



TOWN OF ITHACA

215 NORTH TIOGA STREET, ITHACA, N.Y. 14850

TOWN CLERK 273-1721 PUBLIC WORKS 273-1656 PARKS 273-8035 ENGINEERING 273-1747 PLANNING 273-1747 ZONING 273-1783
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TOWN OF ITHACA PLANNING COMMITTEE THURSDAY, MAY 21, 2020 – 4:00 P.M.

PLEASE NOTE: The Town of Planning Committee meeting will be held electronically via Zoom video conference. Members of the public may call in on a cell phone or landline at (929) 436-2866 and enter the Meeting ID: 940 2756 4995, or may view the meeting by computer on Zoom at <https://zoom.us/>. Once on Zoom, click “Join A Meeting” and enter the Meeting ID: 940 2756 4995.

AGENDA

1. Persons to be heard.
2. Committee announcements and concerns.
3. Discuss potential creation of a historic preservation program.
4. Discuss Comprehensive Plan priorities related to land use.
5. Staff updates and reports.
6. Discuss next meeting date and upcoming agenda items.

A quorum of the Ithaca Town Board may be present, however,
no official Board business will be conducted.

Chapter 127. Historic Preservation

[HISTORY: Adopted by the Board of Trustees of the Village of Ellenville 4-27-2015 by L.L. No. 4-2015.^[1] Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention — See Ch. **70**.

Unsafe buildings — See Ch. **71**.

Zoning — See Ch. **227**.

Zoning design standards — See Ch. **228**.

[1] *Editor's Note: This local law also repealed former Ch. 127, Historic Preservation, adopted 6-14-2004 by L.L. No. 1-2004, as amended.*

§ 127-1. Findings; purpose.

A. Pursuant to the provisions of § 96-a and Article 5-K of the New York State General Municipal Law, the Village Board of Trustees of the Village of Ellenville hereby finds that:

- (1) There exist in the Village of Ellenville places, sites, areas, objects, structures and buildings of special historic significance or which, by reason of famous events or the antiquity or uniqueness of architectural construction and design, are of particular significance to the heritage of the Village.
- (2) The conservation, protection and preservation of such places, sites, areas, objects, structures and buildings is a public necessity in harmony with the Village's Comprehensive Master Plan and will promote the public health, safety and general welfare.

B. Now, therefore, the Village Board of Trustees hereby declares that the purpose of this chapter is to accomplish the conservation, protection and preservation of such places, sites, areas, objects, structures and buildings.

§ 127-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ALTERATION

Any act or process which changes one or more of the exterior architectural features of a structure designated as a landmark or any structure or building in an historic district.

BUILDING

A structure wholly or partially enclosed within exterior walls or within exterior or party walls and a roof, affording shelter to persons, animals or property.

EXTERIOR ARCHITECTURAL FEATURES

The architectural style, design, general arrangement and components of all of the outer surfaces of any building or structure, 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 said building or structure.

HISTORIC DISTRICT

Any area which contains places, sites, structures or buildings which have a special character and ambience or historical value or aesthetic interest and which represent one or more periods or styles of architecture of an era of history and which cause such area to constitute a distinct section of the Village.

LANDMARK

Any place, structure, building, area or object which:

- A. 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;
- B. Is identified with historic personages;
- C. Embodies the distinguishing characteristics of an architectural style;
- D. Is the work of a designer whose work has significantly influenced an age; or
- E. Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.

LANDMARK AND HISTORIC DISTRICT MAP

A map to be prepared and maintained by the Village Planner identifying the location of all landmarks, landmark sites and historic districts.

LANDMARK SITE

Any parcel or part thereof on which is situated a landmark, and any abutting parcel or part thereof constituting part of the premises on which the landmark is situated.

STRUCTURES

Any assembly of materials forming a construction framed of components, structural parts for occupancy or use, including buildings.

STYLES OF ARCHITECTURE

A style recognized by one of the following organizations:

- A. The National Register of Historic Places.
- B. The Historic American Building Survey.
- C. The Historic American Engineering Record, United States Department of the Interior, National Park Service.
- D. The Division for Historic Preservation, the New York State Office of Parks and Recreation.
- E. The National Trust for Historic Preservation.

F. The Society of Architectural Historians.

§ 127-3. Historic Preservation Commission.

- A. There is hereby created a commission to be known as the "Joint Historic Preservation Commission of the Town of Wawarsing and the Village of Ellenville," hereinafter referred to as "the Commission."
- B. The Commission shall consist of five members to be jointly appointed by the Mayor of the Village of Ellenville and the Supervisor of the Town of Wawarsing with the concurrence of the Village Board of Trustees and the Town Board. Members shall have a known interest in historic preservation and architectural development within the Village of Ellenville and the Town of Wawarsing. To the extent of availability in the community, consideration should be given to balancing representation on the Commission so as to include such expertise as an architect and an architectural historian, an attorney, a person familiar with local history, a licensed real estate broker and a local merchant/businessperson. All members must demonstrate a significant interest, competence or knowledge in and commitment to the field of historic preservation.
- C. Commission members shall serve for overlapping terms of three years, except that the initial term of one of the members shall be for one year; and the initial terms of two of the members shall be for two years.
- D. In the event of a resignation or vacancy on the Commission, the Mayor of the Village of Ellenville and the Supervisor of the Town of Wawarsing, with the concurrence of the Village Board of Trustees and the Town Board, shall jointly appoint a replacement member to the Commission to complete the unexpired term.
- E. The Chairperson of the Commission shall be jointly appointed by the Mayor of Ellenville and the Supervisor of the Town of Wawarsing with the concurrence of the Village Board of Trustees and the Town Board.
- F. The powers of the Commission shall include:
 - (1) Appointment of professional consultants as necessary to carry out the duties of the Commission, compensation of whom shall be only as approved by the Village Board of Trustees or the Town Board, as the case may be.
 - (2) Promulgation of rules and regulations as necessary for the conduct of its business.
 - (3) Adoption of criteria for the identification of significant historic, architectural and cultural landmarks and for the delineation of historic districts.
 - (4) Providing for surveys of significant historic, architectural and cultural landmarks and historic districts within the Town or Village.
 - (5) Nominating identified places, sites, areas, objects, structures or buildings as landmarks or historic districts.
 - (6) Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.

- (7) Making recommendations to the Village Board of Trustees and/or the Town Board concerning the utilization of state, federal or private funds to promote preservation of landmarks and historic districts within the Village and/or Town.
 - (8) Approving or disapproving applications for certificates of appropriateness pursuant to this chapter.
 - (9) Advising owners of property or structures on the physical and financial aspects of preservation, renovation, rehabilitation and reuse.
 - (10) Taking any other action or activity necessary or appropriate to the implementation of its powers and duties or to the advancement of the purposes set forth in this chapter.
- G. The Commission shall meet at least monthly, but meetings may be held at any time on the written request of any three of the Commission members or on the call of the Chairperson or the Mayor. The Commission shall provide the Village and Town Clerks with a schedule of its regular monthly meetings.
- H. 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 grant or deny a certificate of appropriateness.

§ 127-4. Designation of landmarks.

- A. Any resident of the Town of Wawarsing (including the Village of Ellenville) may request the designation of a landmark or historic district by submitting an application for such designation to the Commission on a form furnished by the Commission, and the Commission's receipt of such an application shall initiate a nominating proceeding with respect to that request. The Commission, in addition, may, on its own motion, initiate a nomination proceeding.
- B. Upon commencement of a nomination proceeding, the Commission shall notify the owner or owners of the parcel(s) on which the proposed landmark sits or which are within the proposed historic district that a nomination proceeding has begun. Such notice shall be given by certified mail, return receipt requested, mailed to the address as shown on the tax rolls of the Village. Any notified owner shall have the right to confer with the Commission prior to a nomination being made.
- C. The Commission shall submit any nomination it determines appropriate for designation within the Village of Ellenville to the Village Board of Trustees within 90 days of the initiation of a nomination proceeding. The nomination may be limited to the place, site, area, object, structure building or historic district, as described in the application or may include modifications or amplifications thereof.
- D. Within 90 days of the receipt of the nomination, the Village Board of Trustees shall call a public hearing on the nomination. The hearing shall be advertised in a newspaper of general circulation in the Village at least 14 days prior to such hearing, and notice thereof shall be served by certified mail, return receipt requested, postmarked at least 14 days prior to the date of the public hearing, upon the owner or owners of the proposed landmark or landmark site or the owners of property within the proposed historic districts mailed to the address as shown on the tax rolls of the Village. No

place, structure, building, area, or object within the Village of Ellenville shall be designated as a landmark or landmark site and no area shall be designated as an historic district unless authorized by the Village Board of Trustees pursuant to a public hearing duly advertised as herein provided.

- E. The Village Board of Trustees shall decide whether to designate a landmark or an historic district. The decision of the Village shall be filed with the Village Clerk, and notice of the decision shall be mailed by the Village Clerk to the owner(s) of the subject property by certified mail, return receipt requested. The Village Clerk shall also give notice of the decision to the Building Department.
- F. When the Village Board of Trustees has designated a landmark or historic district, the Village Clerk shall forward notice of each property designated and the boundaries of any designated historic district to the Ulster County Clerk for recordation.
- G. No application for designation of a landmark or historic district, if denied, may be renewed for a period of one year from the date of the initial filing before the Commission.
- H. Upon notification that the Village Board of Trustees has designated a landmark or historic district, the Building Department shall immediately cause all property so designated to be identified as such in the records of the Building Department and shall cause such property to be indicated on the Landmark and Historic District Map, if same exists.

§ 127-5. Building Department.

- A. Upon the initiation of a nomination proceeding before the Commission, the Commission shall give notice to the Building Department that the Village is considering the place, site, area, object, structure or building for designation as a landmark or as part of an historic district. Upon receipt of that notice, the Building Department shall not issue any permit for the demolition, alteration or improvement of said place, site, area, object, structure or building in the limited instance(s) where such activity affects any exterior portion thereof until there is a final determination by the Village Board of Trustees on the landmark designation.
- B. Upon designation of a landmark, landmark site or an historic district, the Commission shall document the condition of the exterior of the landmark, site or structures within an historic district with photographs and any other documentation deemed appropriate, which shall become a permanent part of the Building Department record with respect to that property or properties. At least once a year thereafter, the Commission shall again document the condition of the exterior of the landmark with photographs, which shall be added to the permanent record of the Building Department, shall compare the photos with those from earlier periods to determine if any changes have been made to the landmark, site or historic district, and shall submit to the Village Board of Trustees a brief annual report on the condition of each landmark, site or historic district.

§ 127-6. Repair, exterior alteration, removal or demolition of landmarks or structures.

- A.

No structure, site, place, area, object or building designated as a landmark or landmark site nor any place, site, structure, building or property located wholly or partly within the boundaries of the historic district shall be constructed, repaired, moved, demolished, or in any way incur alterations to its exterior without first obtaining a certificate of appropriateness from the Commission.

- B. Procedure for obtaining a certificate of appropriateness.
- (1) Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such certificate with the Commission on the form provided by the Commission. The application shall show the structure in question and also give its relation to adjacent structures and shall describe the exterior construction, alteration, repair, moving or demolition sought to be accomplished.
 - (2) No building permit may be issued for the proposed changes until the Commission has acted on the application for a certificate of appropriateness.
 - (3) The Commission shall review only plans relating to the exterior features of a landmark or structure within an historic district as are visible from a public way and shall have no jurisdiction to consider interior walls, arrangements or structures.
 - (4) In reviewing the plans, the Commission shall give consideration to:
 - (a) The historical and architectural value and significance of the building or structure and its relationship to the historic and architectural value of the surrounding area.
 - (b) The general appropriateness of the proposed exterior design, colors, arrangement, texture and materials. Samples of materials may be required.
 - (c) Any other factors relating to the aesthetic considerations which the Commission deems pertinent to the benefit of the Village and to the historic significance of the structure or building and surrounding area.
 - (d) The variation in cost between alternate materials or methods of construction that could reasonably be utilized to complete the construction, renovation or repair.
 - (5) The Commission shall approve the issuance of a certificate of appropriateness unless it determines that the proposed work will have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the individual landmark or the historic district.
- C. Exterior alterations, repairs and additions to the structures located wholly or partly within the boundaries of the historic district or which are designated as landmarks shall be made consistent with the building materials and styles of the particular architectural period of which said building or structure is characteristic. Reasonable substitutes of exterior building materials which substantially conform with original materials shall be permitted under this section upon prior review of the Commission.
- D. In an historic district, new construction shall be consistent with the architectural styles and historic value in the historic district. However, the Commission may approve the construction of buildings or structures which have a dissimilar architectural style to that

of the historic district if said Commission deems it proper that the new construction will be in the best interest of the historic district.

- E. Moving of structures designated as landmarks or located wholly or partly within the boundaries of an historic district may be allowed as an alternative to demolition.
- F. This chapter shall not apply in any case where the Building Department or any authorized Village enforcement agency orders or directs the removal, exterior alteration or demolition of any landmark or structure within an historic district for the purpose of remedying conditions determined to be unsafe or dangerous to the health or property of any person.
- G. The Commission shall issue its decision in writing within 60 days of the filing of the application for a certificate of appropriateness, and the decision shall state the reasons on which it is based.
- H. The certificate of appropriateness required by this section of this chapter shall be in addition to and not in lieu of any permits that may be required by any other laws or regulations of the Village.

§ 127-7. Hardship application procedure; criteria for proving hardship.

- A. Any person whose application for a certificate of appropriateness has been denied by the Commission may apply to the Commission for relief on the ground of hardship within 30 days of being served with the decision.
- B. The Commission shall review the decision at a meeting within 30 days after the application for review is filed. The Commission shall decide the application within 60 days after the meeting, or any adjournments or extensions thereof. The concurring vote of a majority of the Commission shall be necessary to reverse or modify the prior determination.
- C. In the case of the denial of an application to demolish the landmark or structure, the owner must demonstrate to the Commission that:
 - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- D. In the case of the denial of a request to make alterations, the owner must demonstrate to the Commission that the property is incapable of earning a reasonable return without the alteration being made, regardless of whether that return represents the most profitable return possible.
- E.

The Commission may hold a hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views.

- F. The owner 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.
- G. All decisions of the Commission shall be in writing. A copy shall be sent to the owner by registered mail and a copy filed in the Village 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.
- H. If the owner applies for hardship determination after being denied a certificate of appropriateness, the time to file an appeal with the Village Board of Trustees shall be stayed until the hardship application is heard and determined. Then such owner may file an appeal as to any and all determinations of the Commission within 30 days of the filing of the last decision.

§ 127-8. Appeals.

- A. Any person aggrieved by a decision of the Commission relating to a certificate of appropriateness or relating to a hardship may, within 30 days of the filing of the decision in the Village Clerk's office, file a written notice of appeal with the Village Clerk for review of the decision by the Village Board of Trustees.
- B. The Village Board of Trustees shall review the decision of the Commission at a regularly scheduled or special meeting within 30 days after the filing of the notice of appeal with the Village Clerk, at which time an opportunity to comment on the appeal shall be afforded to any interested party or member of the public. A majority plus one of the full membership of the Village Board of Trustees is required to overrule or modify a decision of the Commission.
- C. In reaching its decision, the Village Board of Trustees shall consider the record before the Commission and use the same criteria. The decision of the Board shall be in writing and shall state the reasons for granting or denying the appeal.

§ 127-9. Enforcement.

All work performed pursuant to a certificate of appropriateness issued under this chapter shall conform to any requirements included therein. It shall be the duty of the Building Inspector to inspect periodically any such work to assure compliance. In the event that work is found that is not 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.

§ 127-10. Maintenance and repair required.

- A. Nothing in this chapter shall be construed to prevent the ordinary maintenance, repainting and repair of any exterior architectural feature of a landmark or property within an historic district which does not involve a change in outward appearance.
- B. No owner or person with an interest in real property designated as a landmark or included within an 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 the historic district as a whole or the life and character of the property itself.
- C. Examples of such deterioration include:
 - (1) Deterioration of exterior walls 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 which could lead to the claim that demolition is necessary for the public safety.

§ 127-11. Penalties for offenses.

- A. Failure to comply with any of the provisions of this chapter shall result in the termination of any permits issued or any proceedings commenced under the provisions of this chapter, and penalties for offenses thereof shall be under the enforcement procedures laws of the Village. Penalties shall be consistent with the Village Zoning Ordinance and the Village Building Construction and Fire Prevention Ordinance^[1] for violations, as an offense.

[1] *Editor's Note: See Ch. 227, Zoning, and Ch. 70, Building Construction and Fire Prevention, respectively.*

- B. Any person who demolishes, causes exterior alterations or permits a designated property to fall into a serious state of disrepair, in violation of this chapter, shall be required to restore the property and its site to the appearance prior to the violation. Expressly excluded from penalty under this section is a natural disaster such as a hurricane or flood or fire damage or fire destruction to a structure not intentionally caused by the action(s) or omission(s) of the owner or person(s) in possession of the property. Any action to enforce this subsection shall be brought by the Village Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 127-12. Identification of landmarks.

The Village Planner of the Village of Ellenville shall be responsible for appropriate public identification of areas designated as landmarks or landmark sites on the Landmark and Historic District Map or other zoning map. The Commission may approve the size, style, color, typography, material of construction and wording of all privately owned signs identifying landmarks, landmark sites and properties within historic districts prior to installation, consistent with the provisions of this chapter.

Chapter 70. Historic Preservation

[HISTORY: Adopted by the Town Board of the Town of Wawarsing 6-4-2015 by L.L. No. 5-2015.^[1] Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes — See Ch. **42**.

Subdivision of land — See Ch. **95**.

Tax exemption for rehabilitation of properties — See Ch. **99**, Art. **V**.

Zoning — See Ch. **112**.

[1] *Editor's Note: This local law also repealed former Ch. 70, Historic Preservation, adopted 3-21-2013 by L.L. No. 2-2013.*

§ 70-1. Findings; purposes.

A. Pursuant to the provisions of § 96-a and Article 5-K of the New York State General Municipal Law, the Town Board of the Town of Wawarsing hereby finds that:

- (1) There exist in the Town of Wawarsing places, sites, areas, objects, structures and buildings of special historic significance or which, by reason of famous events or the antiquity or uniqueness of architectural construction and design, are of particular significance to the heritage of the Town.
- (2) The conservation, protection and preservation of such places, sites, areas, objects, structures and buildings is a public necessity in harmony with the Town's Comprehensive Plan and will promote the public health, safety and general welfare.

B. Now, therefore, the Town Board hereby declares that the purpose of this chapter is to accomplish the conservation, protection and preservation of such places, sites, areas, objects, structures and buildings.

§ 70-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ALTERATION

Any act or process which changes one or more of the exterior architectural features of a structure designated as a landmark or any structure or building in an historic district.

BUILDING

A structure wholly or partially enclosed within exterior walls or within exterior or party walls and a roof, affording shelter to persons, animals or property.

EXTERIOR ARCHITECTURAL FEATURES

The architectural style, design, general arrangement and components of all of the outer surfaces of any building or structure, 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 said building or structure.

HISTORIC DISTRICT

Any area which contains places, sites, structures or buildings which have a special character and ambience or historical value or aesthetic interest and which represent one or more periods or styles of architecture of an era of history and which cause such area to constitute a distinct section of the Village.

LANDMARK

Any place, structure, building, area or object which:

- A. 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;
- B. Is identified with historic personages;
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LANDMARK AND HISTORIC DISTRICT MAP

A map to be prepared and maintained by the Village Planner identifying the location of all landmarks, landmark sites and historic districts.

LANDMARK SITE

Any parcel or part thereof on which is situated a landmark, and any abutting parcel or part thereof constituting part of the premises on which the landmark is situated.

STRUCTURES

Any assembly of materials forming a construction framed of components, structural parts for occupancy or use, including buildings.

STYLES OF ARCHITECTURE

A style recognized by one of the following organizations:

- A. The National Register of Historic Places.
- B. The Historic American Building Survey.
- C. The Historic American Engineering Record, United States Department of the Interior, National Park Service.
- D. The Division for Historic Preservation, the New York State Office of Parks and Recreation.
- E. The National Trust for Historic Preservation.
- F. The Society of Architectural Historians.

§ 70-3. Historic Preservation Commission.

- A. There is hereby created a commission to be known as the "Joint Historic Preservation Commission of the Town of Wawarsing and the Village of Ellenville," hereinafter referred to as "the Commission."
- B. The Commission shall consist of five members to be jointly appointed by the Mayor of the Village of Ellenville and the Supervisor of the Town of Wawarsing with the concurrence of the Village Board of Trustees and the Town Board. Members shall have a known interest in historic preservation and architectural development within the Village of Ellenville and the Town of Wawarsing. To the extent of availability in the community, consideration should be given to balancing representation on the Commission so as to include such expertise as an architect and an architectural historian, an attorney, a person familiar with local history, a licensed real estate broker and a local merchant/businessperson. All members must demonstrate a significant interest, competence or knowledge in and commitment to the field of historic preservation.
- C. Commission members shall serve for overlapping terms of three years, except that the initial term of one of the members shall be for one year; and the initial terms of two of the members shall be for two years.
- D. In the event of a resignation or vacancy on the Commission, the Mayor of the Village of Ellenville and the Supervisor of the Town of Wawarsing, with the concurrence of the Village Board of Trustees and the Town Board, shall jointly appoint a replacement member to the Commission to complete the unexpired term.
- E. The Chairperson of the Commission shall be jointly appointed by the Mayor of Ellenville and the Supervisor of the Town of Wawarsing with the concurrence of the Village Board of Trustees and the Town Board.
- F. The powers of the Commission shall include:
 - (1) Appointment of professional consultants as necessary to carry out the duties of the Commission, compensation of whom shall be only as approved by the Village Board or the Town Board, as the case may be.
 - (2) Promulgation of rules and regulations as necessary for the conduct of its business.
 - (3) Adoption of criteria for the identification of significant historic, architectural and cultural landmarks and for the delineation of historic districts.
 - (4) Providing for surveys of significant historic, architectural and cultural landmarks and historic districts within the Town or Village.
 - (5) Nominating identified places, sites, areas, objects, structures or buildings as landmarks or historic districts.
 - (6) Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.
 - (7)

Making recommendations to the Village Board of Trustees and/or the Town Board concerning the utilization of state, federal or private funds to promote preservation of landmarks and historic districts within the Village and/or Town.

- (8) Approving or disapproving applications for certificates of appropriateness pursuant to this chapter.
 - (9) Advising owners of property or structures on the physical and financial aspects of preservation, renovation, rehabilitation and reuse.
 - (10) Taking any other action or activity necessary or appropriate to the implementation of its powers and duties or to the advancement of the purposes set forth in this chapter.
- G. The Commission shall meet at least monthly, but meetings may be held at any time on the written request of any three of the Commission members or on the call of the Chairperson or the Supervisor. The Commission shall provide the Town and Village Clerks with a schedule of its regular monthly meetings.
- H. A quorum for the transaction of business shall consist of three of the Commission members, but not less than a majority of the full authorized membership may grant or deny a certificate of appropriateness.

§ 70-4. Designation of landmarks.

- A. Any resident of the Town (including the Village of Ellenville) may request the designation of a landmark or historic district by submitting an application for such designation to the Commission on a form provided by the Commission, and the Commission's receipt of such an application shall initiate a nomination proceeding with respect to that request. In addition, the Commission may initiate such a nomination proceeding on its own motion.
- B. Upon commencement of a nomination proceeding, the Commission shall notify the owner or owners of the parcel(s) on which the proposed landmark sits or which are within the proposed historic district that a nomination proceeding has begun. Such notice shall be given by certified mail, return receipt requested, mailed to the address as shown on the tax rolls of the Town. Any notified owner shall have the right to confer with the Commission prior to a nomination being made.
- C. The Commission shall submit any nomination it determines appropriate of designation with the Town of Wawarsing (not including the Village of Ellenville) to the Town Board within 90 days of the initiation of a nomination proceeding. The nomination may be limited to the place, site, area, object, structure, building, or historic district described in the application or may include modifications or amplifications thereof.
- D. Within 90 days of the date of receipt of the nomination, the Town Board shall call a public hearing on the nomination. The hearing shall be advertised in a newspaper of general circulation in the Town at least 14 days prior to such hearing, and notice thereof shall be served by certified mail, return receipt requested, postmarked at least 14 days prior to the date of the public hearing, upon the owner or owners of the proposed landmark or of property within the proposed historic district mailed to the address shown on the tax rolls of the Town. No place, site, structure, building, area, object or

district within the Town of Wawarsing shall be designated as a landmark or as an historic district unless authorized by resolution of the Town Board following a public hearing duly advertised as herein provided.

- E. The Town Board shall decide whether to designate a landmark or an historic district. The decision of the Town Board shall be filed with the Town Clerk, and notice of the decision shall be mailed by the Town Clerk to the owner(s) of the subject property by certified mail, return receipt requested. The Town Clerk shall also give notice of the decision to the Building Department.
- F. When the Town Board has designated a landmark or historic district, the Town Clerk shall forward notice of each property designated and the boundaries of any designated historic district to the Ulster County Clerk for recordation.
- G. No application for designation of a landmark or historic district, if denied, may be renewed for a period of one year from the date of initial filing before the Commission.
- H. Upon notification that the Town Board has designated a landmark or historic district, the Building Department shall immediately cause all property so designated to be identified as such in the records of the Building Department and shall cause such property to be indicated on the Landmark and Historic District Map, if same exists.

§ 70-5. Building Department.

- A. Upon the initiation of a nomination proceeding before the Commission, the Commission shall give notice to the Building Department that the Town is considering the place, site, area, object, structure or building for designation as a landmark or as part of an historic district. Upon receipt of that notice, the Building Department shall not issue any permit for the demolition, alteration or improvement of said place, site, area, object, structure or building in the limited instance(s) where such activity affects any exterior portion thereof until there is a final determination by the Town Board on the landmark designation:
- B. Upon designation of a landmark, landmark site or an historic district, the Commission shall document the condition of the exterior of the landmark, site or structures within an historic district with photographs and any other documentation deemed appropriate, which shall become a permanent part of the Building Department record with respect to that property or properties. At least once a year thereafter, the Commission shall again document the condition of the exterior of the landmark with photographs, which shall be added to the permanent record of the Building Department, shall compare the photos with those from earlier periods to determine if any changes have been made to the landmark, site or historic district, and shall submit to the Town Board a brief annual report on the condition of each landmark, site or historic district.

§ 70-6. Repair, exterior alteration, removal or demolition of landmarks or structures within historic district.

- A. No structure, site, place, area, object or building designated as a landmark nor any place, site, area, object, structure, building or property located wholly or partly within the boundaries of an historic district shall be constructed, moved, demolished or its

exterior altered any material way without its owner first obtaining a certificate of appropriateness from the Commission.

B. Procedure for obtaining a certificate of appropriateness.

- (1) Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such certificate with the Commission on the form provided by the Commission. The application shall show the structure in question and also give its relation to adjacent structures and shall describe the exterior construction, alteration, repair, moving or demolition sought to be accomplished.
- (2) No building permit may be issued for the proposed changes until the Commission has acted on the application for a certificate of appropriateness.
- (3) The Commission shall review only plans relating to the exterior features of a landmark or structure within an historic district as are visible from a public way and shall have no jurisdiction to consider interior walls, arrangements or structures.
- (4) In reviewing the plans, the Commission shall give consideration to:
 - (a) The historical and architectural value and significance of the structure and its relationship to the historic and architectural value of the surrounding area.
 - (b) The general appropriateness of the proposed exterior design, colors, arrangement, texture and materials. Samples of materials may be required.
 - (c) Any other factors relating to the aesthetic considerations, which the Commission deems pertinent to the benefit of the Town and to the historic significance of the landmark or historic district.
 - (d) The variation in cost between alternate materials or methods of construction that could reasonably be utilized to complete the construction, renovation or repair.
- (5) The Commission shall approve the issuance of a certificate of appropriateness unless it determines that the proposed work will have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the individual landmark or the historic district.

C. Exterior alterations, repairs and additions to the structures located wholly or partly within the boundaries of an historic district or which are designated as landmarks shall be made consistent with the building materials and styles of the particular architectural period of which said structure is characteristic. Reasonable substitution of exterior building materials which substantially conform with original materials shall be permitted under this section upon prior review of the Commission.

D. In an historic district, new construction shall be consistent with the architectural styles and historic value in the historic district. However, the Commission may approve the construction of buildings or structures which have a dissimilar architectural style to that of the historic district if the Commission finds that the new construction will be in the best interest of the historic district.

E.

Moving of structures designated as landmarks or located wholly or partly within the boundaries of an historic district may be allowed as an alternative to demolition.

- F. This chapter shall not apply in any case where the Building Department or any authorized Town enforcement agency orders or directs the removal, exterior alteration or demolition of any landmark or structure within an historic district for the purpose of remedying conditions determined to be unsafe or dangerous to the health or property of any person.
- G. The Commission shall issue its decision in writing within 60 days of the filing of the application for a certificate of appropriateness, and the decision shall state the reasons on which it is based.
- H. The certificate of appropriateness required by this section of the chapter shall be in addition to and not in lieu of any permits that may be required by any other laws or regulations of the Town.

§ 70-7. Hardship application procedure.

- A. Any person whose application for a certificate of appropriateness has been denied by the Commission may apply to the Commission for relief on the ground of hardship within 30 days of being served with the decision.
- B. The Commission shall review the decision at a meeting within 30 days after the application for review is filed. The Commission shall decide the application within 60 days after the meeting, or any adjournments or extensions thereof. The concurring vote of a majority of the Commission shall be necessary to reverse or modify the prior determination.
- C. In the case of the denial of an application to demolish the landmark or structure, the owner must demonstrate to the Commission that:
 - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- D. In the case of the denial of a request to make alterations, the owner must demonstrate to the Commission that the property is incapable of earning a reasonable return without the alteration being made, regardless of whether that return represents the most profitable return possible.
- E. The Commission will hold a hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views.
- F. The owner 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.

- G. All decisions of the Commission shall be in writing. A copy shall be sent to the owner by registered mail and a copy filed in 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.
- H. If the owner applies for hardship determination after being denied a certificate of appropriateness, the time to file an appeal with the Town Board shall be stayed until the hardship application is heard and determined. Then such owner may file an appeal with the Town Board as to any and all determinations of the Commission, as permitted by law.

§ 70-8. Appeals.

- A. Any person aggrieved by a decision of the Commission relating to a certificate of appropriateness or relating to a hardship may, within 30 days of the filing of the decision in the Town Clerk's office, file a written notice of appeal with the Town Clerk for review of the decision by the Town Board.
- B. The Town Board shall review the decision of the Commission at a regularly scheduled or special meeting within 30 days after the filing of the notice of appeal with the Town Clerk, at which time an opportunity to comment on the appeal shall be afforded to any interested party or member of the public. A majority plus one of the full membership of the Town Board is required to overrule or modify a decision of the Commission.
- C. In reaching its decision, the Town Board shall consider the record before the Commission and use the same criteria. The decision of the Town Board shall be in writing and shall state the reasons for granting or denying the appeal.

§ 70-9. Enforcement.

All work performed pursuant to a certificate of appropriateness issued under this chapter shall conform to any requirements included therein. It shall be the duty of the Building Department to inspect periodically any such work to assure compliance. In the event that 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 Department 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.

§ 70-10. Maintenance and repair required.

- A. Nothing in this chapter shall be construed to prevent the ordinary maintenance, repainting and repair of any exterior architectural feature of a landmark or property within an historic district which does not involve a change in outward appearance.
- B. No owner or person with an interest in real property designated as a landmark or included within an 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 the historic district as a whole or the life and character of the property itself.

C. Examples of such deterioration include:

- (1) Deterioration of exterior walls 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.

D. 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.

§ 70-11. Penalties for offenses.

A. Failure to comply with any of the provisions of this chapter shall result in the termination of any permits issued or any proceedings commenced under the provisions of this chapter, and penalties for offenses thereof shall be under the enforcement procedures laws of the Town. Penalties shall be consistent with the Town Zoning Ordinance^[1] and the State Fire Prevention and Building Code Administration Ordinance for violations, as an offense.

[1] *Editor's Note: See Ch. 112, Zoning.*

B. Any person who demolishes, causes exterior alterations or permits a designated property to fall into a serious state of disrepair, in violation of this chapter, shall be required to restore the property and its site to the appearance prior to the violation. Expressly excluded from penalty under this section is a natural disaster such as a hurricane or flood or fire damage or fire destruction or a structure not intentionally caused by the action(s) or omission(s) of the owner or person(s) in possession of the property. Any action to enforce this subsection shall be brought by the Town Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 70-12. Identification of landmarks.

The Town Planner shall be responsible for appropriate public identification of areas designated as landmarks or landmark sites on the Landmark and Historic District Map or other zoning map. The Commission must approve the size, style, color, typography, material of construction and wording of all signs identifying landmarks, landmark sites and properties within historic districts prior to installation, consistent with the provisions of this chapter.