The Commission's decision shall be based on the following principles: **[Amended 6-15-2004 by Ord No. 19-2004]**

- (1) Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
- (2) Any alteration of existing properties shall be compatible with their historic character;
- (3) If a property is located within a historic district, any alteration of existing properties shall be compatible with the character of that district; and
- (4) New construction shall be compatible with the district in which it is located.

B. In applying the principle of compatibility, the Commission shall consider the following factors:

- (1) The general design, character and appropriateness to the property of the proposed alteration or new construction;
- (2) The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
- (3) Texture, materials, and color and their relation to similar features of other properties in the neighborhood;
- (4) 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; and

- (5) The importance of historic, architectural or other features to the significance of the property.

§ 198-7. Certificate of appropriateness application procedure.

- 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 Landmarks Preservation Commission. The application shall contain:
 - (1) Name, address and telephone number of applicant;
 - (2) Location and photographs of property;
 - (3) Elevation drawings of proposed changes, if available;
 - (4) Perspective drawings, including relationship to adjacent properties, if available;
 - (5) Samples of color and materials to be used;
 - (6) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property; and
 - (7) Any other information 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 Landmarks Preservation 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 ordinance of the Town of Yorktown.
- C. The Commission shall approve, deny or approve the permit with modifications within 60 days from determination that the application is complete. 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.

- D. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the Town Clerk's office for public inspection. The Commission's decision shall state the reasons for denying or modifying any application.
- E. Certificates of appropriateness shall be valid for 12 months, after which the owner must reapply if the owner still wishes to undertake work on the property.
- F. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any feature in any preservation district or landmark site which does not involve a change of design, material, color or the appearance thereof.

§ 198-8. Hardship criteria for demolition.

An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:

- A. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and
- B. 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; and
- C. Efforts to find a purchaser interested in acquiring the property and preserving it have failed; or
- D. The building has been deemed an unsafe structure.

198-9. Hardship criteria for alterations.

An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish:

- A. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and
- B. 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; and

- C. Efforts to find a purchaser interested in acquiring the property and preserving it have failed; or
- D. The building has been deemed an unsafe structure.

§ 198-10. 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 may 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. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the Town Clerk's office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application. If the application is granted, the Commission shall approve only such work as is necessary to alleviate the hardship.

§ 198-11. Enforcement.

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 any such work to assure compliance. In the event work is found that is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Landmarks Preservation 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.

§ 198-12. 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, color 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, in the judgment of the Landmarks Preservation Commission, 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.

§ 198-13. Violations; penalties for offenses.

- A. Failure to comply with any of the provisions of this chapter shall be deemed a violation, and the violator shall be liable to a fine of not less than \$20 nor more than \$250 for each day the violation continues.
- B. Any person who demolishes, alters, constructs, or permits a designated property 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. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 198-14. Appeals.

Any person aggrieved by a decision of the Landmarks Preservation Commission relating to hardship or a certificate of appropriateness may, within 20 days of the decision, file a written application with the Town Board for review of the decision. Reviews shall be conducted based on the same record that was before the Commission and using the same

criteria used by the Commission. Notice of such appeal shall be in writing and shall include a copy of the decision appealed from. The Town Board, upon receipt of such appeal, shall schedule a hearing within 30 days. Such hearing shall be upon written notice to the appellant and the Landmarks Preservation Commission. Upon such hearing the Town Board shall have the power to affirm, modify, reverse or remand to the Commission for further consideration the decision appealed from.

§ 198-15. Real property tax exemption.

A. Legislative intent. This section is intended to create a real property tax exemption that preserves or increases the historic character of real property located within the Town of Yorktown. In particular, this tax exemption for designated landmarks is being enacted for the following goals:

- (1) To increase incentives for property owners in historic districts and owners of historic properties to invest in the upkeep and rehabilitation of historically significant properties.
- (2) To provide incentive for the restoration and rehabilitation of commercial structures designated as landmarks in order to help attract and retain businesses in the Town of Yorktown.
- (3) To assist homeowners interested in restoring their own properties but facing potential increases in taxation resulting from alterations qualifying for this exemption.
- (4) To provide a concrete benefit for restoring or improving historically or architecturally significant properties.

B. Application. This real property tax exemption applies to any alteration or rehabilitation of historic property designated by the Town to be a designated landmark under § 198-3 of this chapter, as authorized pursuant to §§ 96-a and 119-aa through 119-dd of the General Municipal Law and § 444-a of the Real Property Tax Law and all other powers granted to the Town of Yorktown to provide such exemptions.

C. Historic property exemption. Designated landmarks, as defined in § 198-2 of this chapter, shall be exempt from taxation to the extent of any increase in value attributable to such alteration or rehabilitation pursuant to the following schedule:

Year of Exemption Percentage of Exemption

1	100%
---	------

2	100%
3	100%
4	100%
5	100%
6	80%
7	60%
8	40%
9	20%
10	0%

D. Exemption requirements. No real property tax exemption shall be granted under this section for such alteration or rehabilitation unless:

- (1) Such property has been designated by the Landmarks Commission as a designated landmark under § 198-3 of this chapter;
- (2) Any alteration or rehabilitation of the exterior and/or any public interior of a designated landmark meets the guidelines and review standards established in this chapter;
- (3) Any alteration or rehabilitation of the exterior and/or any public interiors of a designated landmark is approved by the Landmarks Preservation Commission prior to commencement of work;
- (4) Such alteration or rehabilitation is carried out for the purpose of historic preservation. For purposes of qualifying for the real property tax exemption pursuant to this section, alterations and rehabilitations shall be deemed to be for the purpose of historic preservation if:
 - (a) Only exterior work is involved; or
 - (b) Interior work involves the portion of the building designated as a public

interior under this chapter; or

- (c) At least 20% of the total cost of the project is directly attributable to exterior work and/or work that enhances the structural stability or structural integrity of the property; or
- (d) The project returns to use a building which has not previously been used for a permissible purpose under applicable zoning ordinances for a continuous period of at least two years; and
- (e) Such alteration or rehabilitation is commenced subsequent to the effective date of this section.

E. Exemption application.

- (1) This exemption shall be granted only by application of the owner or owners of such designated landmark, on a form prescribed by the State Equalization and Assessment Board. The application shall be filed with the Town Assessor on or before the applicable taxable status date covering such landmark.
- (2) Such exemptions shall be granted where the Assessor is satisfied that the applicant is entitled to an exemption pursuant to this section. The Assessor shall approve such application and such property shall thereafter be exempt from taxation and special ad valorem levies for Yorktown real property taxation as herein provided commencing with the assessment roll prepared on the basis of the taxable status date referred to in Subsection E(1). The assessed value of any exemption granted pursuant to this section shall be entered by the Assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.