

**HISTORIC PRESERVATION DISTRICT FOR THE
VILLAGE OF LYNDONVILLE**

A. PURPOSE.

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks, buildings, properties and historic districts is necessary to promote the economic, cultural, educational and general welfare of the public. In as much as the identity of a people is founded on its past, and in as much as the Village of Lyndonville has many significant landmarks, buildings and properties as well as historic, architectural and cultural resources which constitute its heritage, the purpose of this Section is to preserve historic and architecturally significant structures and sites within the Village of Lyndonville by establishing a historic preservation district and identifying historic and architecturally significant landmarks, buildings and properties in order to:

1. Protect and enhance landmarks, buildings and properties significant to the historic and cultural heritage of the Village of Lyndonville.
2. Stabilize and improve property values.
3. Foster civic pride in the accomplishments of the past.
4. Strengthen the economy of the Village of Lyndonville.
5. Promote educational and cultural opportunities for the inhabitants of the Village of Lyndonville.
6. Protect and enhance historic landmarks, buildings and properties to promote tourism for the stimulus and support thereby provided to local business.
7. Ensure the harmonious, orderly and efficient growth and development of the Village of Lyndonville.

B. DEFINITIONS

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

ALTERATION: Any act or process which changes one (1) or more of the exterior architectural features or elements of a structure designated as a landmark or any structure or building in an historic preservation district.

BUILDING PERMIT: A permit issued by the Code Enforcement Officer which is necessary before any work may be started which will occasion a material change in the use or appearance of a landmark or a structure, or a site within an historic preservation district.

BUILDING: A structure wholly or partially enclosed within exterior walls, or within exterior or party walls and a roof, affording shelter to persons, animals or property.

CERTIFICATE OF APPROPRIATENESS: A document evidencing approval by the Village of Lyndonville Planning Board of a proposal to make a material change of appearance, which document must be obtained before a building permit may be issued. The Village Board of Trustees shall, from time to time, establish by resolution a fee for such certificate.

EXTERIOR FEATURE: The design and general arrangement of the exterior of a structure open to view from a public way, public property or any exterior element of a building including kind, color and texture of building materials, number, proportion, type and spacing of windows, doors, walls, roofs, murals, projections and signs. Exterior features shall also include all earthworks, sidewalks, driveways, fences, trees, landscaping and other features visible from a public way, public property or any part of a building.

HISTORIC PRESERVATION DISTRICT: An area which contains landmarks, structures and or sites which:

1. Cause such area, by reason of such factors to constitute a distinct section of the Village of Lyndonville.
2. Have special character or special historical or aesthetic interest or value.
3. Represent one (1) or more periods or styles of architecture typical of one (1) or more eras in the history of the Village of Lyndonville.

LANDMARK: Any place, structure or building 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 Village, and which meets the criteria for listing on the New York State and or National Register of Historic Places, and which is deemed worthy of preservation, by reason of its value to the Village of Lyndonville as:

1. One of the few remaining examples of a past architectural style that embodies the characteristics of said style or,
2. An example of the work of a designer who has significantly influenced an age or,
3. An outstanding example of a structure or site representative of its era or,
4. A place where an historical event of significance to the Village of Lyndonville, the region, state or the nation or representative activity of a past era took place or any structure or site which has a special character, special historical or aesthetic interest and value as part of the development, heritage and cultural characteristics of the Village of Lyndonville or,
5. A unique location or singular physical characteristic, which represents an established and familiar visual feature of a neighborhood or area.

LANDMARK AND HISTORIC PRESERVATION DISTRICT MAP: A map to be prepared and maintained by the Building Department, identifying the location of all landmarks, landmark sites and historic preservation districts.

LANDMARK SITE: A parcel on which is situated a landmark, and which may include all structures, features or archaeological resources within the parcel boundary and any abutting parcel or part thereof constituting part of the premises on which the landmark is situated.

MATERIAL CHANGE OF APPEARANCE: Includes:

1. Any change in the appearance of a structure or land.
2. Change, reconstruction or alteration of the size or external appearance of a structure or site or demolition of part or all of a structure.
3. Commencement of excavation.
4. Commencement of or change in the location of advertising on the external part of any structure.

STRUCTURE: Any assembly of materials forming a construction framed of component structural parts for occupancy or use including buildings.

STYLES OF ARCHITECTURE: Style recognized by one of the following organizations:

1. The National Register of Historic Places
2. The Historic American Buildings Survey
3. The Historic American Engineering Record, U.S. Department of the Interior, National Parks Service
4. The Bureau of Historic Preservation Field Services, New York State Office of Parks, Recreation and Historic Preservation
5. The National Trust for Historic Preservation
6. The Society of Architectural Historians

C. ADMINISTRATION

This Section shall be administered by the Village of Lyndonville Planning Board.

D. HISTORIC PRESERVATION DISTRICTS ESTABLISHED

The following historic preservation districts are established:

1. The Main Street District

All those structures abutting the east side of Main Street, bounded on the south by the intersection of Eagle Street and Main Street and on the north by the north bounds of Johnson Creek.

E. POWERS AND DUTIES

1. The Village Planning Board shall have the powers and duties granted herein in this Subsection and shall have the power to recommend places, sites, structures or buildings for designation as landmarks, historic preservation districts or as additions to an existing historic preservation district, subject to the approval of the Village Board of Trustees.
2. In addition, the Village Planning Board 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 to fulfill the duties of this Section. Any contract to retain such consultants, which involves the expenditure of Village funds, shall be subject to the approval of the Village Board of Trustees. The Village Planning Board shall also have the power to retain such consultants as part of an applicant's site plan or permit review, the cost of which shall be paid by the applicant.
3. The Village Planning Board shall also draft rules necessary for the conduct of its business subject to this Section,
4. The Village Planning Board shall adopt criteria for the identification of significant historic, architectural and cultural landmarks and for the delineation of historic preservation districts.
5. The Village Planning Board may in the course of its duties, conduct of surveys of significant historic, architectural and cultural landmarks and historic preservation districts.
6. The Village Planning Board shall increase public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.

The Village Planning Board shall make recommendations to Village government concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic preservation districts within the Village of Lyndonville.

8. The Village Planning Board may recommend acquisition of historic properties by the Village government where its preservation is essential to the purposes of this Section and where private preservation is not possible.
9. The Village Planning Board shall approve or disapprove applications for certificates of appropriateness pursuant to this Section.

E. MEETINGS

1. Frequency of Meetings - The Village Planning Board shall meet as necessary to conduct the business of this Section, but meetings may be held at any time on written request of any two Village Planning Board members or on the call of the Chairman or the Mayor.
2. Quorum - For the transaction of the business of this Section, not less than a majority of the full-authorized board membership shall constitute a quorum.

F. DESIGNATION OF LANDMARKS

1. Upon recommendation of the Village Planning Board, the Village Board of Trustees may designate an individual property, structure, building or site as a landmark if it meets the definition of a "Landmark" set forth in Subsection B of this Section.
2. Notice of the proposed designation shall be sent by certified mail at least ten (10) days prior to a hearing to the owner of the property proposed for designation, describing the property proposed and announcing a public hearing by the Village Planning Board to consider the designation. Notice shall also be published once in the official newspaper of the Village of Lyndonville at least ten (10) days prior to the hearing. Once the Village Planning Board has issued notice of a proposed designation, no building or demolition permits shall be issued by the Code Enforcement Officer until the Village Board of Trustees has made its final decision.
3. The Village Planning Board shall hold a public hearing prior to recommendation for designation of any landmark. The Village Planning Board, property owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, cultural or architectural importance of the proposed landmark. The record may also contain staff reports, public comments or other evidence offered outside of the hearing.
4. Notification of landmark designation
 - a. Within ten (10) days of a public hearing to consider recommendation for landmark designation, the Village Planning Board shall notify the owner of its decision by certified mail. Such notification shall list all obligations the owner shall adhere to regarding the landmark designation status.

- b. The Village Planning Board shall then submit the landmark designation recommendation, and the property record to the Village Board of Trustees. The Village Board of Trustees shall hold a public hearing to consider granting landmark status at a duly constituted meeting with proper notice. The board shall then either accept or deny the landmark status based upon previous proceedings and the property record. Upon acceptance of the property as a landmark, the Village Board of Trustees shall order the landmark designation to be recorded at the Village Clerk's Office.
 - c. Upon recording of said landmark designation, the owner has the obligation to conform to the terms imposed by this Section.
 - d. The recording of said landmark designation at the Village Clerk's Office binds not only the parties thereto but their heirs, grantees and successors in interest.
5. Requests for landmark designation

The Village Planning Board may initiate recommendation of a property for landmark status or the owner of any property may apply for landmark status by making a written request with a duly authorized signature to the Village of Lyndonville Village Planning Board that such property be considered for landmark status. The request by the property owner shall include documentation that the property meets the criteria for designation. Upon determination that the request is complete the Village Planning Board shall then hold a public hearing to consider the proposed designation and proceed as per Subsection F of this Section with all required review, recommendation and notification.

G. DESIGNATION OF HISTORIC PRESERVATION DISTRICTS

- 1. Upon recommendation of the Village Planning Board, the Village Board of Trustees may designate a group of properties as an historic preservation district if the proposed district if the proposed area meets the definition of an "Historic Preservation District" as set forth in Subsection B of this Section.
- 2. The Village Planning Board shall specify in detail the boundaries of any proposed historic preservation district. Notice of a proposed designation shall be sent by certified mail at least ten (10) days prior to a hearing to the owner of any property included in such proposal, describing the property proposed and announcing a public hearing by the Village Board to consider the designation. Notice shall also be published once in the official newspaper of the Village at least ten (10) days prior to a hearing.
- 3. The Village Board shall hold a public hearing prior to recommendation for designation of any district. The Village Board, property owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural or cultural importance of the proposed historic preservation district. The record may

also contain staff reports, public comments or other evidence offered outside of the hearing.

4. The Village Board shall notify, by certified mail, the owner of any property located in a proposed historic preservation district that the Village Planning Board has found the area worthy to be recommended for designation as an historic preservation district.
5. The Village Board shall have the sole discretion to accept or deny the historic preservation district status based upon previous proceedings and the record presented at the public hearing.
6. If accepted, detailed specifications of the boundaries of the historic preservation district so designated shall be filed in the Village Clerk's office.

H. CERTIFICATE OF APPROPRIATENESS REQUIRED

No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, painting or moving of a landmark, building or property within an historic preservation district, or any designated landmark not within an historic preservation district, 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 visible from a public street or alley which affect the appearance and cohesiveness of the historic preservation district or designated landmark without first obtaining a certificate of appropriateness from the Village of Lyndonville Village Planning Board.

I. CRITERIA FOR APPROVAL OF A CERTIFICATE OF APPROPRIATENESS

1. In passing upon an application for a certificate of appropriateness, the Village Planning Board shall not consider changes to interior spaces.
2. The Village Planning Board's decision shall be based on the following principles:
 - a. Architectural features that contribute to the character of historic buildings and properties that contribute to the character of the historic preservation district shall be retained, with their historic features altered as little as possible.
 - b. Any alteration of existing properties shall be compatible with their historic character, as well as the surrounding district or area.
 - c. New construction shall be compatible with the district in which it is located.
3. In applying the principle of compatibility, the Village Planning Board shall

consider the following factors:

- a. The general design, character and appropriateness to the property of the proposed alteration or new construction.
- b. The scale of proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood.
- c. Texture, materials and color and their relation to the property itself, surrounding properties and the neighborhood.
- d. 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.
- e. The importance of historic, architectural or other features to the significance of the property.

J. APPLICATION PROCEDURE FOR A CERTIFICATE OF APPROPRIATENESS

1. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Code Enforcement Officer who shall immediately forward the application to the Village Planning Board. The application shall contain:
 - a. The name, address and telephone number of the applicant.
 - b. The location and photographs of the property.
 - c. Elevation drawings of proposed changes, if applicable.
 - d. Perspective drawings, including relationship to adjacent properties, if applicable.
 - e. Samples of materials and or colors to be used.
 - f. Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, description of materials to be used, method of illumination, if applicable, and a plan showing the sign's location on the property.
 - g. Any other information, which the Village Planning Board may deem necessary in order to visualize the proposed work.

2. No zoning permit, building permit or demolition permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Village Planning Board. The certificate of appropriateness required by this Section shall be in addition to and not in lieu of any zoning, building or demolition permit that may be required by any other local law of the Village of Lyndonville.
3. The Board shall approve, deny or approve with modifications the application for the certificate of appropriateness within forty-five (45) days of receipt of a complete application. Any such application shall be deemed received for purposes of this Section when a complete application is first presented to a duly called meeting of the Village Planning Board. The Village Planning Board may hold a public hearing on the application at which all persons interested in the application shall be heard.
4. All decisions of the Village Planning Board shall be in writing. A copy shall be sent to the applicant by certified mail and a copy filed in the Village Clerk's office for public inspection. The Village Planning Board's decision shall state the reasons for denying or modifying any application.

K. CRITERIA FOR RELIEF DUE TO HARDSHIP

1. An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief to the Village Planning Board 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.
 - 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.
2. An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply to the Village Planning Board for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

L. HARDSHIP APPLICATION PROCEDURE

1. After having received written notification from the Village Planning Board of the denial of a certificate of appropriateness, an applicant may commence the hardship process. The applicant shall file a petition seeking relief due to hardship, stating the grounds for such relief, within twenty (20) days of the date of the mailing of the decision from which the applicant seeks relief. Such application shall be heard at the next regular meeting of the Village Planning Board, provided, however, that the applicant for good cause shown maybe granted reasonable postponements to prepare for such hearing. No building permit or demolition permit shall be issued unless the Village Planning Board makes a finding that a hardship exists.
2. The Village Planning Board 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. Notice of such public hearing shall be published in the official newspaper of the Village at least ten (10) days prior to such hearing.
3. The applicant shall consult in good faith with the Village Planning Board, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
4. All decisions of the Village Planning Board shall be in writing. A copy shall be sent to the applicant by certified mail and a copy filed in the Village Clerk's office for public inspection. The Village Planning Board's decision shall state the reasons for granting or denying the hardship application. If the application is granted, the Village Planning Board shall approve only such work as is necessary to alleviate the hardship.

M. ENFORCEMENT

All work performed pursuant to a certificate of appropriateness issued under this Section shall conform to any requirements included therein. It shall be the duty of the Code Enforcement Officer 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, or upon notification of such fact by the Village Planning Board, the 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 the stop-work order is in effect. It shall be the duty of the Code Enforcement Officer to enforce all provisions of this Section.

N. MAINTENANCE AND REPAIR REQUIRED

1. Nothing in this Section shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or a property within an historic preservation district, which does not involve a change in design, color, material or outward appearance.

2. No owner or person with an ownership interest in real property designated as a landmark or included within an historic preservation 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 Village Planning Board, produce a detrimental effect upon the character of the historic preservation district as a whole or the life and character of the property itself.
3. Examples of such deterioration include:
 - a. Deterioration of exterior walls or other vertical supports.
 - b. Deterioration of roofs or other horizontal members.
 - c. Deterioration of exterior chimneys.
 - d. Deterioration or crumbling of exterior stucco or mortar.
 - e. Deterioration of exterior paint.
 - f. Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows and doors.
 - g. 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.

0. HISTORIC PROPERTY EXEMPTION

1. In order to encourage alteration and rehabilitation that will result in the preservation of designated historic properties, the Village of Lyndonville will delay the imposition of new property taxes attributable to such improvements. Historic property 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	Percent of Exemption
1 through 5	100%
6	80%
7	60%
8	40%
9	20%
10	0%

2. No such exemption shall be granted for such alterations or rehabilitation unless:
 - a. Such property exists within a designated historic preservation district or has been designated as a landmark.

- b. Alterations or rehabilitation must be made for means of historic preservation.
 - c. Such alterations or rehabilitation of historic property must meet the requirements and review standards of this Section.
 - d. Such alterations or rehabilitation of historic property are approved by the Village Planning Board prior to commencement of work.
3. Such exemption shall be granted only by application of the owner or owners of such historic real property on a form prescribed by the Assessor. The application shall be filed with the Assessor to assess property for taxation on or before the appropriate taxable status date of the Village.
4. Such exemption shall be granted where the Code Enforcement Officer is satisfied that the applicant is entitled to an exemption pursuant to this Section. The Code Enforcement Officer shall approve such application and such property shall thereafter be exempt to the extent mentioned in Paragraph 1 of Subsection 0 of this Section from Village of Lyndonville Taxation and Special Ad Valorem Levies above as herein provided commencing with the assessment roll prepared on the basis of the taxable status date referred to in Subsection C. above. 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.

P. CIVIL PROCEEDINGS

Any person who demolishes, alters, constructs or permits a designated property to fall into a serious state of disrepair in violation of this Section 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 Village Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

Q. APPEALS

Any person aggrieved by a decision of the Village Planning Board relating to hardship or a certificate of appropriateness under this Section 513 may, within fifteen (15) days of the filing of the decision in the Village Clerk's office, file a written application with the Village Board of Trustees for review of the decision. Reviews shall be conducted based on the same record that was before the Village Planning Board and using the same criteria. After review, the Village Board of Trustees may reverse or affirm or modify and affirm the action of the Village Planning Board.