

## **Section 19-4.5 Historic Districts and Landmarks Preservation Commission**

### 1. *Definitions*

Alteration – change or modification of an improvement on a landmark site or of an improvement parcel located within a historic district including, but not limited to:

- (a) exterior changes to or modifications of structure, architectural details or visual characteristics such as paint color and surface texture;
- (b) grading or surface paving;
- (c) construction of new structures;
- (d) cutting or removal of trees and other natural features;
- (e) disturbance of archaeological sites or areas; and
- (f) the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories that affect the exterior visual qualities of the improvement parcel.

Certificate of Appropriateness – a certificate issued by the commission indicating its approval of plans for alteration, construction, removal, or demolition of a landmark, an improvement on a landmark site or an improvement located within a historic district.

Commission – the Historic Preservation Commission created pursuant to this ordinance.

Compatible – capable of existing together in harmony (harmonious, consistent).

Demolition – any act or process that destroys in part or in whole any exterior improvement or landscape feature of a historic landmark or within a historic district.

Historic District – any area designated pursuant to this chapter containing improvements and/or landscape features which are of historical, social, cultural, architectural or aesthetic significance to the City, the state or the nation.

Improvement – any structure, building, fixture, object or feature which in whole or in part constitutes an exterior or public interior betterment of any real property.

Exterior Architectural Feature – the architectural style, design, general arrangement and components of all of the outer surfaces of an improvement, as distinguished from the interior surfaces enclosed by said exterior features, including, but not limited to, the kind, color and texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvement.

Historic Landmark – any improvement and/or landscape feature designated pursuant to this chapter which as a whole or in part has historical, social, cultural, architectural or aesthetic significance to the City, the state or the nation.

Landmark Site – an improvement parcel or part thereof on which is situated a landmark and any abutting improvement parcel or part thereof used as and constituting part of the premises on which the landmark is situated, and which has been designated as a landmark site pursuant to the provisions of this chapter.

Ordinary Repairs and Maintenance – replacement of any part of an improvement for which a permit issued by the Building Department is not required by law, where the purpose and effect of such work or replacement is to correct any deterioration or decay of or damage to such improvement or any part thereof and to restore same, as nearly and may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage.

Owner – any person or persons having such right to, title or interest in any improvement so as to be legally entitled, upon obtaining the required permits and approvals from the city agencies having jurisdiction over building construction, reconstruction, alteration or other work as to which such person seeks the authorization or approval of the Commission pursuant to this chapter.

Removal – any relocation of an improvement and/or landscape feature on its site or to another site.

## 2. *Purpose*

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 economic, cultural, educational, and general welfare of the public. Inasmuch as the identity of a people is founded on its past and inasmuch as the City of Poughkeepsie has many significant historic, architectural and cultural resources, which constitute its heritage, this act is intended to:

- (a) protect and enhance the landmarks and historic districts, which represent distinctive elements of the City of Poughkeepsie's historic, architectural, and cultural heritage;
- (b) foster civic pride in the accomplishments of the past;
- (c) protect and enhance the City of Poughkeepsie's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- (d) insure the harmonious, orderly, and efficient growth and development of the City of Poughkeepsie; and

- (e) stabilize and improve property values.

3. *Historic Preservation Commission*

There is hereby created a commission to be known as the City of Poughkeepsie Historic District and Landmark Preservation Commission.

- (a) The Commission shall consist of 7 members to be appointed, to the extent available in the community, by Mayor as follows:
  - (i) at least one shall be an architect experienced in working with historic buildings;
  - (ii) at least one shall be a historian;
  - (iii) at least three members shall reside in historic districts or historic landmarks;
  - (iv) at least one shall have demonstrated significant interest in and commitment to the field of historic preservation evidenced either 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; and
  - (v) all members shall have a known interest in historic preservation and architectural development within the City of Poughkeepsie.
- (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, and one which shall be three years.
- (c) The Chairman and Vice Chairman of the Commission shall be elected by and from among the members of the Commission.
- (d) The powers of the Commission shall include:
  - (i) employ staff and professional consultants to assist the Commission in carrying out its duties, within the budget provided by the City;
  - (ii) promulgation of rules and regulations as necessary to carry out the duties of the Commission;
  - (iii) adoption of criteria for the identification of significant historic, architectural, and cultural landmarks and for the delineation of historic districts;

- (iv) conduct of surveys of significant historic, architectural, and cultural landmarks and historic districts within the City;
  - (v) recommend designation of identified structures or resources as landmarks and historic districts;
  - (vi) recommendation to the Common Council of the donation of facade easements and development rights and the making of recommendations to the City government concerning the acquisition of façade easements or other interests in real property as necessary to carry out the purposes of this act;
  - (vii) increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs;
  - (viii) making recommendations to City government concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the City;
  - (ix) recommending acquisition of a landmark structure by the City government where its preservation is essential to the purposes of this act and where private preservation is not feasible;
  - (x) approval, approval with modifications or disapproval of Certificates of Appropriateness pursuant to this act; and
  - (xi) decide hardship pursuant to this act.
- (e) The Commission shall meet at least monthly, but meetings may be held at any time on the written request of any two Commission members or on the call of the Chairman or the Mayor.
  - (f) A quorum for the transaction of business shall consist of a majority of the Commission's members, but not less than a majority of the full authorized membership may grant or deny a certificate of appropriateness or recommend landmarks or historic districts.

4. *Designation of Landmarks or Historic Districts*

- (a) The Commission may designate an individual property as a landmark if it:

- (i) 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; or
  - (ii) is identified with historic personages; or
  - (iii) embodies the distinguishing characteristics of an architectural style; or
  - (iv) is the work of a designer whose work has significantly influenced an age; or
  - (v) because of unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.
- (b) The Commission may designate a group of properties as a historic district if it:
- (i) contains properties which meet one or more of the criteria for designation of a landmark; and
  - (ii) by reason of possessing such qualities, it constitutes a distinct section of the City.

The boundaries of each historic district and each individual landmark designated henceforth shall be specified in detail and shall be filed, in writing, with the Building Department for public inspection.

- (c) Notice of a proposed designation shall be sent by regular mail to the owner of the property proposed for designation, describing the property and announcing a public hearing by the Commission to consider the designation. Once the Commission has issued notice of a proposed designation, no building permits shall be issued by the Building Inspector until the Commission has made its decision.
- (d) The Commission shall hold a public hearing prior to designation of any landmark or historic district. The Commission, the applicant, 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 staff reports, public comments, or other evidence offered outside of the hearing.
- (e) The Commission shall approve, approve with modifications or deny the application within 45 days of the public hearing, except that the

Commission may agree with the applicant in writing to extend the time period within which a designation will be made.

- (f) An application recommended for approval shall be forwarded to the Common Council for their consideration. The Common Council shall hold a public hearing prior to the designation of any landmark or historic district. Such public hearing shall occur within 60 days from receipt of the approved application from the Commission. Notice of the hearing shall be sent by regular mail to the owner of the property proposed for designation. No building permits shall be issued by the Building Inspector until the Common Council has made its decision. The same criteria for designation shall be used by the Common Council and the Commission. The Common Council shall approve or disapprove the designation within **75** days from receipt of the approved application from the Commission.
- (g) The City Chamberlain shall forward notice of each property designated as a landmark and the boundaries of each designated historic district to the Office of the Dutchess County Clerk for recordation.

5. *Certificate of Appropriateness for alteration, demolition or new construction affecting landmarks or historic districts.*

No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or moving of a landmark or property within a historic district, nor shall any person make any material change in the appearance of such property, its light fixtures, signs, sidewalks, fences, steps, paving, or other exterior elements which affect the appearance and cohesiveness of the landmark or historic district, without first obtaining a Certificate of Appropriateness from the Commission.

6. *Criteria for approval of Certificate of Appropriateness*

- (a) In passing upon an application for a Certificate of Appropriateness, the Commission shall not consider changes to interior spaces, unless they are open to the public.

The Commission's decision shall be based on the following principals:

- (i) properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
- (ii) any alteration of existing properties shall be compatible with their historic character, as well as with the surrounding district; and
- (iii) new construction shall be compatible with the district in which it is located.

- (b) In applying the principle of compatibility, the Commission shall consider the following factors:
  - (i) the general design, character and appropriateness to the property of the proposed alteration or new construction;
  - (ii) the scale of proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood;
  - (iii) texture, materials, and color and their relation to similar features of other properties in the neighborhood;
  - (iv) visual compatibility with surrounding properties, including proportion of the property's front façade, proportion and arrangement of windows and other openings within the façade, roof, shape, and the rhythm of spacing of properties on streets, including setback; and
  - (v) the importance of historic, architectural or other features to the significance of the property.

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 a building permit as necessary along with an application for a Certificate of Appropriateness on a form as approved by the Building Inspector and shall contain, at a minimum, the following:
  - (i) Name, address and telephone number of applicant;
  - (ii) Location and photographs of property;
  - (iii) elevation drawings of proposed changes, if available;
  - (iv) perspective drawings, including relationship to adjacent properties, if available;
  - (v) samples of color or materials to be used;
  - (vi) 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

- (vii) any other information which the Commission 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 Commission. 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 Poughkeepsie.
- (c) The Commission shall approve, deny or approve the Certificate of Appropriateness with modifications within 45 days after receiving the completed application from the Building Department. The Commission 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.
- (d) All decisions of the Commission shall be in writing. A copy shall be provided to the applicant and a copy filed with the Building Department for public inspection. The Commission's decision shall state the reasons for denying or modifying the application.
- (e) Certificates of Appropriateness shall be valid for a concurrent period of time with the building permit required to complete the work approved by the Certificate of Appropriateness or for one year if no building permit is required.

8. *Certificate of Economic Hardship*

- (a) Relief where a Certificate of Appropriateness is denied. An applicant whose Certificate of Appropriateness has been denied or approved with conditions that the applicant finds unacceptable may apply for a Certificate of Economic Hardship for the purposes of obtaining relief from the strict application of this chapter.
- (b) Application form. Application for a Certificate of Economic Hardship shall be made on a form prepared by the Commission.
- (c) The Commission shall schedule a public hearing concerning the application, and any person may testify at the hearing concerning economic hardship. The Commission may solicit expert testimony or request that the applicant for a certificate of economic hardship make submissions concerning any or all of the following information before it makes a determination on the application:
  - (i) estimate of the cost of the proposed construction, alteration, demolition, or removal and an estimate of any additional cost that

would be incurred to comply with the recommendations of the Commission for changes necessary for the issuance of a Certificate of Appropriateness;

- (ii) a report from a licensed architect or engineer with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;
- (iii) Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition, or removal; after any changes recommended by the Commission; and in the case of a proposed demolition, after renovation of the existing property for continued use;
- (iv) in the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;
- (v) amount paid for the property, the date of purchase, and the party from whom was purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased and any items of financing between the seller and buyer;
- (vi) if the property is income producing, the annual gross income from the property for the previous two years; itemized operating and maintenance expenses for the previous two years; and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;
- (vii) remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous 2 years;
- (viii) all appraisals obtained within the previous 2 years by the owner or applicant in connection with the purchase, financing or ownership of the property;
- (ix) any listing of the property for sale or rent, price asked, and offers received, if any, within the previous 2 years;
- (x) assessed value of the property according to the two most recent assessments;

- (xi) real estate taxes for the previous 2 years;
  - (xii) form of ownership or operation of the property, whether sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture, or other;
  - (xiii) any other information, including the income tax bracket of the owner, applicant, or principal investors of the property, considered necessary by the Commission to make a determination as to whether the property does yield a reasonable return to the owners.
- (d) Proof required. In order to prove the existence of economic hardship, the applicant must establish that unless the proposed work is accomplished, the property will be incapable of earning a reasonable return or of being put to reasonable use.
- (e) In the case of a proposal to remove or demolish a landmark or structure within a historic district, the applicant must additionally prove that:
- (i) the property cannot be adapted for any other use, whether by the current owner or a purchaser, which would result in reasonable return; and
  - (ii) reasonable efforts to find a purchaser interested in acquiring the property for rehabilitation and preservation have been made and failed.

9. *Determination by the Commission.*

- (a) Hardship not proven. If hardship is not proven, the Commission shall deny the application and notify the applicant in writing of the final denial and a copy shall be filed with the Building Department for public inspection.
- (b) Hardship proven. If the Commission finds that economic hardship has been proven, relief shall be provided in one of the following ways:
  - (i) The Commission may relax the strict application of the criteria concerning Certificates of Appropriateness sufficiently to relieve the hardship. In this case, the Commission shall issue a Certificate of Appropriateness, with conditions as necessary. The Commission shall approve only such work as is necessary to alleviate the hardship.
  - (ii) The Commission may investigate plans and make recommendations to the Common Council for City actions which, if

taken, will allow for a reasonable use of or reasonable return from the subject property or will otherwise preserve the property without hardship to the owner.

- (c) If neither subsection 9(b)(i) or (ii) resolves the issue, the Commission may issue a Certificate of Economic Hardship allowing the work to proceed as proposed.

#### 10. *Enforcement*

All work performed pursuant to a Certificate of Appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the applicant to notify the Building Inspector to inspect any 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.

#### 11. *Maintenance and repair required*

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district, which does not involve a change in design, material, color or outward appearance.

No owner or person with an interest in 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 architectural feature which would, in the judgment of the Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.

Examples of such deterioration include:

- (a) Deterioration of exterior walls or other vertical supports;
- (b) Deterioration of roofs or other horizontal members;
- (c) Deterioration of exterior chimneys;
- (d) Deterioration or crumbling of exterior stucco or mortar;
- (e) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors;
- (f) 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.

12. *Violations*

- (a) Failure to comply with any of the provisions of this ordinance shall be deemed a violation and the violator shall be liable to a penalty not exceeding \$1,000 and, for a continuation of such violation, to an additional penalty not exceeding \$10.00 per day.
- (b) Any person who demolishes alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this ordinance shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the Corporation Counsel. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

(13) *Appeals*

Any person aggrieved by a decision of the Historic preservation Commission relating to a hardship or a Certificate of Appropriateness may, within 30 days of the decision, file a written application with the Common Council for review of the decision. Reviews shall be conducted based on the same record that was before the Commission using the same criteria.