

Chapter 134

HISTORIC PRESERVATION

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[HISTORY: Adopted by the Council of the City of Beacon 10-21-1991 by L.L. No. 10-1991; amended in its entirety 11-16-2020 by L.L. No. 11-2020. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 223.

§ 134-1. Purpose.

The City of Beacon wishes to encourage the preservation of properties that are of special historical or architectural significance.

§ 134-2. Historic District and Landmark Overlay Zone.

An Historic District and Landmark Overlay Zone (HDLO) is hereby established for the purpose of encouraging the preservation of properties of special historical or architectural significance.

§ 134-3. Definitions.

Unless specifically defined below, words or phrases in this chapter shall be interpreted so as to give them the same meanings 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 identified historical features of a structure that is visible from a public street, public sidewalk or public park, including but not limited to the construction, demolition, moving or removal of any structure. For the purposes of this chapter, alteration excludes maintenance, repair or replacement of an identified historical feature which does not involve a change in design or outward appearance, as well as plumbing and/or electrical work and any minor, accessory, utility or security-related changes that do not substantially detract from the historic property. In the HDLO Zone, a building permit and certificate of appropriateness are required for an alteration.

CERTIFICATE OF APPROPRIATENESS — A certificate issued by the Planning Board authorizing the

alteration, construction or demolition of an identified historical feature of a designated historic property or structure located wholly or partially within a designated historic district.

CERTIFICATE OF ECONOMIC HARDSHIP — A certificate issued by the Zoning Board of Appeals authorizing the alteration, construction or demolition where a certificate of appropriateness has previously been denied by the Planning Board.

IDENTIFIED HISTORICAL FEATURE — An exterior feature of a structure or property specifically identified as a contributing historic element in the Historic Resource Inventory Form and open to view from a public street, public sidewalk or public park. Where an historic property does not have an Historic Resource Inventory Form, the design and general arrangement of the exterior of a structure open to view from a public street, public sidewalk or public park, including the nature and style of the building, windows, doors, or similar items found on or related to the exterior of an historic structure, shall be considered an identified historical feature.

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 pursuant to this chapter. This definition shall also include all nonhistoric properties located in an area designated as an historic district by action of the City Council.

§ 134-4. Designation of landmarks or historic districts.

- A. The City Council may act upon its own initiative, or upon petition from the owner of a proposed landmark, site, structure or property, the Planning Board, or an historic preservation committee, to consider designation of an historic district or historic landmark, site, structure or property. All designated historic districts and landmarks shall be included in the HDLO. All nominations shall include a New York State Office of Parks, Recreation and Historic Preservation Historic Resource Inventory Form, or an equivalent form, describing the building and site and identifying the criteria for nomination under § 134-4B.
- B. The City Council shall determine whether a proposed district or landmark meets one or more of the following criteria:
 - (1) Has distinguishing architectural characteristics of a period, style, method of construction, indigenous materials or craftsmanship;
 - (2) Has special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the community;
 - (3) Is eligible for inclusion on the State or National Registers of Historic Places.
- C. Notice of a proposed designation shall be sent by certified mail or personal delivery 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. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the City of Beacon at least 14 calendar days prior to the date of such hearing.

- E. The City Council shall hold a public hearing prior to designation of any landmark or historic district.
- F. In determining whether to designate a new historic property, the City Council shall consider the factors listed in § 134-4B and any testimony or evidence presented during the public hearing.
- G. The City Council shall make a decision within 60 days of the conclusion of the hearing on the proposed designation. If the City Council fails to act within 60 days, or fails to extend the period in which to act, the designation shall be deemed to have been denied. A supermajority vote of five Council members is necessary to designate a new historic landmark if the property owner objects to such designation.
- H. The City Council shall notify the owner of each designated historic landmark.
- I. Designated historic landmarks shall be shown on the City of Beacon Zoning Map.

§ 134-5. Uses permitted by special permit.

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

§ 134-6. Certificate of appropriateness.

- A. **Applicability.** Applications for a building permit involving alteration, construction, or demolition of an identified historical feature of a designated historic landmark or property located wholly or partially within a designated historic district shall require certificate of appropriateness approval from the Planning Board. No building permit shall be issued until a certificate of appropriateness has first been issued by the Planning Board or a certificate of economic hardship is approved by the Zoning Board. If a certificate of appropriateness has been approved, then a building permit or any other approval issued for the same work or activity shall be consistent with the terms and requirements of the certificate of appropriateness. If the certificate of appropriateness is denied, the Building Inspector shall refuse to grant a building or other permit. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any identified historical feature of a landmark or property within an historic district which does not involve a change in design or outward appearance.
- B. **Application.** The Building Inspector shall transmit any building permit application involving alteration, construction, or demolition of an identified historical feature of an historic property or structure located wholly or partially within a designated historic district to the Planning Board. Prior to transmitting the building permit application, the Building Inspector shall advise the applicant whether additional drawings, building material samples or any other information is required as the Building Inspector, in their discretion, deems necessary and appropriate to assist the Planning Board's review. The Planning Board shall review the building permit application pursuant to the criteria set forth in § 134-6C to determine whether to issue a certificate of appropriateness.
- C. **Criteria.** In determining whether to issue a certificate of appropriateness, the Planning Board shall give consideration to the following:
 - (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 identified historical features of such structure to the rest of the structure and to the surrounding area.

- (3) For an addition or new structure, the compatibility of exterior design in terms of scale, arrangement, texture and materials proposed, roof and cornice forms, if applicable, spacing and proportion of windows and doors, exterior architectural details, and street-front fixtures.
- (4) For a proposal requiring site development plan or special permit approval in addition to a certificate of appropriateness, the Planning Board shall apply the design standards in § 134-7.

D. Review.

- (1) 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 City of Beacon. Where site plan review, special permit 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.
- (2) The Planning Board shall approve, deny or approve the permit with modifications within 60 days from the Planning Board's receipt of the completed building permit 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. Notice of the public hearing shall be provided by the applicant in the same manner as required in § 223-61.2B.

§ 134-7. Central Main Street District, site development plan or special permit design standards.

In applying the principle of compatibility, the City Council or Planning Board shall use the following standards when considering any application in the Central Main Street District, a site development plan application, or special permit, pertaining to a designated historic property. Standards using the verb "shall" are required; "should" is used when the standard is to be applied unless the Planning Board or City Council finds a strong justification for an alternative solution in an unusual and specific circumstance; and "may" means that the standard is an optional guideline that is encouraged but not required.

A. The design, character, and appropriateness to the property of the proposed alteration or new construction.

- (1) Construction shall build on the historic context with applications required to demonstrate aspects of inspiration from or similarities to adjacent HDLO structures or historic buildings in the surrounding area.
- (2) Compatibility does not imply historic reproduction, but new architecture shall also not arbitrarily impose contrasting materials, scales, colors, or design features.
- (3) The intent is to reinforce and extend the traditional patterns of the HDLO District, but new structures may still be distinguishable in up-to-date technologies and details, most evident in window construction and interiors.
- (4) Exterior accessory elements, such as signs, lighting fixtures, and landscaping, shall emphasize continuity with adjacent HDLO properties and the historic characteristics of the sidewalk and streetscape.
- (5) Where possible, parking shall be placed towards the rear of the property in an unobtrusive location with adequate screening from public views, unless another location provides better screening.

B. The scale and height of the proposed alteration or new construction in relation to the property itself,

surrounding properties, and the neighborhood.

- (1) Where possible, an addition to an historic structure should be placed towards the rear, or at least recessed, so that the historic structure remains more prominent than the subsidiary addition.
- (2) Any alteration or addition to an historic structure shall not damage or obscure the character-defining features of the architecture or site to the maximum extent possible.
- (3) The height of any new building facades in the HDLO shall not conflict with the heights of adjacent historic structures on adjoining HDLO parcels.
- (4) Larger buildings or additions should incorporate significant breaks in the facades and rooflines, generally at intervals of no more than 35 feet.

C. Architectural and site elements and their relation to similar features of other properties in the HDLO.

- (1) It is not appropriate to disrupt the relationship between an historic building and its front yard or landscape, including screening historic properties from traditional street views by high walls or hedges.
- (2) Historic storefronts, porches, cornices, window and door surrounds, or similar architectural features should not be enclosed, obscured, or removed so that the character of the structure is substantially changed.
- (3) Deteriorated building features should be repaired rather than being replaced and, if not repairable, should be replicated in design, materials, and other historic qualities.
- (4) New buildings in the HDLO should have a top-floor cornice feature or eave and first-floor architectural articulation, such as an architecturally emphasized entrance doorway or porch, to accent the central body of the building.
- (5) Architectural features and windows shall be continued on all sides that are clearly visible from a street or public parking area, avoiding any blank walls, except in cases of existing walls or potential common-property walls.
- (6) New HDLO buildings shall have a front entrance door facing the primary street and connected to the sidewalk.
- (7) Primary individual window proportions shall be greater in height than width, but the approving body may allow exceptions for storefront, transom, and specialty windows. Mirrored, reflective, or tinted glass and all-glass walls, except greenhouses, shall not be permitted. Any shutters shall match the size of the window opening and appear functional.
- (8) Finish building materials should be wood, brick, traditional cement-based stucco, stone, smooth cast stone, smooth-finished fiber-cement siding, or other materials deemed acceptable by the approving body. Vinyl, aluminum or sheet metal siding or sheet trim, exposed concrete blocks or concrete walls, plywood or other similar prefabricated panels, unpainted or unstained lumber, synthetic rough-cut stone, synthetic brick, synthetic stucco, exterior insulation and finishing system (EIFS), direct-applied finish system (DAFS), and chain-link, plastic, or vinyl fencing shall not be permitted.
- (9) Materials and colors should complement historic buildings on the block. Fluorescent, neon, metallic, or other intentionally garish colors, as well as stripes, dots, or other incompatible patterns, shall be prohibited.

- (10) Mechanical equipment and refuse containers shall be concealed from public view by approved architectural or landscaping elements and shall be located to the rear of the site. Window or projecting air conditioners shall not be permitted on the front facade of new buildings or additions.

§ 134-8. Hardship criteria and application procedure.

- A. An applicant whose certificate of appropriateness has been denied may apply to the Zoning Board of Appeals for a certificate of economic hardship to obtain relief from the requirements of this chapter. Upon receipt of an application for relief, the Zoning Board shall, within 45 calendar days thereafter, hold a public hearing. Notice of the public hearing shall be provided by the applicant in the same manner as required in § 223-61.2B.
- B. At the public hearing, the Zoning Board may hear testimony and entertain the submission of written evidence from the applicant and/or the public.
- C. To obtain a certificate of economic hardship, the applicant must prove the existence of economic hardship by establishing 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.
- D. The Zoning Board shall take into consideration the economic feasibility of alternatives to alteration, construction or demolition of a landmark, or portion thereof, and balance the interest of the public in preserving the historic landmark or building, or portion thereof, and the interest of the owner in removing, altering or demolishing the landmark or portion thereof.
- E. 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.

§ 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 chapter 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.

The applicant shall not be charged an application fee, professional review fees or fees to prepare and publish any public notice incurred in connection with the certificate of appropriateness or economic hardship application, except for any fees associated with another land use application concerning the historic property.

§ 134-12. 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.