

12/14/2021

**DRAFT Village of Tuckahoe Historic Preservation Law**

**Section 1. Title.**

This local law shall be known as the Village of Tuckahoe Historic Preservation Law.

**Section 2. Authority.**

Pursuant to Article 5, § 96-a; Article 5-G, Article 5-J and Article 5-K, § 119-dd of the General Municipal Law; Article 14 of the Parks, Recreation and Historic Preservation Law; and § 10 of the Municipal Home Rule Law; it is hereby declared as a matter of public policy that the identification, protection, enhancement, and perpetuation of landmarks and historic districts are necessary to promote the cultural, economic, and general welfare of the public.

**Section 3. Purpose.**

The purpose of this local law is to promote the general welfare by:

- (a) Protecting the buildings, structures, sites, monuments, streetscapes, and neighborhoods that represent distinctive elements of the Village's historic, cultural, and architectural heritage;
- (b) Fostering public knowledge of and civic pride in the character of the Village and in the accomplishments of its past;
- (c) Protecting and enhancing the Village's attractiveness, which supports and stimulates the local economy;
- (d) Ensuring the harmonious, orderly, and efficient growth and development of the Village;
- (e) Conserving valuable material and energy resources by ongoing use and maintenance of the existing built environment.

**Section 4. Historic Preservation Commission.**

There is hereby established Tuckahoe's Historic Preservation Commission (the "commission").

- (a) *Membership and appointments:* The commission shall consist of three members who are appointed by the mayor and approved by the Board of Trustees.
- (b) *Terms:* Commission members shall serve for a term of three years, with the exception of the initial appointments, which shall be staggered as follows: one one-year term, one two-year term, and one three-year term. Vacancies shall be filled by the mayor with approval by the Board of Trustees in the same manner provided for other appointments.
- (c) *Qualifications:*
  - (1) All members shall be residents of the Village of Tuckahoe;
  - (2) To the extent possible, members shall have expertise in historic preservation, history,

- architecture, real estate, archaeology, arts, education, law, urban planning and/or related fields;
- (3) All members shall have a demonstrated interest in historic preservation and/or architecture in the Village of Tuckahoe.
- (d) *Chair:* The chair of the commission shall be appointed by the mayor and approved by the Board of Trustees from among the commission members.
- (e) *Quorum:* A simple majority of the commission members shall constitute a quorum for the transaction of business. An affirmative majority vote of the full commission is required to approve any resolution, motion, or other matter before the commission.
- (f) *Meetings.* The commission may, as needed, hold regular monthly meetings. Additional meetings may be held at any time, upon public notice. At all meetings, official minutes shall be recorded.
- (g) *Duties and powers:*
- (1) Recommending the designation of local landmarks and historic districts to the Board of Trustees for approval;
  - (2) Applying or imposing in accordance with the standards set forth in this legislation, with respect to the construction, reconstruction, alteration, or demolition of such buildings or the performance of work thereon, regulations, limitations, determinations, or conditions which are more restrictive than those prescribed or made by or pursuant to other provisions of law applicable to such activities, work or use;
  - (3) Maintaining an inventory and map of designated local landmarks and historic districts;
  - (4) Conducting investigations and preparing maps, reports, and recommendations regarding historic preservation policies, regulations, and local law, as needed;
  - (5) Evaluating applications for certificates of appropriateness for any alterations to the historic character, appearance, or fabric of local landmarks, or for demolition or removal of local landmarks (approve, approve with modifications, or deny);
  - (6) Evaluating applications for certificates of economic hardship (approve, approve with modifications, or deny);
  - (7) Preparing reports and recommendations in response to referrals or requests from the Board of Trustees;
  - (8) Making recommendations to the Board of Trustees regarding:
    - (a) New or amended local laws or other regulations that the commission believes will further the goals of this Historic Preservation Law;
    - (b) Proposals for the acquisition of preservation easements or other interests in real property;
  - (9) Making recommendations to the Board of Trustees regarding the adoption of financial incentives for owners of historic buildings, and for awards recognizing outstanding

preservation efforts by property owners;

(10) Recommending to the Board of Trustees from time to time that the Village apply for grants from federal, state, and county agencies, private groups, and individuals and recommending how these grants, and budgetary appropriations, might be utilized to promote the preservation of historic buildings and districts;

(h) The commission may request the approval of the Board of Trustees to obtain the services of qualified persons to direct, advise, and assist the commission and to obtain equipment, supplies, and other materials necessary to its effective operation.

### **Section 5. Designation of Local Landmarks or Historic Districts.**

The commission shall recommend for approval to the Tuckahoe Board of Trustees the designation of local landmarks or historic districts within the Village under this Historic Preservation law. The recommendations shall be made at a public meeting and shall be based on the commission's comprehensive review of landmarking applications, associated materials, documentation, and comments from the public and property owners that are included in the public record. Information pertinent to the commission's review is made available before, during, and after commission meetings, which are open to the public and during which the public has the opportunity to participate.

(a) *Establishing a local landmark or historic district.* Such recommendations may be initiated through an application prepared by any of the following:

(1) The commission;

(2) Owners of property wishing to establish a local landmark or historic district, which includes their property.

(b) *Criteria for local landmarks.*

(1) *Individual landmark:* The commission may recommend for designation an individual property as a local individual landmark if it:

(a) Possesses special character or aesthetic value as part of the cultural, architectural, social, or economic history of the Village; or

(b) Is identified with persons or events significant in local, state, or national history; or

(c) Is the birthplace or grave of a historical figure of outstanding importance; or

(d) Embodies the distinguishing characteristics of a type, period, or method of construction or design style, or is a valuable example of the use of indigenous materials or craftsmanship; or

(e) Is representative of the work of a designer, architect, or builder; or

(f) Represents an established and familiar visual feature of the community by virtue of its unique location or singular physical characteristic; or

(g) Has yielded or may be likely to yield information important to the study of the prehistory or history of the region, state, or nation.

(2) *Interior landmark:* The commission may recommend for designation the interior of a property as an interior landmark if such interior meets any of the criteria listed in

Section 6(b) above, and

- (a) Is customarily open or accessible to the public; or
- (b) Is an interior into which the public is customarily invited.

(3) *Historic districts:*

- (a) The commission may recommend for designation a group of properties as a historic district if a majority of properties therein meet one or more of the criteria for designation as a local landmark.
- (b) The historic district may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as local landmarks, nevertheless contribute to the overall visual characteristics of the landmarks located within the historic district.
- (c) Districts may be geographic or thematic in nature, or represent a unique quality particular to the Village of Tuckahoe.

(4) *Scenic landmark:* The commission may recommend for designation a landscape feature or group of features. Recommendations for designation must be accompanied by such historical and architectural information as is required by the commission to make an informed recommendation concerning the application.

(c) *Notice & hearing requirements for proposed designation.*

- (1) *Public notice.* Once the commission has informed the Board of Trustees of its recommendation regarding the designation of a property as a local landmark, notice shall be sent by certified mail, return receipt requested, to the owner of the property proposed for designation, describing the property and announcing a public hearing set by the Board of Trustees to consider the designation. Notice shall be published by the applicant in the official newspaper or other outlet designated by the Village. At least seven days must elapse between the publication of the notice and the public hearing.
- (2) *Public hearing.* The Board of Trustees shall hold a public hearing prior to rendering a decision on the proposed designation of a local landmark or historic district.
- (3) *Decision.* Within sixty-two days after the close of the public hearing, the Board of Trustees shall by resolution undertake a designation in whole or in part, or shall disapprove in entirety, setting forth in writing the reasons for the decision. The Board of Trustees may amend or rescind any designation of a local landmark or historic district in the same manner and using the same procedures as followed for designation.
- (4) *Notice of decision.* Within fifteen business days of the decision, notice shall be sent on behalf of the Board of Trustees to the applicants and owners of a proposed property, or in the case of an approved historic district to the applicants and owners of all properties within the approved district, by certified mail, return receipt requested. Failure to send any notice by mail to any property owners whose address is not on file with the assessor shall not invalidate any proceedings in connection with the

proposed designation.

- (d) *Work Moratorium*: Once the commission has received an application for a local landmark designation, no demolition or building permits shall be issued for the subject property by the building department as long as the proposed designation is under active consideration by the commission and/or until the Board of Trustees has made its decision on designation.
- (e) *Recording*: The commission shall forward notice of each property designated as a local landmark and the boundaries of each designated historic district to the building department and Village clerk for recording.

**Section 6. Alteration, Demolition, Removal, or New Construction Affecting Local Landmarks or Historic Districts.**

The Historic Preservation Commission is responsible for the approval or disapproval of proposed changes to historic properties designated under this local law. No person shall carry out any alteration, restoration, reconstruction, demolition, new construction, or relocation of a designated local landmark or property within a designated historic district without first obtaining a certificate of appropriateness that authorizes such work. Nothing in this Historic Preservation Law shall preclude the applicable and appropriate review and approval that may be required by any other Village boards or commissions for any activities or actions.

**Section 7. Certificate of Appropriateness for Local Landmarks or Historic Districts.**

- (a) *Work permits*. The building department shall not issue a building permit for proposed work to a local landmark until a certificate of appropriateness has first been approved by the Historic Preservation Commission. The certificate of appropriateness shall be a prerequisite to obtaining any building permit that may be required by any other ordinance or code of the Village. Furthermore, no work authorized by a certificate of appropriateness shall be commenced until the applicant obtains all required approval from other Village boards or commissions.
- (b) *Applications for certificate of appropriateness*. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file a complete application for such a certificate with the building department. The application shall contain:
  - (1) Name/corporation, mailing address, email address, and telephone number of applicant;
  - (2) Location of the subject property, and identification of all properties within five hundred feet of its property line;
  - (3) Photographs of the subject property, and, as requested, photographs of properties within up to five hundred feet of its property line;
  - (4) Drawings or renderings of proposed changes, such as but not limited to elevation, perspective, or scale drawings, if available;
  - (5) Samples of building materials to be used, including their proposed color;

- (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; and
- (7) Any other information which the commission may deem necessary in order to understand and visualize the proposed work.

(c) *Criteria for issuing a certificate of appropriateness.* The commission shall approve a certificate of appropriateness only if it determines that the proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the local landmark or historic district. The commission's decision to approve, approve with modifications, or deny an application for a certificate of appropriateness will be guided by the standards below, which are derived from the Secretary of the Interior's Standards for Rehabilitation:

- A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
- Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- Chemical or physical treatments, such as sandblasting, that cause damage to the historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

- New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(1) *Alteration or new construction.* The commission's determination shall be based on:

- (a) Retention and minimal alteration of historic features; and
- (b) *Compatibility.* Any alteration of existing properties or new construction shall be compatible with the historic character of the structure and/or the surrounding district. In applying the principle of compatibility, the following criteria shall be employed:
  - (i) The general design, character, and appropriateness to the property of the proposed alteration or new construction in regards to form, proportion, structure, plan, style, or material, or the combination of different kinds of materials;
  - (ii) The importance of historic, architectural, or other features to the significance of the property;
  - (iii) Height in relation to the setting;
  - (iv) The scale of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
  - (v) Texture, materials, and colors, and their relation to similar features of the property and other properties in the neighborhood;
  - (vi) The position of the building or structure in relation to similar features of other properties in the neighborhood or district, including setback;
  - (vii) The relationship of the width of a building to the height of the front elevation;
  - (viii) Fenestration pattern and porches;
  - (ix) Rhythm of spacing of buildings on streets: the relationship of a building to the open space between it and surrounding buildings;
  - (x) Roof shape; and
  - (xi) Walls of enclosure. Continuity of appurtenance of a building or site, such as walls, wrought iron fences, evergreen landscape masses, and building facades.

(2) *Historic districts.* The commission's decision to approve, approve with modification(s), or deny an application for a certificate of appropriateness for an improvement to property located within a historic district shall be based on:

- (a) Historic features that contribute to the character of the historic district shall be retained, or altered as little as possible;
- (b) Any alteration of existing properties shall be compatible with the surrounding historic district; and
- (c) New construction shall be compatible with the historic district in which it is located;

(3) *Demolition, removal, or relocation.* A certificate of appropriateness for demolition, removal, or relocation of a local landmark shall only be approved if the commission determines that the applicant has established a hardship or if written reports, from

the building department and/or other licensed engineers or architects with experience in rehabilitation or reuse of historic structures have determined that the landmark presents an imminent and unavoidable threat to the public health, safety, and welfare.

- (d) *Archaeological resources.* Where the commission grants a certificate of appropriateness under circumstances where the permitted activity is likely to uncover or affect archaeological resources, the commission shall require reasonable efforts to protect and preserve such resources. Where such protection and preservation is not feasible, the commission shall nonetheless impose appropriate and reasonable conditions to insure that the archaeological resource is made accessible for a reasonable period to qualified persons.
- (e) *Decision making requirements.*
  - (1) *Public notice.* Upon application for a certificate of appropriateness, a public notice of the proposal shall be posted by the owner or owner's representative on the property readable from a public street for a minimum of fifteen days prior to the public hearing. This notice must remain in place until a decision to approve or deny the certificate of appropriateness has been made. The notice shall specify the proposed work, the time and place of the public hearing, and to whom and by when any public comments are to be communicated.
  - (2) *Public hearing.* The commission shall hold a public hearing prior to rendering a decision on any application for a certificate of appropriateness.
  - (3) *Decision.* The commission shall render a decision on the proposed certificate of appropriateness within sixty-two days from the close of the public hearing. All determinations of the commission shall be in writing and shall state the reasons for approving, denying, or modifying any application.
  - (4) *Notice of decision.* The decision shall be filed within seven business days with the Village clerk and mailed to the applicant.
- (f) *Term.* Certificates of appropriateness shall be valid for eighteen months after the issuance of the certificate. A one-time extension of a certificate of appropriateness may be granted by the building department for an additional period of up to an additional eighteen months, provided the parameters of the project have not changed from those approved in the original certificate of appropriateness and the previous approval has not lapsed.

## **Section 8. Affirmative Maintenance and Repair Requirement.**

- (a) *Ordinary maintenance; repair.*
  - (1) Nothing in this local law shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a local landmark or property within a historic district that does not involve a change in design, building materials, color or outward appearance.



- (2) The commission shall have the authority to, without public hearing and notice:
  - (a) Determine whether the proposed work constitutes ordinary maintenance and repair for which a certificate of appropriateness is not required;
  - (b) Approve work which is considered replacement-in-kind;
- (b) No owner or person with an interest in a local landmark or property 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 produce a detrimental effect upon the property or the character of a historic district as a whole. Examples of such deterioration include:
  - (1) All interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions to deteriorate, decay, or become damaged or otherwise to fall into a serious state of disrepair;
  - (2) Deteriorated or inadequate foundation;
  - (3) Defective or deteriorated flooring or floor supports;
  - (4) Deterioration of walls or other vertical supports;
  - (5) Deterioration of roofs or other horizontal members;
  - (6) Deterioration of chimneys;
  - (7) Deterioration or crumbling of exterior stucco, mortar, plaster, or facades.
  - (8) Ineffective or inadequate waterproofing of exterior walls, roofs, or chimneys, including windows or doors;
  - (9) Any fault or defect in the building or structure which compromises the life and character of the building or structure.
  - (10) Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that demolition is necessary for the public safety.
- (c) Interiors: Every owner or person in charge of an improvement to an interior landmark shall keep in good repair:
  - (1) all portions of such interior landmark, and
  - (2) all other portions of the improvement which, if not so maintained, may cause or tend to cause the interior landmark contained in such improvement to deteriorate, decay, or become damaged or otherwise to fall into a serious state of disrepair.
- (d) Every owner or person in charge of a scenic landmark shall keep in good repair all portions thereof.
- (e) Maintenance shall be required, consistent with the Property Maintenance Code of New York State Uniform Fire Prevention and Building Code and all other applicable local regulations.

**Section 9. Hardship Criteria for Demolition, Removal, Relocation, or Alterations.**

- (a) An applicant whose certificate of appropriateness for a proposed demolition, removal, relocation, or alteration of a landmark, resource, or property has been denied may apply for relief on the grounds of economic hardship. In order to prove the existence of economic hardship, the applicant shall document each of the following:

- (1) The landmark is in a serious state of disrepair, which is not due to the waste or neglect of the property owner;
- (2) The alleged hardship is not self-created (a hardship is self-created when the applicant acquires the property subject to the restrictions from which the applicant seeks relief), which factor alone shall not preclude the approval of a certificate of appropriateness;
- (3) The local landmark, and the lot upon which it was situated at the time of designation, is incapable of earning a reasonable return as demonstrated by competent financial evidence;
- (4) The landmark cannot be adapted for any other use, whether by the current owner or by a purchaser, that could earn a reasonable return;
- (5) The alleged hardship is unique and does not apply to other landmarks;
- (6) That demonstrated efforts to find a purchaser interested in acquiring the property have failed, including:
  - (a) Any listing of property for sale or rent, price asked, and offers received within the previous two years; and
  - (b) Testimony and relevant documents regarding: any real estate broker or firm engaged to sell or lease the property, reasonableness of price or rent sought by the applicant, or any advertisements placed for the sale or rent of the property;
- (7) Cost estimates for the proposed construction, alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the requirements for a certificate of appropriateness;
- (8) Demonstrated attempts to apply for or be qualified for economic incentives and/or funding available to the applicant through federal, state, city, or private programs.

#### **Section 10. Enforcement.**

All work performed pursuant to any certificate of appropriateness issued under this local law shall conform to the requirements included therein. It shall be the duty of the building inspector to periodically inspect any such work to assure compliance. In the event work is not being performed in accordance with the certificate of appropriateness or upon notification of that fact by the Historic Preservation Commission, the building inspector shall take appropriate action.

#### **Section 11. Violations and Penalties.**

- (a) Any person who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this local law shall be required to restore the property and its site to its appearance prior to the violation in accordance with a plan approved by the commission. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.
- (b) Failure to comply with any of the provisions of this legislation shall be deemed a violation and if convicted thereof may be liable for a fine of two hundred and fifty dollars per day.

**Section 12. Appeals.**

Any person aggrieved by a decision of the commission may, within fifteen days of the decision, file a written appeal to the Board of Trustees for review of the decision. Appellate review shall be based on the same record that was before the commission and using the same criteria in this local law.