

ZONING

190 Attachment 4

Village of Clyde

Appendix E

Preservation of Historic Structures and Districts

[Added 4-10-2008 by L.L. No. 3-2008]

A. General.

1. Title. These regulations shall be known as the “Historic Preservation Law of the Village of Clyde,” hereinafter referred to as “this appendix.”
2. Scope. The provisions of this appendix shall apply to any historic structure, as that term is defined herein, existing within the Village of Clyde.
3. Intent. This appendix shall be construed to secure its expressed intent, which is to preserve historic structures from defacement or unilateral demolition, and to provide increased options for adaptive reuse of such structures. It is further the intent that this appendix be compatible with and a part of Chapter 190, Zoning, of the Code of the Village of Clyde.
4. Authority. The authority to enact this appendix is found in NYS General Municipal Law § 96-a.
5. Severability. If a section, subsection, sentence, clause or phrase of this appendix is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this appendix.

B. Definitions.

1. Scope. Unless otherwise expressly stated, the following words and terms shall, for purposes of this appendix, have the meanings shown in this section.
2. Interchangeability. Words used in the present tense include the future; the singular number includes the plural and the plural, the singular.
3. Terms defined in other regulations. Where terms are not defined in this appendix and are defined in Chapter 190, Zoning, such terms shall have the meanings ascribed to them as in those regulations.
4. Terms not defined. Where terms are not defined through the methods authorized by this appendix, such terms shall have ordinarily accepted meanings such as the context implies.
5. Definitions.

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CONDITION BEYOND REPAIR — Whenever a structure is no longer viable for further use or occupancy because it is of such faulty construction, dilapidated, unsound, unsafe, damaged or decayed that: (i) the cost of the repair or renovation to make it usable for any lawful purpose would exceed 50% of the replacement cost of the structure, and (ii) the structure has been condemned as unsafe by the Code Enforcement Officer.

EMERGENCY — A situation or condition which could cause serious or life threatening injury or death, or significant property damage, and demanding immediate action.

EXTERIOR ALTERATIONS — The replacement, addition, alteration or removal of any exterior building component, including but not limited to doors, windows, cornices, belt courses, corbels, wall facings and historic features. This definition shall include de minimus amounts of demolition.

HISTORIC DISTRICT — An area of two or more contiguous parcels of land that have been designated by the Village Board of Trustees in accordance with § C-7 of this appendix, or a district that is on the state or national registers of historic places.

HISTORIC FEATURES — Distinctive features, finishes, materials or construction techniques that are original to a building or that are at least 50 years old and contribute to the architecture and historic significance of an historic structure.

HISTORIC STRUCTURE — A building or structure that has been designated by the Village Board of Trustees in accordance with § C-7 of this appendix, or any building or structure on the State or National registers of historic places.

UNIFORM CODE — The New York State Fire Prevention and Building Code and/or the Energy Conservation Construction Code of New York State, and any amendments thereto.

C. Designation of historic structures and districts.

1. Eligibility. A structure or property may only be eligible for historic designation if it:
 - a. Possesses special character or historic or aesthetic interest or value as a part of the cultural, political, economic or social history of the Village, locality, region, state or nation; or
 - b. Is identified with historic personages (birthplace, home, gravesite, etc.); or
 - c. Embodies the distinguishing characteristics of an architectural style or period or method of construction; or
 - d. Is the work of a designer whose work has significantly influenced an age; or

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- e. Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood; or
 - f. Is associated with events that have made a significant contribution to the road patterns of American history; or
 - g. The property and its site yield, or are likely to yield, important information in history or prehistory.
2. Structures and properties not eligible. The following structures and/or properties shall be excluded from historic designation:
- a. Reconstructed buildings, except in cases where the work is based on authentic documentary evidence and is an integral part of the surrounding area.
 - b. Buildings less than 50 years old, except where identified as a unique or significant architectural type or style.
3. Proposal for designation. Structures or properties may be proposed for historic designation by any of the following:
- a. The Village Board of Trustees.
 - b. The Village Planning Board.
 - c. The owner of the structure or property.
4. Application for designation. Applications for proposed designation shall be in writing and shall include the following information:
- a. The historic and common name(s) of the structure and/or property.
 - b. Owner, address, and legal description of the property.
 - c. Date of construction.
 - d. Architectural style and period.
 - e. Condition of the building (excellent, good, fair, deteriorated, or ruins).
 - f. A narrative description of the structure's or property's historical and architectural significance.
 - g. Photographs of all significant elevations and a photograph showing the structure in its surrounding context.
 - h. Completed short EAF for compliance with the State Environmental Quality Review Act.

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- i. Name of applicant and date of application.
 5. Referral to Planning Board. Except for applications made by the Village Planning Board, all proposed designations shall be reviewed by the Village Planning Board prior to public hearing. The Village Planning Board shall make a recommendation to the Board of Trustees within 30 days of receipt of the proposal.
 6. Public hearing. Within 30 days of receipt of an application for proposed designation, the Village Board of Trustees shall refer such proposal to the Village Planning Board for recommendation as provided in § C-5. Within 30 days of receipt of a recommendation from the Village Planning Board, the Village Board of Trustees shall notify the owner of the property a minimum of 10 days prior to such public hearing. Said notification shall be made either by personal service or by certified and first-class mail, addressed to the owner's last known address as recorded in the office of the Town Assessor.
 7. Findings and designation. After public notice and hearing, and after a finding by the Board of Trustees that a structure, property or group of properties meets the eligibility criteria established in § C-1, the Board of Trustees may designate the structure or district historic. If designation applied to more than a single structure, the Board of Trustees shall clearly describe and delineate the property so designated. Said designation shall remain in effect until such time that:
 - a. This appendix is repealed; or
 - b. Said designation is removed as provided in § C-8; or
 - c. The structure has been deemed by the Code Enforcement Officer, and affirmed by the Planning Board, to be in a condition beyond repair, as that term is defined herein.
 8. Removal of designation. After public notice and hearing, utilizing the same procedure found in §§ C-5 and C-6, the Village Board of Trustees may remove historic designation for a structure or district if the property has been so changed, through conscious alterations, catastrophic damage or neglect that historic designation is no longer appropriate.
- D. General regulations.
1. Exterior alterations. Exterior alterations to historic structures shall require a building permit and prior approval of the Village Planning Board. Unapproved alterations shall be deemed a violation of Chapter 190, Zoning.
 2. Demolition. Demolition permits for all or part of an historic structure shall be issued by the Village Board of Trustees. An applicant for a permit to demolish an historic structure of portion thereof shall submit to the Board the following:

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- a. A report from an independent design professional concerning the structure's physical stability and potential for continued use or adaptive reuse.

Exception: The Board of Trustees may waive the report requirement for demolition of outbuildings and small portions of structures.

- b. A plan for the use of the remaining portion of the structure and/or a plan for improvement of the site following demolition.
- c. Documentation of investigations and efforts made to preserve or relocate the structure, obtain funding for preservation, or find other uses for the structure, which would avoid the necessity of demolition.

The Board of Trustees shall take into consideration the above information or lack thereof in reviewing applications for demolition Permits for demolition shall be issued only upon finding that there is no realistic, feasible alternative to demolition or that the demolition is of such a minor nature as to not make a significant impact on the historic character of the structure or district. All demolition permits issued under this local shall expire six months from the date of issuance, and may only be renewed by the Board of Trustees.

Exception 1: In case of emergency, demolitions of historic structures or portions thereof shall not require the approval of the Board of Trustees. Said demolitions shall otherwise conform to Village regulations governing unsafe or dangerous buildings.

Exception 2: Demolitions of de minimus amount, undertaken as part of exterior alterations approved by the Village Planning Board.

Unapproved demolition shall be deemed a violation of Chapter 190, Zoning.

4. Zoning incentives. Notwithstanding any provisions of Chapter 190, Zoning, to the contrary, the use of an historic structure for any of the following purposes shall be deemed a special permitted use, regardless of the zone district in which the structure is located:
 - a. Restaurants and other food service establishments with a seating capacity of less than 100 persons.
 - b. Museums, art galleries and exhibition halls.
 - c. Bed-and-breakfast establishments, inns and hotels for overnight accommodation by the traveling public (commercial residences).
 - d. Retail shops, such as antique and collectible shops, boutiques, gift shops, bookstores, card and flower shops, pottery and ceramic shops, hobby and craft shops, and similar novelty or specialty shops.
 - e. Professional offices of attorneys, engineers, architects, surveyors, realtors, draftsmen, insurance agents, and similar.

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- f. Medical offices and clinics.
- g. Libraries.
- h. Child day-care centers.
- i. Photographic, dance and art studios.
- j. Public or private schools and other educational occupancies.
- k. Tourist and information centers.
- l. Places for temporary or periodic use, such as historic house tours, meetings of civic organizations, receptions, etc.

Exception: No historic structure may be used for any purpose defined as an adult use in Chapter 190, Zoning.

Historic structures shall be required to comply with all other applicable provisions of Chapter 190, Zoning, including adequate off-street parking and loading.

- 5. Uniform code. Historic designation under the terms of this appendix shall be deemed to make a building an historic building, for purposes of enforcement of the Uniform Code.
- 6. Guiding standards. The Village Planning Board shall use the following criteria to determine the appropriateness of proposed exterior alterations and additions to historic structures:
 - a. Historic features shall be retained and altered as little as possible.
 - b. Alterations to an historic structure shall be compatible with its historic character, and if located within an historic district, with the surrounding structures of such district.
 - c. New construction shall be compatible with the historic character of the existing structure and, if located in an historic district, the surrounding structures of such district.
 - d. In applying the above standards, the following factors shall be considered:
 - (1) The general design, character and appropriateness of proposed alterations or new construction to the historic district and/or surrounding structures in an historic district.
 - (2) The scale of proposed alterations or new construction in relation to the historic structure itself and/or surrounding structures in an historic district.

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- (3) Texture, materials and color and their relation to similar features of the historic structure and/or surrounding structures in an historic district.
 - (4) Visual compatibility with the historic structure and/or surrounding structures in an historic district, including the proportion of the structure's facade, roof shape and rhythm of spacing structures on streets, including setback.
 - (5) The importance of historic, architectural or other features to the significance of the structure and/or its district.
- 7. Appeals. An applicant whose application for a permit has been denied may apply for relief with the Village of Clyde Zoning Board of Appeals as provided for in Chapter 190, Zoning.
 - 8. Maintenance and repair. Nothing in this appendix shall be construed to prevent the ordinary maintenance and repair of any exterior architectural features of an historic structure which does not involve a change in design, material, color or outward appearance.