

# Chapter 134

## HISTORIC PRESERVATION

### GENERAL REFERENCES

Zoning — See Ch. 223.

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#### **§ 134-1. Purpose.**

There exist within the City of Beacon landmarks, structures, buildings and districts of special historic significance which, by reason of their antiquity or uniqueness of architectural construction or design, are of particular significance to the heritage of the City, county, state or nation.

#### **§ 134-2. Historic District.**

- A. An Historic District and Landmark Overlay Zone (HDLO) is hereby established for the purposes of encouraging the protection, enhancement, perpetuation and use of buildings and structures and appurtenant vistas having special historical or aesthetic value which represent or reflect elements of the City's cultural, social, economic, political and architectural history.
- B. For the purposes of this chapter, the landmarks and the boundaries of such zone are established as shown on a map entitled "Historic District and Landmark Overlay Map," which is hereby incorporated as a part of this chapter and is attached hereto as Exhibit A.<sup>1</sup>

#### **§ 134-3. Definitions.**

Unless specifically defined below, words or phrases in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

**ALTERATION** — Any act or process that changes one or more of the exterior architectural features of a structure, including but not limited to the erection, construction, restoration, renovation, reconstruction, demolition, moving or removal of any structure.

**CERTIFICATE OF APPROPRIATENESS** — A certificate issued by the Planning Board indicating its approval of plans for alteration, construction, removal or demolition of a landmark or of a structure within an historic district.

**CERTIFICATE OF ECONOMIC HARDSHIP** — A certificate issued by the Zoning Board of Appeals authorizing an alteration, construction, removal or

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1. **Editor's Note: Exhibit A is on file in the City offices. A list of landmarks and historic districts added to the overlay zone since the adoption of the map is included in § 134-14 of this chapter.**

demolition even though a certificate of appropriateness has previously been denied.

**CONSTRUCTION** — The act of making an addition to an existing structure or the erection of a new principal or accessory structure on a lot or parcel.

**DEMOLITION** — Any act or process that destroys in part or in whole a landmark on a structure within an historic district.

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

**HISTORIC DISTRICT** — An area designated as an "historic district" by action of the City Council in enacting this chapter and which contains within definable geographic boundaries one or more landmarks and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.

**LANDMARK** — A property or structure designated as a "landmark" by action of the City Council in enacting this chapter that is worthy of rehabilitation, restoration and preservation because of its historic and/or architectural significance to the City of Beacon.

**OWNER OF RECORD** — The person, corporation or other legal entity issued as owner of a parcel according to the records of the Dutchess County Clerk.

**REPAIR** — Any change that is not construction, removal or alteration.

**STRUCTURE** — Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing, buildings, fences, gazebos, walls, sidewalks, signs, billboards, backstops for tennis courts, radio and television antennae, including supporting towers, and swimming pools.

**§ 134-4. Certificate of appropriateness. [Amended 6-2-2014 by L.L. No. 9-2014]**

No person shall carry out any exterior alteration of a landmark or property within an historic district without first obtaining a certificate of appropriateness from the Planning Board or a certificate of economic hardship from the Zoning Board. No certificate of appropriateness is needed for changes to interior spaces, unless they are open to the public, to architectural features that are not visible from a public street or way, or for the installation of a temporary sign as described in § 223-15F of the Zoning Ordinance of the City of Beacon if located in a nonresidential district. 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 an historic district which does not involve a change in design, material or outward appearance.

**§ 134-5. Criteria for approval of a certificate of appropriateness.**

- A. In reviewing an application and plans, the Planning Board shall give consideration to:
  - (1) The historic or architectural value or significance of the structure and its relation to the historic character of the surrounding area.
  - (2) The relationship of the exterior architectural features of such structure to the rest of the structure and to the surrounding area.
  - (3) The general compatibility of exterior design, arrangement, texture and material proposed.
- B. In applying the principle of compatibility, the Planning Board 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 the proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood;
  - (3) Texture and materials and their relation to similar features of other properties in the neighborhood.

**§ 134-6. Designation of landmarks or historic districts.**

- A. The City Council hereby designates the individual properties as landmarks as shown on the accompanying Historic District and Landmark Overlay Map because they:
  - (1) Possess special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the City, county, state or nation;
  - (2) Are identified with historic personages;
  - (3) Embody the distinguishing characteristics of an architectural style;
  - (4) Are the work of a designer whose work has significantly influenced an age; or
  - (5) Because of unique location or singular physical characteristic, represent an established and familiar visual feature of the neighborhood.
- B. The City Council hereby designates the group of properties shown on the attached map as a historic district because they:

- (1) Contain properties which meet one or more of the criteria for designation of a landmark; and
  - (2) By reason of possessing such qualities, constitute a distinct section of the City.
- C. Notice of a proposed designation shall be sent by regular mail to the owner of the property proposed for designation, describing the property proposed and announcing a public hearing by the City Council to consider the designation. Once the City Council has issued notice of a proposed designation, no building permits shall be issued by the Building Inspector until the Council has made its decision.
- D. The City Council shall hold a public hearing prior to designation of any landmark or historic district. The City Council, 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 landmark or historic district. The record may also contain reports, public comments or other evidence offered outside of the hearing.
- E. The City Council shall forward notice of each property designated as a landmark and the boundaries of each designated historic district to the offices of the Dutchess County Clerk for recordation.

**§ 134-7. 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 Planning Board. The application shall include:
- (1) The name, address and telephone number of the applicant.
  - (2) Sketches or other drawings showing the proposed changes.
  - (3) Descriptions or samples of materials to be used.
  - (4) (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, if any, and a plan showing the sign's location on the property.
  - (5) Any other information which the Planning Board 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 Planning Board. The certificate of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the City of Beacon.
- C. The applicant may consult with the Planning Board or its designated agent prior to submitting an application.

- D. Where site plan review or subdivision approval is also required for the application, the certificate of appropriateness procedure shall be conducted simultaneously with such review by the Planning Board.
- E. The Planning Board shall approve, deny or approve the permit with modifications within 45 days from receipt of the completed application. The Planning Board 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. Failure by the Planning Board to take action within the prescribed period of time shall constitute approval.
- F. All decisions of the Planning Board shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's Office for public inspection. The Planning Board's decision shall state the reasons for denying or modifying any application.

**§ 134-8. Hardship criteria and application procedure.**

- A. An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief to the Zoning Board of Appeals on the grounds of hardship. In order to prove the existence of hardship, the applicant must establish that:
  - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and
  - (2) 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
  - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- B. The applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief to the Zoning Board of Appeals on the ground of hardship.
- C. The Zoning Board shall make a decision within 30 days of the conclusion of the hearing on the application. The Board's decision shall be in writing and shall state the reasons for granting or denying the hardship application. The Zoning Board's review of said hardship application shall be in accordance with the procedures set forth in § 223-55C of Chapter 223, Zoning. Failure by the Zoning Board of Appeals to take action within the prescribed period of time shall constitute approval of the application.

**§ 134-9. 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 Inspector to inspect periodically any such work to assure compliance. In the event that work is found that is not performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Planning Board, 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.

**§ 134-10. Penalties for offenses.**

- A. Failure to comply with any of the provisions of this local law shall be deemed a violation, and the violation is subject to the penalties provided in § 223-53 of Chapter 223, Zoning.
- B. The City Council is also authorized to institute any and all actions required to enforce this chapter. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

**§ 134-11. Fees.**

- A. Each application for a certificate of appropriateness shall be accompanied by a fee, in an amount set by the City Council, payable to the City Clerk.
- B. The applicant may be charged a fee by the Planning Board for the actual cost of preparation and publication of each public notice of hearing on the application. Said fees shall also be fixed from time to time by resolution of the City Council.

**§ 134-12. Uses permitted by special permit. [Amended 8-6-2001 by L.L. No. 12-2001; 3-18-2002 by L.L. No. 9-2002; 5-17-2010 by L.L. No. 4-2010]**

Section 223-24.7 of Chapter 223, Zoning, of the City Code, enumerates the uses which may be permitted by special permit, issued by the City Council, in the Historic District and Landmark Overlay Zone, and the process by which such uses may be permitted.

**§ 134-13. Assessment abatement.**

Any person who is granted a certificate of appropriateness and performs the work detailed in the application submitted to the Planning Board will not be subject to an increase in assessment for the subject property as a result of the improvements made to the buildings and structures on said property. This clause does not apply to applicants who also receive a special permit as set forth in § 223-18 of Chapter 223, Zoning.

**§ 134-14. Additional areas.**

In accordance with § 134-6, the following landmarks, properties and/or historic districts are added:

A. Properties added 5-17-1999 by L.L. No. 12-1999:

<b>Parcel I.D.</b>	<b>Location</b>	<b>Owner Name</b>
6054-13-126252	250 Howland Avenue	University Settlement Camp Society of New York
6054-17-047180	300 Howland Avenue	Craig House
6054-17-025161	310 Howland Avenue	Stephen Fleming and Donna Landstreet
6054-17-075135	330 Howland Avenue	Scenic Hudson
A portion of 6054-14-259407 as shown on map <sup>2</sup>	150 Howland Avenue	Beacon Hills Development Corporation

B. The following landmarks and districts are hereby added to the Historic District and Landmark Overlay Zone. The attached map, entitled Proposed Additions to Historic District and Landmark Overlay Zone, and dated May 12, 2006, shows the respective location of each of the following:<sup>3</sup> **[Added 4-3-2006 by L.L. No. 4-2006]**

- (1) Gateway to Mt. Beacon Park (Mount Beacon Incline Property; on National Register).
- (2) Peter Dubois House, 36 Slocum Road; on National Register.
- (3) Old Matteawan State Hospital buildings and grounds.
- (4) Fountain Square (East Main Street), including Leonard Street (Alice Judson House, Dr. Jennings/Leonard House, Catholic Church).
- (5) Byrnesville Cemetery, South Avenue (purported burial ground of Roger Brett).
- (6) H. W. Sargent’s “Wodenethe”: two gatehouses, South Avenue and Wodenethe Drive.
- (7) Methodist Cemetery, North Walnut Street.
- (8) Old stone houses (2), Overlook Avenue near Stone Street (houses date back to late 18th Century).
- (9) Old Tioronda Hat Shop and Madam Brett Park (site of original Brett mill), South Avenue, dates to 1879.
- (10) Peter Schenck House, adjoining Tallix property, Blackburn Avenue - Schenck Estate.

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2. **Editor's Note: Refers to the proposed Zoning and Historic District and Landmark Overlay Zone Map prepared by Frederick P. Clark Associates, dated 3-25-1999.**

3. **Editor's Note: The map is on file in the City offices.**

- (11) Russell Avenue, from First Street to Union Street, cluster of historic homes; 1st Highland Hospital; Mayor Russell’s House; Ticehurst Home dates to 1840s (excluding 40 Russell Avenue).
  - (12) Calvert Vaux House, South Avenue.
  - (13) Chrystie House, South Avenue.
  - (14) 1 East Main.
  - (15) 10 East Main
  - (16) South Street (excluding 32 South Street).
  - (17) North Street (excluding 19 North Street).
  - (18) St. Joachim’s Church and Old Cemetery.
  - (19) St. John’s Church.
  - (20) AME Zion Church, Academy Street.
  - (21) Springfield Baptist Church, Mattie Cooper Street Square.
  - (22) Fairview Cemetery. Washington Avenue.
  - (23) Northwest corner of Teller and Rombout Avenues, 2nd Empire brick home.
- C. Property added May 17, 2010, by L.L. No. 5 of 2010: **[Added 5-17-2010 by L.L. No. 5-2010]**

<b>Parcel I.D.</b>	<b>Location</b>	<b>Owner Name</b>
130200-6054-21-06589	211 Fishkill Avenue	Beacon School District