

Historic Preservation Ordinance – Local Law #3, 2004, as amended, 2008

AN ORDINANCE related to the establishment of landmarks or historic districts in the Town of Saugerties; herein after, the “Town”.

Section 1. Legislative Intent.

Pursuant to Article 5, Sec 96-a, and Article 5-K, New York General Municipal Law; Article 4, Parks, Recreation and Historical Preservation Law; and National Historic Preservation Act of 1966, 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 cultural, economic and general welfare of the public. The Town has many significant and interrelated historic resources that constitute its heritage. These include architectural and cultural properties, archaeological sites, cemeteries as well as important land and maritime transportation routes and the remains of early industrial, commercial, agricultural, recreational and artistic sites. Inasmuch as the identity of a people is founded on its past, this article is intended to:

- A) Protect, enhance and promote the landmarks and historic districts which present distinctive, informative and educational elements of the historic, architectural, archaeological and cultural heritage of the Town;
- B) Focus and stimulate attention on and foster civic pride in the historic accomplishments and resources in the Town;
- C) Protect and enhance the attractiveness of the Town to residents and visitors, thus supporting and providing stimulus to the local economy; and
- D) Ensure the harmonious, orderly and sensitive development of the Town.

Section 2. Commission Established.

There is hereby established a commission to be known as the “Historic Preservation Commission of the Town of Saugerties,” hereinafter referred to as the “Commission.”

Section 3. Membership; Terms of Office; Officers; Meetings; Quorum.

- A) The Commission shall consist of five members who shall be appointed by the Town Board. Persons residing within the Town who have demonstrated significant interest in and commitment to the field of historic preservation, evidenced by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field, shall be eligible for appointment as members of the Commission. The Town Historian shall be an ex officio member of the Commission.
- B) Commission members shall serve for a term of four years, with the exception of the initial term of one of the members which shall be one

- year, one which shall be two years, one which shall be three years, and two which shall be for four years.
- C) A Chairperson and Vice-Chairperson shall be elected by and from among the members of the Commission.
 - D) The Commission shall meet at least every two months but meetings may be held at any time on the written request of any two of the Commission Members or on the call of the Chairperson or the Supervisor.
 - E) A quorum for the transaction of business shall consist of three of the Commission's members, but not less than a majority of the full authorized membership may render a decision regarding landmark status or grant or deny a Certificate of Appropriateness.

Section 4. Powers and Duties.

The powers and duties of the Commission shall include:

- A) Adoption of criteria for the identification of significant historic architectural, archaeological and cultural landmarks and for the delineation of historic districts;
- B) Conduct surveys of significant historical, architectural, archeological and cultural landmarks and historic districts within the Town;
- C) Designation of individual landmarks and creation of historic districts; such designation to be subject to disapproval supported by findings by the Town Board within 45 days of enactment of the designation and filed as approved if no action is taken in this time.
- D) Approval or disapproval of applications for Certificates of Appropriateness pursuant to this ordinance.
- E) Increasing public awareness of the Town's historic, cultural and architectural preservation by developing, publishing and distributing educational and promotional information and participating in public education programs;
- F) Promulgation of rules and regulations as necessary for the conduct of its business;
- G) Making recommendations to Town Board concerning the use of state, federal or private funds to provide information on and promote the preservation of landmarks and historic districts with the Town;
- H) Making recommendations to the Town Board regarding appropriate zoning laws protecting historic, architectural, archaeological and cultural landmarks and to the Planning Board regarding applications for site plan review or subdivisions of real property containing landmarks or within a historic district;
- I) Making of recommendations to the Town Board concerning acceptance of donations or the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this ordinance;
- J) Recommending acquisition of a landmark property by the Town Board where its preservation is essential to the purposes of this ordinance and where private preservation is not feasible;
- K) Employment, with Town Board approval, of staff and professional

consultants as necessary to carry out the duties of the Commission;

Section 5. Designation of Landmarks and Historic Districts.

- A. The Commission may propose an individual property for designation as a landmark if it:
 - 1. Possesses 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; and/or
 - 2. Is identified with historic personages; and/or
 - 3. Embodies the distinguishing characteristics of an architectural style; and/or
 - 4. Is the work of a designer whose work has significantly influenced an age; and/or
 - 5. Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood; and/or
 - 6. Is listed on the State and/or National Registers of Historic Places, or which is the subject of a pending application for listing.

- B. The 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 as an individual landmark; and,
 - 2. by reason of possessing such qualities, constitutes a cohesive historic area of the Town.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed in the Town Clerk's office for public inspection.

- C. Requests for designation of an individual landmark or historic district may be initiated by any person or organization on forms provided by the Town Clerk.
- D. Notice of a proposed designation shall be sent by registered mail to the owner(s) of the property or properties proposed for designation appearing on the most recent real property tax rolls of the Town. This notice shall describe the property proposed and announce a public hearing by the Commission to consider the designation. Timely notice of this public hearing shall be published in local papers of record. The Commission shall make every effort to hold the public hearing within 12 days after the date this notice is published. Simultaneously with the mailing of such notice to the owner(s), the Commission shall cause a copy of the same to be delivered to the Building Inspector and to the Assessor for their respective review and comment. Once the Commission has issued notice of a proposed designation, the Building Inspector shall issue no building or demolition permits nor shall any material change be made to the appearance of the property until the Commission has made its decision. Notice of this restriction shall be worded in these transmittals to the Building Inspector and Assessor.

- E. The Commission shall hold its duly advertised public hearing on the date set forth in the notice prior to designation of any landmark. Testimony or documentary evidence at the hearing by the Commission, owner(s) and any interested parties shall become part of a record regarding the archaeological, historic, architectural or cultural importance of the proposed landmark or historic district. The Commission shall make a decision in writing within 62 days of closing of the public hearing and send by registered mail a copy of its decision to the owner(s) of the property or properties and also deliver copies to be filed with the Town Clerk, with the Building Inspector and with the Town Assessor. The Commission's decision shall state the reasons for granting, modifying or denying a landmark designation.
- F. The Commission shall prepare and forward to the Ulster County Clerk for recording a notice of each property designated as a landmark or as part of an historic district.

Section 6. Designation of Historic and Scenic Transportation Routes.

Nothing in this ordinance shall preclude the Commission's designation of roads and/or maritime transportation features of the Town which meet the criteria set forth in Section 5. Once designated, the Town Board shall solicit the Commission's advice on their proper care, landscaping and construction, which advice shall be incorporated into standards used by the Highway Department. The Commission may be delegated to act as liaison with the State, County and Federal departments during construction and maintenance of maritime routes and Town designated historic and scenic roads.

Any proposed changes, other than maintenance, to privately-owned designated historic roads shall first be submitted to the commission for a Certificate of Appropriateness. The purpose of such designation is to maintain continuity with adjoining properties, alignment, unimpeded width of a minimum of 12 feet and existing surface materials.

Section 7. Certificate of Appropriateness

- A. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a building designated as a landmark or any property within a 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, major landscape feature or design or other exterior elements, including exterior lighting, which affect the appearance and cohesiveness of either the landmark or of the historic district, without first obtaining a Certificate of Appropriateness from the Commission.
- B. The Town Building Inspector shall be responsible for administering and maintaining records of the applications for a Certificate of Appropriateness, whether or not they are accompanied by an application

- for a building permit. The Building Inspector shall have the same enforcement capability with respect to a Certificate of Appropriateness that the Inspector exercises with respect to a building permit.
- C. No fees shall be collected for a Certificate of Appropriateness application.
 - D. Before acting on any application for a variance, special use permit, site plan, building permit, demolition permit, sign permit or subdivision the Building Inspector shall first consult a current list of all properties designated as individual landmarks or as contained within historic districts to determine the requesting property's status. Requests affecting a landmarked property or any property within a historic district under this ordinance or a structure or premises listed in the National Register of Historic Places shall be referred promptly by the Building Inspector to the Commission for its recommendations in order to facilitate the review process and for a Certificate of Appropriateness, if necessary.

Section 8. Criteria for Approval of Certificate of Appropriateness.

- A. This ordinance does not regulate or apply to interior spaces. A Certificate of Appropriateness is not required for interior alterations. At the request of an owner of property which has been designated as a landmark or which is located in an historic district, the Commission may consult and advise on changes to interior spaces if they are open to the public on a regular basis.
- B. The Commission's decisions on all applications for Certificates of Appropriateness for building exteriors shall be based upon the following principles:
 - 1. Historic properties shall be retained with their historic features altered as little as possible.
 - 2. Any alteration of existing property shall be compatible with its historic character, and with the historic character of surrounding properties, if any. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
 - 3. New construction shall be compatible with the historic character of its surroundings.
- C. In determining compatibility, the Commission 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 proposed alteration or new construction in relation to the

- property itself, surrounding properties, and the neighborhood;
3. Texture, materials, form, massing, size, rhythm, spacing, structural elements, proportion, illumination and color and their relation to similar features of other properties in the neighborhood;
 4. 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 the streets, including setbacks, yards and landscaping; and
 5. The importance of historic, architectural or other features to the significance of the property.

Section 9. Application Procedure for Certificate of Appropriateness.

- A. Prior to the commencement of any work requiring a Certificate of Appropriateness, the owner shall file an application for such certificate with the Building Inspector. The application shall state, where appropriate:
 1. Name, address and telephone number of the applicant;
 2. Location and photographs of property;
 3. Detailed description of proposed changes;
 4. Perspective and elevation drawings, including relationship to adjacent properties;
 5. Samples of color and/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, method of illumination and a plan showing the sign's location on the property; or
 7. Any other information which the Commission may deem necessary in order to visualize the proposed work.
- B. No building permit, demolition permit or other required permit shall be issued by the Building Inspector for such proposed work on a landmark property or a property within an historic district until a Certificate of Appropriateness has first been issued by the Commission. The Certificate of Appropriateness required by this article shall be in addition to and not in lieu of any permits the Town may require or any other laws or regulations. The Building Inspector shall refer such permit application for a landmark property or a property within an historic district to the Commission within 10 working days of receipt or by such other deadline established by the Commission.
- C. The Commission shall approve, approve with modifications, or deny a Certificate of Appropriateness on such permit within 62 days from receipt of the complete application. During this time the applicant or applicant's representative may meet with the Commission to consider alternative designs if needed, advice on technologies, available restoration skills and possible financial assistance. The Commission may also 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.
- D. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by certified mail, return receipt requested, and also a copy shall be filed with the Town Clerk and the Town Building Inspector for public inspection. The address used for such notification shall be the address of the applicant as shown on the application for the building permit. The Commission's decision shall state the reasons for granting, modifying or denying any application.
 - E. Certificates of Appropriateness shall be valid for 12 months after which time the owner must reapply if the work on the certificate has not commenced.

Section 10. Compliance with State Environmental Quality Review Act.

The Historic Preservation Commission shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

Section 11. Enforcement.

All work performed pursuant to a Certificate or Appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the Building Inspector to inspect any such work to assure compliance. In the event work is found that is not being performed in accordance with the Certificate of Appropriateness, or upon notification of such fact by the Commission, 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. Any non-conforming work shall be removed unless approved by the Commission.

Section 12. Maintenance and Repair Required.

- A. Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark, a property under consideration for landmark designation, or a property within an historic district which does not involve a change in design, material, color or outward appearance.
- B. No owner or occupant of real property designated as a landmark or included within a 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 Commission, produce a detrimental effect upon the character of a landmark or a historic district as a whole or the life and character of the property itself. Examples of such deterioration include:
 - 1. Deterioration of exterior wall or other vertical supports.
 - 2. Deterioration of roofs or other horizontal members.
 - 3. Deterioration of exterior chimneys.

4. Deterioration or crumbling of exterior stucco or mortar.
 5. Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
 6. 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.
- C. The Commission shall conduct periodic surveys of buildings designated as landmarks to determine that they are not in a state of disrepair and that no alterations have been made in the features described in preceding sections of this article without the owner having first obtained a Certification of Appropriateness. Assistance of the Building Inspector may be requested as required in such surveys.

Section 13. Hardship Criteria for Demolition.

An applicant whose Certificate of Appropriateness for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to prove 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.

Section 14. Hardship Criteria for Alteration.

An applicant whose Certificate of Appropriateness for a proposed alteration has been denied may apply for relief on the ground of hardship. In order to prove 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.

Section 15. hardship Application Procedure.

- A. After receiving written notification from the Commission for the denial of a Certificate of Appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.
- B. The Commission may hold a public hearing on the hardship application at which an opportunity will be provided for proponents 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 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 Commission's decision shall state the reasons

for granting or denying the hardship application. If the application is granted, the Commission shall approve only such work as is necessary to alleviate the hardship.

Section 16. Appeals.

Any person aggrieved by a decision of the Historic Preservation Commission related to hardship or a Certificate of Appropriateness may, within 15 days of the decision, file a written application to the Town Board for review of the decision. Reviews shall be conducted based on the same record that was before the Commission and using the same criteria.

Section 17. Penalties for Offenses.

- A. Failure to comply with any of the provisions of this article shall be deemed a violation, and the violator shall be liable for a fine of not less than \$50 nor more than \$250 for each day the violation exists.
- B. Any person who constructs, alters, demolishes or permits a property designated as a landmark 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 article shall be brought by the Town Attorney, who shall be entitled to recover, in addition to the fine, all costs and expenses incurred by the Town in pursuing compliance with this article.
- C. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

Section 18. Separability

Should any section, paragraph, division, phrase or provision of this ordinance be judged by any court of competent jurisdiction to be invalid or unconstitutional, such judgement shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so adjudged as invalid or unconstitutional.

ADDENDUM TO HISTORIC PRESERVATION ORDINANCE TOWN OF SAUGERTIES

GLOSSARY OF TERMS

ALTERATION - Any act or process that changes one or more exterior or designated interior features of a landmark.

ARCHITECTURALLY SIGNIFICANT STRUCTURE - An architecturally significant structure is one which represents a rare or early example of a design that has become a widely known style associated with a particular architectural period.

CONSTRUCTION - Any act of erecting an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

CERTIFICATE OF APPROPRIATENESS - A permit issued by the Saugerties Commission for Historic Preservation allowing exterior alteration, restoration,

reconstruction, demolition, new construction or moving of a building designated as a landmark or any property within a historic district. A certificate of appropriateness is required before any material change is made in the appearance of a landmark property or a property within a historic district.

FACADE EASEMENT - A type of preservation easement derived from the charitable donation to an organization that is exempt from tax under Internal Revenue Code Section 501 (c) (3). A legal agreement designed to protect a significant historic archaeological or cultural resource in which the historic property owner is assured that the buildings facade (front) will be maintained, protected and preserved forever.

FORM - The shape and structure of a building as distinguished from the material of which it is composed.

HISTORIC DISTRICT - Any area containing a significant concentration of structures, landscape features, sites or objects having historic, architectural, archaeological, cultural or aesthetic significance which are contextually united.

LANDMARK - A designation which may include any structure, landscape feature, site or area having historic, architectural, archaeological, cultural or aesthetic significance.

MASSING - The architectural relationship between the various masses or volumes of a building, including proportion, profile, volume relationship and contour.

REPAIR - Replacement in kind or refurbishment of materials on a structure.

RHYTHM - The regular recurrence of similar features in a building.

SPACING - The distance between any two objects in a usually regularly arranged series.