

Topic:	Historic Preservation; Landmarks & Historical Districts
Resource Type:	Regulations
State:	New York
Jurisdiction Type:	Municipal
Municipality:	Town of Malta
Year (adopted, written, etc.):	2005
Community Type - applicable to:	Suburban; Rural
Title:	Town of Malta Historic Preservation Ordinance
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Abstract

Article XV, Chapter 167 of the Town Code for the Town of Malta regulates the use of historic areas of the town. The Chapter declares the protection and enhancement of landmarks and historic districts as a necessary matter of public policy for the promotion of economic, cultural and general welfare of the Town.

Resource

Town of Malta NY Historic Preservation

Code of the Town of Malta NY

Chapter 167: Zoning

[The Town of Malta Zoning Law was adopted in 1989 and amended in its entirety in 2005]

General Code

ARTICLE XV Historic Preservation [Amended 12-5-2005 by L.L. No. 12-2005]

§ 167-70. 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 Malta has many significant historic, architectural and cultural resources which constitute its heritage, this chapter is intended to:

- A. Protect, identify and enhance the landmarks and historic districts which represent distinctive elements of Malta's historic, architectural and cultural heritage.
- B. Foster civic awareness and the importance of historic preservation in the accomplishments of the past.

- C. Protect and enhance Malta's attractiveness to visitors and the support and stimulus to the economy thereby provided through heritage tourism.
- D. Provide for cooperation among Town agencies and local citizens to promote the harmonious, orderly, efficient growth and development of the Town.

§ 167-71. Historic preservation review commission.

There shall be a Commission to be known as the "Malta Historic Preservation Review Commission."

- A. The Commission shall consist of no fewer than five members, including the Town Historian, to be appointed by the Town Board for staggered terms of five years.
 - (1) All members shall have a demonstrated interest, competence or knowledge of historic preservation.
 - (2) To the extent that such professionals are available, Commission members shall be drawn from among the disciplines of history, architecture, planning, archaeology, historic preservation or closely related fields.
 - (3) The Commission may seek authorization from the Town Board to obtain professional services, such as those of an architect or archaeologist, as required on specific projects.
- B. The Chair of the Commission shall be appointed by the Town Board, and the Vice Chair shall be elected by and from among the members of the Commission.
- C. Commission meetings shall consist of a quorum (a majority of members) and shall be held at regular intervals, or as needed, but in no case fewer than six times a year.
- D. Official actions by the Commission shall require an affirmative vote by not less than a majority of the full membership of the Commission.
- E. To fulfill the purposes stated in § 167-70, the responsibilities of the Commission shall include:
 - (1) Adoption of criteria for the identification of significant historic, architectural and cultural landmarks and for the delineation of historic districts.

- (2) Conducting inventories, following State Preservation Office Guidelines, of significant historic, architectural and cultural landmarks and historic districts within the Town, and provision of inventory data to the Planning Board and Zoning Board of Appeals.
- (3) Studying referrals from Planning Board and Zoning Board of Appeals regarding matters brought before them which may impact historic sites and structures.
- (4) Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.
- (5) Making recommendation to the Town government concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the Town.
- (6) Recommending acquisition of an historic property, site or structure by the Town government where its preservation is essential to the purposes of this chapter and where private preservation is not feasible.

§ 167-72. Designation of landmarks and historic districts.

- A. The Town Board may designate an individual property as an historic landmark or may designate an historic district, upon recommendation by the Historic Preservation Review Commission, based on its:
 - (1) Possessing special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation;
 - (2) Being identified with historic personages;
 - (3) Embodying the distinguishing characteristics of an architectural style;
 - (4) Being the work of a designer whose work has significantly influenced an age; or
 - (5) Because of a unique location or singular physical characteristic, representing an established and familiar visual feature of the neighborhood.
- B. The Town Board, upon recommendation by the Historic Commission, may designate a group of properties 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 district section of the Town.
- C. The boundaries of each landmark property or historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the Town Clerk's office for public inspection.
- D. Notice of a proposed designation shall be sent by certified mail to the owner of the property proposed for designation, describing the property proposed and announcing a public hearing by the Town Board to consider the designation. Any such notice shall be postmarked at least 10 days prior to the date of the public hearing. Where the proposed designation involves so many owners that the individual notice is infeasible, the notice shall instead be published at least once in the Town's official newspapers of general circulation at least 10 days prior to the date of the public hearing. Once the Town Board has issued notice of a proposed designation, no building permits shall be issued by the Building Inspector until the Town Board has made its decision.
- E. The Town Board shall hold a public hearing prior to designation of any landmark or historic district. The Historic Preservation Review Commission, owners and any interested parties may present testimony or documentary evidence to the Town Board at the hearing which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The record may also contain staff reports, public comments or other evidence offered outside of the hearing.
- F. The Town Board shall forward notice of each property designated as a landmark or designated historic district and their boundaries to the office of the Malta Town Clerk and Saratoga County Clerk for recording and to the affected landowners.

§ 167-73. Certificate of appropriateness required.

No person shall carry out an exterior alteration, restoration, reconstruction, demolition, new construction or moving of an historic landmark or property within an historic district, nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the historic property or district, without first obtaining a certificate of appropriateness from the Historic Preservation Review Commission. In the event a proposed subdivision is located in an historic district, or includes an historic property, in whole or in part, the Planning Board shall consult with the Historic Preservation Review Commission with respect to those criteria set forth in § 167-70, § 167-71 and § 167-72.

§ 167-74. Criteria for approval of certificate of appropriateness.

- A. In passing upon an application for a certificate of appropriateness, the Historic Preservation Review Commission shall not consider changes to interior spaces, unless they are open to the public, or to property features that are not visible from a public street or alley. The Commission's decision shall be guided by the following principles:
- (1) Standards set forth in the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties and various accompanying guidelines (on an advisory basis, only);
 - (2) Properties which contribute to the character of an historic district shall be retained with their historic features altered as little as possible;
 - (3) Any alteration of a landmark and/or a property within an historic district shall be compatible with its individual historic character, as well as with that of its context or the surrounding district; and
 - (4) New construction at a landmark shall be compatible with the property's historic character, and new construction in an historic district also 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 of the proposed alteration or new construction to a landmark or historic district;
 - (2) The scale of the proposed alteration or new construction in relation to the property itself, surrounding properties and the larger neighborhood;
 - (3) Texture, materials and color of the proposed alteration or new construction and their relation to similar features of the property itself, surrounding properties and the larger neighborhood;
 - (4) Visual compatibility with surrounding properties for building, including but not limited to the rhythm or spacing of buildings and structures in relation to the street and adjacent properties, features such as drives, walks, walls, fences, hedgerows, terraces and stairs and major landforms or topographic features; and
 - (5) The importance of individual features to the significance of the property itself, surrounding properties and the larger neighborhood.

§ 167-75. Application procedure.

- A. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall obtain an application for such a certificate from the Building and Planning Department which, upon completion, shall be forwarded by the Building and Planning Department to the Historic Preservation Review Commission. The application shall contain:
- (1) The name, address and telephone number of the applicant.
 - (2) The location and photographs of the property.
 - (3) Elevation drawings of the proposed changes, if available.
 - (4) Perspective drawings, including relationship to adjacent properties, if available.
 - (5) Samples of color or 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, the method of illumination and a plan showing the sign's location on the property.
 - (7) Any other information which the Commission may deem necessary in order to visualize the proposed work.
- B. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Historic Preservation Review Commission or a hardship application has been approved by the Town Board as hereinafter set forth. The certificate of appropriateness required by this article shall be in addition to and not in lieu of any approvals and/or permits that may be required by any other ordinance of the Town of Malta.
- C. The Commission shall approve, deny or approve with modifications the certificate within 45 days from the date the application is deemed complete by the Commission. The Historic Preservation Review Commission may hold a public hearing on the application at which time an opportunity will be provided for interested persons of the application to present their views.
- D. All decisions of the Historic Preservation Review Commission shall be in writing. A copy shall be sent to the applicant by certified mail and a copy filed with the Town Clerk's office for public inspection. The Historic Preservation Review Commission's decision

shall state the reasons for denying, approving with conditions or modifying any application.

§ 167-76. Demolition hardship criteria.

An applicant whose certificate of appropriateness has been denied may apply to the Town Board for relief on the grounds that the denial is working a 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;
- B. The property cannot be reasonably 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.

§ 167-77. Alteration hardship criteria.

An applicant whose certificate of appropriateness has been denied, has been granted with conditions, or who is otherwise dissatisfied with the action taken by the Commission, may appeal to the Town Board for relief on the grounds that the Commission's action is not in the best interests of the Town of Malta as a whole, is unreasonably burdensome or costly, renders the property incapable of earning a reasonable return regardless of whether that return represents the most profitable return possible, or is affected by an error of law or fact. The Town Board may grant, deny or modify the action taken by the Commission.

§ 167-78. Hardship application procedure.

- A. After receiving written notification from the Historic Preservation Review Commission of its final action, an applicant may commence the hardship process, and no building permit may be issued with respect to the subject of the hardship process until that process has been completed.
- B. The Town Board may hold a public hearing on the hardship application at which an opportunity will be provided for interested parties 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 Town Board shall be in writing. A copy of the decision shall be sent to the applicant by certified mail, and a copy of the decision filed with the Town Clerk's office for public inspection. The Town Board's decision shall state the reasons for granting or denying the hardship application.

§ 167-79. Enforcement.

All work performed pursuant to a certificate of appropriateness issued under this article shall conform to any requirements included therein. It shall be the duty of the Building Inspector to inspect periodically any such work to assure compliance. In the event that work is found that is not being performed in accordance with the certificate of appropriateness, the Building Inspector 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.

§ 167-80. Maintenance and repair.

Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior feature of a landmark property or property within an historic district which does not involve a change in design, material, color or outward appearance. No owner or person with an interest in real property designated as a landmark or included within an 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 Historic Preservation Review Commission, produce a detrimental effect upon the character of the historic property or historic district as a whole or the life and character of the property itself. Examples of such deterioration include:

- A. Deterioration of walls or other vertical supports of buildings or structures or site retaining walls and/or stairs;
- B. Deterioration of roofs or horizontal members of buildings or structures;
- C. Deterioration of architectural features such as towers, chimneys or parapets or site features such as stairs or terraces;
- D. Deterioration or crumbling of materials such as stucco or wood;
- E. Deterioration of weather-protective materials and measures for buildings, structures and general site conditions;

F. Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition of all or a portion of a property is necessary for the public safety.

§ 167-81. Penalties for offenses.

A. Failure to comply with any of the provisions of this article shall be deemed an offense, punishable by a fine not exceeding \$350, with each day's violation constituting a separate additional violation.

B. Any person who demolishes, alters, constructs or permits a designated property to fall into a serious state of disrepair in violation of this article 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.