

LOCAL LAW NO. 1 OF 2019
VILLAGE OF MONTEBELLO
STATE OF NEW YORK

1. Section 1 Amend §§ 195-60 and 195-64.1 as follows:

§ 195-60 **Historic Preservation and Parks Commission.**

A. Historic Preservation purpose.

- (1) The Board of Trustees of the Village of Montebello finds that there exist within the Village places, sites, structures and scenic roads that have a special character or special historical or aesthetic interest or value in American history, architecture and culture; that it is feasible to preserve and continue the use of such improvements; and that such improvements face the danger of being uprooted and destroyed without adequate consideration of the irreplaceable loss to the people of the Village of Montebello of the aesthetic, cultural and historical values represented by such improvements. It is the sense of the Village Board that the standing of Montebello as a community steeped in the history and culture of Rockland County and the Hudson Valley region requires the maintenance and enhancement of the historical, aesthetic, cultural and architectural heritage of the Village. **[Amended 8-15-2018 by L.L. No. 5-2018]**
- (2) It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation, preservation and use of improvements of historical, aesthetic, cultural and architectural value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this section is:
 - (a) To effect and accomplish the protection, enhancement, perpetuation and preservation of such places, sites and structures located within the Village;
 - (b) To safeguard the Village's historic, cultural and architectural heritage as embodied and reflected in such improvements;
 - (c) To foster civic pride in the beauty and accomplishments of the past;
 - (d) To promote the use of the Village's local historic districts and local landmarks for the education, pleasure and welfare of the people of the Village.

B. Parks and Recreational purpose.

- (1) Previously, by virtue of Resolution No. 95-046 of the Village Board of Trustees, by authority of New York State Village Law § 3-308, it acted to establish a Board of Parks Commissioners which has been in operation ever since, said Board had and it is intended that the combined board still shall have the authority to oversee the acquisition, design, improvement and use of parks and open space within the Village and recreation thereupon.
- (2) As the Village has matured, the role of the Parks Commission has shifted more towards maintenance and evolution of existing parklands and less towards acquisition, irrespective that such still remains a possibility. This has led to the recommendation that the Historic Preservation Commission and the Parks Commission be combined by virtue of amending our Code by local law to add the Parks and Recreation function to the Historic Preservation Commission function already appearing in § 195-60 of the Village Code, thus creating the Historic Preservation and Parks Commission.
- (3) This change also makes sense by virtue of the determination of appropriate activity within the newly created Historic and Scenic Roads Overlay District having been added to the Historic Preservation Commission function in furtherance of the recommendation of the 2017 Comprehensive Development Plan. In turn, this brings the scope of actions of the Historic

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Preservation Commission closer to that of the former Parks Commission.

C. Establishment; membership; powers and duties.

(1) Establishment. In order to execute and effectuate the purposes declared in this section, there is hereby created an Historic Preservation and Parks Commission, also referred to herein as the "HPPC."

(2) Membership.

(a) The HPPC shall consist of nine members at large, all of whom shall be residents of the Village of Montebello. The members shall be appointed by the Village Board upon Mayoral recommendation for terms of five years. The first appointments shall be for terms so fixed that two shall expire annually, and one in the fifth year, and succeeding appointments shall be for five-year terms. Each member shall serve until the appointment and qualification of his successor. The terms of the members first taking office shall commence on the date of their appointment. The Village Historian shall be an advisor to the Commission. All members shall have a known interest in historic preservation and architectural development within the Village of Montebello and/or in preservation of open space, horticulture, parks and recreation. To the extent available in the community and willing to serve, it is preferred that members include persons with architectural experience in working with historic buildings, an historian or person with historical knowledge of the area, a resident of an historic district, and a person who has demonstrated significant interest in and commitment to the field of historic preservation, as well as persons with horticultural, landscaping, parks and recreational knowledge and experience. More than one of these qualities can be attributed to the same member. The Commission may regularly, as necessary, supplement the skills of its members by obtaining the assistance of an architect or other persons possessed of the foregoing skills, in addition to the right to call witnesses per § 195-60D(9)(g). [Amended 2-23-2005 by L.L. No. 3-2005; 8-15-2007 by L.L. No. 5-2007; 4-16-2008 by L.L. No. 2-2008]

(b) The members shall be paid for services as fixed by resolution of the Village Board. [Amended 2-28-2007 by L.L. No. 1-2007]

(c) In the event of a vacancy occurring during the term of a member, the Village Board with the recommendation of the Mayor shall make an interim appointment to fill out the unexpired term of such member.

(d) The Village Board shall designate with the recommendation of the Mayor one of the members to be the Chair and one to be Vice Chair to serve in the absence of the Chair. The term of the Chair and Vice Chair shall be one year.

(e) A quorum shall consist of a majority of the full authorized membership of the HPPC.

(f) Ad hoc member. [Added 2-23-2005 by L.L. No. 3-2005]

[1] In addition to regular members appointed and serving as per Subsection C(2)(a), the Village Board of the Village of Montebello shall appoint one temporary ad hoc member to the Historic Preservation and Parks Commission to serve as provided herein. Said ad hoc member shall attend all meetings of the Commission, and the Chairman of the Commission or Vice Chairman in the absence of the Chairman shall designate the ad hoc member as an acting member as necessary when absence of regular members of the Commission or a conflict of interest of regular members of the Commission would otherwise prevent three members of the Commission from considering any pending matter. Once designated to serve on a particular matter before the Commission, the ad hoc member shall have the same powers and duties as regular members of the Commission, until the matter is concluded. Any determination by the Commission also consisting of an ad hoc member shall have the same weight and be entitled to the same authority as the act or deed of the regular Historic Preservation and Parks Commission, and all laws, statutes and regulations shall apply and be

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applied with equal, force and effect. An ad hoc member appointed pursuant to this section shall be paid for services as fixed by resolution of the Village Board.

- [2] The ad hoc member shall serve a two-year term expiring at the end of the official year. At the time of appointment of the first ad hoc member, the member shall serve from the time of appointment until the start of the next official year (reorganization meeting in April) plus a full official year. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Village Board upon recommendation of the Mayor for the unexpired term. The Village Board shall have the power to remove any ad hoc member of the Historic Preservation Commission upon recommendation of the Mayor for cause, after a public hearing if one is requested.
- [3] Although the ad hoc member of the Historic Preservation and Parks Commission shall attend all meetings of the Commission, same shall have no power to participate in any actions of the Commission, except as provided herein.
 - (3) The HPPC shall have the following powers and duties:
 - (a) Employment of staff and professional consultants as necessary to carry out the duties of the HPPC.
 - (b) Promulgation of rules and regulations which shall provide for a quorum, regularly scheduled meetings, adoption of request forms, and any other matters within the discretion of the HPPC.
 - (c) Adoption of criteria for the identification of significant historic, architectural, and cultural landmarks and for the delineation of historic districts.
 - (d) Conduct of surveys of significant historic, architectural, and cultural landmarks and historic districts within the Village of Montebello.
 - (e) Increasing public awareness of the value of historic, cultural and architectural preservation and of historic and scenic roadways by developing and participating in public education programs.
 - (f) Making recommendations to the Village Board concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts and historic and scenic roadways within the Village of Montebello.
 - (g) Recommending acquisition of a landmark structure by the Village of Montebello where its preservation is essential to the purposes of this section and where private preservation is not feasible.
 - (h) Preparing, reviewing or recommending applications for local landmark or local historic district designation.
 - (i) Approval or disapproval of applications for certificates of appropriateness pursuant to these regulations.
 - (j) Approval or disapproval of certificates of appropriateness, or providing recommendations when requested, on building permit, site plan, subdivision or other applications reviewed by the Building Inspector, Planning Board or the Board of Appeals for properties that are:
[Amended 8-15-2018 by L.L. No. 5-2018]
- [1] On or adjacent to a property on the National Register of Historic Places, or the New York State Register of Historic Places; or
- [2] Designated local landmarks or located in historic districts; or
- [3] Located in the Historic or Scenic Roads Overlay District, as established in § **195-64.1** of the Village Code.
- (k) Reviewing and making recommendations to county, state or the New York Metropolitan Transportation Council (NYMTC) officials on proposed improvements or alterations to historic and scenic roads, as designated by the Comprehensive Plan. **[Added 8-15-2018 by**

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L.L. No. 5-2018]

- (l) The Commission shall generally meet on a monthly basis. **[Added 4-16-2008 by L.L. No. 2-2008]**
- D. Local landmarks and local historic districts.
 - (1) Historic Preservation and Parks Commission recommendation to designate certain properties for local landmark and local historic district designation.
 - (a) Any person may request the designation of a local landmark or local historic district by submitting to the HPPC an application for designation on a form furnished by the Commission. The HPPC, in addition, may on its own motion, initiate proceedings to recommend designation of a local landmark or historic district to the Village Board.
 - (b) The HPPC shall send notice of a proposed designation to the owner or owners of property on which the landmark or historic district is situated by first-class mail with certificate of mailing at least 10 days prior to public hearing date, and same shall be forwarded to the Building Inspector. Notice of the date the application shall be heard by the Commission shall be advertised at least once in an official newspaper of the Village not less than five days prior to such hearing. **[Amended 6-22-2005 by L.L. No. 4-2005; 5-17-2017 by L.L. No. 1-2017]**
 - (c) The HPPC shall recommend approval or disapproval of an application within 62 days after the receipt of the application. The application shall be deemed received on the date of the first HPPC meeting subsequent to the receipt and dating of the application by the Chairman. The recommendation may limit itself to the proposed historic district, landmark or landmark site as described in the application or may include modifications thereof. An application recommended for approval shall be forwarded to the Village Board for its consideration.
 - (d) If the HPPC recommends disapproval of the application, the proceedings with regard to the proposed local landmark or historic district shall terminate. No application shall be refiled for a period of one year from the date of initial filing.
 - (e) In the event that no decision is rendered within 62 days of receipt of the application, the application shall be deemed to have been recommended for approval and shall be forwarded to the Village Board for its consideration.
 - (f) The Village Clerk-Treasurer shall mail the decision of the HPPC to the owners of the subject property, the Village Board, Planning Board, the Board of Appeals and the Building Inspector.
 - (2) Criteria for designation of local landmarks and local historic districts. The HPPC may recommend a property for designation as a local landmark if it:
 - (a) Is associated with events that have made a significant contribution to the broad patterns of the history of the Village of Montebello, Rockland County, the Hudson River Valley region, New York State or the United States of America;
 - (b) Is associated with the lives of persons significant in our past;
 - (c) Embodies the distinctive characteristics of a type, period or method of construction or that represents the work of a master or that possesses high artistic values or that represents a significant and distinguishable entity whose components may lack individual distinction;
 - (d) Has yielded or may be likely to yield information important in prehistory or history; or
 - (e) Because of unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood in which it is situated.
 - (3) Consideration of sites not meeting basic criteria. Ordinarily, cemeteries, birthplaces or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature and properties that have achieved

significance within the past 50 years shall not be considered eligible for historic designation. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

- (a) A religious property deriving primary significance from architectural or artistic distinction or historical importance;
 - (b) A building or structure removed from its original location, but which is significant primarily for architectural value or which is the surviving structure most importantly associated with an historic person or event;
 - (c) A birthplace or grave of an historical figure of outstanding importance if there is no appropriate site or building associated with his productive life;
 - (d) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a Restoration Master Plan and when no other building or structure with the same historic association has survived;
 - (e) A property primarily commemorative in intent if design, age, tradition or symbolic value has invested it with its own historical significance; or
 - (f) A property achieving significance within the past 50 years if it is of exceptional importance.
- (4) The HPPC may designate a group of properties as a local historic district if it:
- (a) Contains properties which meet one or more of the criteria for designation as a landmark; and
 - (b) By reason of possessing such qualities, it constitutes a distinct section of the Village of Montebello.
- (5) Village Board decision.
- (a) The Village Board shall hold a public hearing on all applications for designation that are recommended for approval by the HPPC within 62 days of receipt of a favorable recommendation. The hearing shall be advertised at least once in an official newspaper of the Village not less than five days prior to such hearing. The notice of public hearing shall be sent to the owner or owners of property being recommended for local landmark or historic district designation at the mailing address(es) identified on the Village's current tax rolls by first-class mail with certificate of mailing at least 10 days prior to the public hearing date. **[Amended 5-17-2017 by L.L. No. 1-2017]**
 - (b) The Village Board shall act to approve or disapprove the designation within 62 days of the close of the public hearing. In the event that no decision is rendered within said 62 days, the application for local landmark or historic district designation shall be deemed approved if the applicant is the owner, and in all other cases said application shall be deemed disapproved. **[Amended 6-22-2005 by L.L. No. 4-2005; 5-10-2006 by L.L. No. 2-2006]**
 - (c) When the Village Board approves or disapproves an application, the Building Inspector, the HPPC, the Planning Board, the Board of Appeals, the Building Inspector and the owner or owners of the subject property shall be notified, in writing, by the Village Clerk-Treasurer. If the Village Board approves an application, the Village Clerk-Treasurer shall also notify the Tax Assessor of the Town of Ramapo.
 - (6) Abeyance of building permits and proposed landmarks and historic districts. Upon receipt of notice that the HPPC is considering a property for designation as a landmark or inclusion in an historic district, the Building Inspector shall not issue any building permit for demolition, alteration or improvement activities until a final determination by the Village Board is made that the property does not qualify for local landmark designation or inclusion in an historic district. If the Village Board designates the property in question as a landmark or as part of an historic district, no building permit shall be issued except pursuant to Subsection **D (8)** of this section.

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- (7) Mapping. Upon notification that the Village Board has caused a property to be designated a local landmark or local historic district, the Village Clerk-Treasurer shall immediately cause such property to be so designated and identified on the Zoning Map.
- (8) Certificate of appropriateness for alteration, demolition or new construction affecting local landmarks, historic districts, or sites in the Historic and Scenic Roads Overlay District. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or property within an historic district or the Historic and Scenic Roads Overlay District, nor shall any person make any material change in the appearance of such property, its light fixtures, signs, sidewalks, fences, steps, paving, landscaping, plantings or other exterior elements which affect the appearance and cohesiveness of the local landmark or such district, without first obtaining a certificate of appropriateness from the HPPC, unless exempt as a minor project pursuant to § 195-64.1D. Once a certificate of appropriateness has been issued, any applications to Village agencies for any development proposals shall be referred to the HPPC for a determination of the effect of the proposal on the landmarked property or historic district. **[Amended 8-15-2018 by L.L. No. 5-2018]**
- (9) Certificate of appropriateness application procedure.
 - (a) Prior to the commencement of any work requiring a certificate of appropriateness, the applicant shall file an application for such a certificate with the Building Inspector.
 - (b) The application shall contain:
 - [1] Name, address, and telephone number of applicants.
 - [2] Location and photographs of property.
 - [3] Elevation drawings of proposed changes, if available.
 - [4] Perspective drawings, including relationship to adjacent properties, if available.
 - [5] Samples of colors and materials to be used.
 - [6] Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property.
 - [7] Any other information that the HPPC may deem necessary in order to visualize the project.
 - (c) The application shall be accompanied by a fee in accordance with the Village of Montebello Schedule of Fees and shall state that the property is a local landmark and/or is located within or abutting the boundaries of a local historic district.
 - (d) The Building Inspector shall immediately transmit the application and the plans to the HPPC.
 - (e) The HPPC shall review the application according to the provisions of this section. In reviewing the plans, the Commission may confer with the applicant or his authorized representative concerning the building permit.
 - (f) The Commission shall call a public hearing on said application within 30 days subsequent to the filing of the application with the Building Inspector, which hearing shall be advertised at least once in a newspaper of general circulation in the Village not less than five days prior to such hearing.
 - (g) The HPPC may call witnesses, including historians, architects, engineers, planning consultants or other experts, and may introduce other evidence at such hearing. In considering any such application, the Commission shall bear in mind the purpose of this section and shall give consideration to any report of local historical societies and advice of the Village Historian relating to the general design, arrangement, architectural style, texture, material and colors of the building or structures in question, the location on the plot of ground and the relation of such features to other buildings, structures, trees or other forms of growth,

landmarks, public or private roads and all other such factors pertaining to the renovation, installation or conservation of any building or improvement which would be obviously incongruous with the historic aspects of the surrounding area.

- (h) No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the HPPC. The certificate of appropriateness shall be in addition to and not in lieu of any building permit or demolition permit that may be required. In the case of an alteration to an exterior architectural feature not requiring a building permit, the applicant shall not commence activity until the HPPC has acted on the application.
- (10) Criteria for approval of certificate of appropriateness.
 - (a) In reviewing the plans, the HPPC shall give consideration to the following:
 - [1] 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.
 - [2] The general appropriateness of proposed exterior design, colors, arrangement, texture and materials.
 - [3] The scale of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood.
 - [4] Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties in streets, including setback.
 - [5] Properties which contribute to the character of the historic district shall be retained, with their exterior historic features altered as little as possible, and their interior features retained to the extent reasonably possible if the HPPC also finds same to be historically significant. **[Added 4-16-2008 by L.L. No. 2-2008]**
 - [6] Any other factors relating to aesthetic considerations that the HPPC deems pertinent to the benefit of the Village and the historic or architectural significance of the structure or building and surrounding area.
 - (b) Alterations, repairs and additions to buildings or structures located wholly or partly within the boundaries of an historic district or which are designated as landmarks shall be made consistent with the materials and styles of the particular architectural period of which said building or structure is characteristic.
 - (c) New construction shall be consistent with the architectural styles or historic value in an historic district. However, the HPPC may approve the construction of buildings or structures that have a dissimilar architectural style to that of the historic district if the HPPC deems that the new construction will be in the best interests of the historic district.
 - (d) Moving of buildings or structures designated as landmarks or located wholly or partly within the boundaries of the historic district may be allowed as an alternative to demolition.
 - (e) The following criteria and standards shall apply to structures and sites in the Historic and Scenic Roads Overlay District, as defined in § 195-64.1: **[Added 8-15-2018 by L.L. No. 5-2018]**
 - [1] The HPPC shall review the proposed application for potential aesthetic or character impacts on those historic and aesthetic resources identified in Historic and Aesthetic Resources Element of the Comprehensive Plan of the Village of Montebello and excerpted here for convenience as Attachment 12 of this chapter. Where the HPPC finds that the proposed application could result in development out of character with area historic or aesthetic resources, it shall suggest alternative siting, site design, architectural appearance, buffering or landscaping in order to mitigate potential impacts. The HPPC may require renderings, visual simulations, or cross sections including under leaf-off conditions to determine the

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scope and nature of potential impacts and the effectiveness of proposed mitigations.

- [2] On lots with front yard areas within the Historic and Scenic Road Overlay District, a buffer strip with all native and natural vegetation shall be maintained between any newly constructed or modified building and the road right-of-way line. The minimum width of the naturalized vegetative buffer shall be equal to at least 10% of the depth of the parcel, and shall be maintained from the property line adjacent to the regulated road towards the building or structure. In cases where the minimum width has already been cleared or is an established lawn area, a planting plan shall be developed by the applicant to revegetate the buffer area with native vegetation. The buffer should be designed so as not to impair significant views of area historic or aesthetic resources. The HPPC will recommend the dedication of easements for buffer areas, where it believes such buffers are critical for maintaining the historic or scenic quality of the road.
- [3] Within the minimum naturalized vegetative buffer strip, removal and/or maintenance of dangerous dead wood and non-native invasive species is permitted. Invasive species shall be those defined in New York State Department of Environmental Conservation NYCRR Part 575 Invasive Species Regulations, which can be found at:
http://www.dec.ny.gov/docs/lands_forests_pdf/isprohibitedplants2.pdf.
- [4] The construction of a driveway with a single curb cut for each principal use is permitted through the buffer area. This requirement shall not be deemed to prohibit boulevards.
- [5] Stone walls. Stone walls shall be retained wherever possible. If stone walls or portions thereof must be removed for safety reasons, they shall be rebuilt in a comparable manner in a similar location and with a similar orientation, with respect to the right-of-way of the historic and scenic road. Along certain roads, where stone walls are prevalent, the HPPC as a condition of issuing a certificate of appropriateness, may require the construction of a stone wall as a feature within the minimum naturalized buffer. The appropriate agency having jurisdiction over the frontage road shall be provided the opportunity to review and comment on the proposed stone wall construction specifications and placement prior to the issuance of a certificate of appropriateness.
- [6] Existing structures on a lot or portion thereof within the Historic and Scenic Overlay District with historic or architectural significance shall be retained to the extent possible. Alterations to such structures shall be compatible with the architecture of the existing structure with regard to window patterns, siding materials, colors, architectural detailing and architectural style. Any new structures or additions to existing structures shall be compatible with any structures identified within the Historic and Scenic Resources Element of the Comprehensive Plan of the Village of Montebello located within the same public viewshed with regard to architectural style, apparent massing, setback height and architectural quality.
- [7] Buildings or structures visible from the historic and scenic roads, including canopies, car ports, pavilions, gazebos, or the like, shall have peaked roofs, except that hip roofs with a slope of at least 4:12 and flat roofs that are hidden by a raised cornice shall also be permitted.
- [8] Parking fields, garages and garage doors shall be designed and sited in a manner to minimize their visual impact from the historic and scenic road.
- [9] Fences. Chain link fences, and stockade or other fence designs that completely block visual access to land in the corridor, shall be presumptively inappropriate, unless such fences are necessary to screen a preexisting use that does not conform to the requirements of this section, or for some other good reason uniquely related to the site, in the judgement of the HPPC, and in such a case special attention to vegetative buffer shall be demonstrated, also in the judgement of the HPPC. Where stone walls are not present, open wooden fencing such as board-on-post fencing is acceptable.

- [10] Where the Village Board has adopted rural character design guidelines, in addition to the criteria listed herein, the HPPC shall review the proposed application against such design guidelines and require substantial compliance with same.
- (f) The HPPC may limit its jurisdiction and review of any proposed development or action by the county or state with respect to its property within the Historic and Scenic Roads Overlay District, after weighing the nine factors outlined in the 1988 Court of Appeals Decision in the case of *Matter of County of Monroe v. City of Rochester*, 72 N.Y.2d 338, 533 N.Y.S.2d 702. **[Added 8-15-2018 by L.L. No. 5-2018]**
- (11) Decision-making.
- (a) The Commission shall approve, modify and approve or disapprove the application within 30 days after the close of the public hearing and shall transmit a record of its proceedings and findings to the Building Inspector and applicant.
- (b) Any determination of the Commission shall set forth the reasons for such determination. The HPPC shall promptly give notice of any such determination to the applicant. Such notice shall include a copy of such determination. Any such determination may prescribe conditions under which the proposed work shall be done, in order to effectuate the purposes of this section, and shall include recommendations by the HPPC as to the performance of such work. The HPPC shall promptly transmit notice of such determination to the Building Inspector, the Planning Board, and the Board of Appeals when appropriate, and the Tax Assessor.
- (c) The Building Inspector shall not grant a building permit or a demolition permit until such time that a decision has been rendered by the HPPC. In no case shall a permit be issued prior to any other Village approvals that might be required, e.g., site plan approval by the Planning Board or a variance by the Board of Appeals.
- (12) Demolition hardship criteria.
- (a) An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply to the Village Board for relief on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish that all of the following apply:
- [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;
- [3] Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- (13) Alteration hardship criteria.
- (a) An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the ground of hardship. In order to provide the existence of hardship, the applicant shall establish that the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.
- (b) After receiving written notification from the HPPC of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Village Board finds that a hardship exists.
- (c) The HPPC may hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents to present their views.
- (d) The applicant shall consult in good faith with the HPPC and all interested parties in a diligent effort to seek an alternative that will result in the preservation of the property.
- (e) All decisions of the Village Board shall be in writing. A copy shall be sent to the applicant by first-class mail with certificate of mailing and a copy filed with the Building Inspector. The Village Board's decision shall state the reasons for granting or denying the hardship

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application. If the application is granted, the Village Board shall approve only such work as is necessary to alleviate the hardship. **[Amended 5-17-2017 by L.L. No. 1-2017]**

- (14) Enforcement. All work performed pursuant to a certificate of appropriateness issued under this section shall conform to any requirements included therein. It shall be the duty of the Building Inspector or Code Enforcement Officer to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the HPPC, the Building Inspector or Code Enforcement Officer 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. **[Amended 6-22-2005 by L.L. No. 4-2005]**
- (15) Maintenance and repair required. Nothing in this section shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an historic district that 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 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 HPPC, 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 would lead to the claim that demolition is necessary for public safety.
- (16) This section shall not apply in any case where the Building Inspector or any authorized Village enforcement agency orders or directs the construction, removal, alteration or demolition of any improvements on a landmark site or in an historic district for the purpose of remedying conditions determined to be unsafe or dangerous to the life, health or property of any person.
- (17) Historic Preservation and Parks Commission advisory role. **[Amended 8-15-2018 by L.L. No. 5-2018]**
- (a) Purpose and intent.
 - [1] Certain development activities have the potential to impact the historic and visual quality of properties, buildings, structures, and other features that have been identified as significant historic and cultural resources as demonstrated by their inclusion on the National Register of Historic Places or the New York State Register of Historic Places, or in the Historic and Scenic Roads Overlay District.
 - [2] It is the intent of this section to interject the advice of the HPPC during the SEQRA review process for certain applications that affect properties located on the National Register of Historic Places or the State Register of Historic Places, or in the Historic and Scenic Roads Overlay District.
 - [3] The HPPC shall act in an advisory capacity to assist a lead agency in determining the potential impact of proposed actions occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on

the National Register of Historic Places, or that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Office for nomination for inclusion in the National Register, or that is listed on the State Register of Historic Places, or that is located in the Historic and Scenic Roads Overlay District.

- (b) Referral by agencies. Where an application is submitted to the Planning Board, the Board of Appeals, or the Village Board affecting property listed in the National or State Register or designated by the HPPC, a copy of said application shall also be transmitted to the HPPC for review. The application shall be accompanied by such drawings or material samples as may be required to clearly indicate the design intent.
- (c) The Village Planner shall annually review the New York Metropolitan Transportation Council (NYMTC) Transportation Improvement Program and confer with the New York State Department of Transportation, Rockland County Highway Department and Town of Ramapo Department of Public Works to determine whether any proposed transportation improvement projects will have a negative impact on the Historic and Scenic Roads Overlay District, and to make written recommendations on potential ways to mitigate such impacts. When a street or road located in the Historic and Scenic Roads Overlay is proposed to be altered or improved by the Town, county, state or the New York Metropolitan Transportation Council (NYMTC), the HPPC shall consider the following, when analyzing the proposal and making its recommendations for any design changes:
 - [1] Alterations and improvements of designated historic and scenic roads should be carried out to preserve to the highest degree possible and enhance wherever feasible the aesthetic, historic and/or scenic and historic characteristics of the roadway.
 - [2] Vehicular speeds. Scenic and historic values are correlated with lower vehicular speeds. The impact of the alteration or improvement of the existing speed of vehicular traffic along the scenic and historic roadway should be determined. The lower speed limit should be posted and suitably enforced.
 - [3] Curves. Scenic and historic values correlate with the existence of curves in a roadway which allow a constant unfolding of new and changing views. Curves should not be eliminated unless they constitute a safety hazard and unless no reasonable economically practicable alternative, such as lower speed limits, could address safety concerns.
 - [4] Grades. Hills and valleys and corresponding changes in topography and road grades are correlated with scenic and historic values. Changing grades through cuts and fills should not be undertaken unless necessary for roadway safety.
 - [5] Widths. Narrow roadways correlate with scenic and historic beauty, especially when surrounded by natural vegetation and a canopy of trees. Scenic and historic roadways, or portions thereof, should not be widened unless there are no other reasonable, economically practicable alternatives, such as construction of wide bypasses and turnouts at intervals where they will have the least impact on scenic and historic values.
 - [6] Side slopes. Existing steepness of side slopes are preferred to reduction of gradient through extensive removal of soil, rock, and slope, particularly where the slope is fully stabilized and has extensive ground cover, shrubs or trees.
 - [7] Vistas. Roadside views of near and distant scenic and historic landscapes should be preserved and, where possible, enhanced through vegetative management and selective cutting to maintain or open up such views.
 - [8] Stone walls. Stone walls should be retained wherever possible. If stone walls or portions thereof must be removed for safety reasons, they should be rebuilt in a comparable manner within the untraveled portion of right-of-way of the scenic and historic roadway.

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- [9] Road surface. Road surfaces are correlated with the historical character of a roadway and contribute to its scenic and historic beauty. Existing road surfaces should be retained where possible. If the surface of a roadway must be paved and/or altered for safety reasons, such road surface should be repaired or paved in a manner consistent with and for the purpose of preserving the existing character of said roadway.
- [10] Utility lines. Wherever possible, utility lines should be placed underground. Where they are overhead the utility corporations should be encouraged to cooperate by implementing suitable vegetation management techniques which preserve the wildflowers and the shrubs.
- [11] Vegetation. Vegetation on the side of the road should be managed in such a way as to preserve flowers, shrubs, wildlife and trees. Overarching isolated trees and the canopy of a closed forest are valuable scenic qualities and should be preserved wherever possible. Maintenance of scenic roadways should be done so as to minimize root damage to bordering trees.
- [12] Drainage ditches. Drainage swales should be vegetated or lined with stones in areas subject to erosion.
- [13] To preserve a rural experience, no sidewalks, concrete curbs or walkways should be constructed along road segments in the Historic and Scenic Roads Overlay District, except along the following roads: Hemion Road and North Airmont Road. Where it is absolutely critical to support existing levels of pedestrian or bicycle traffic, preference should be given to on-road painted facilities. Any new curbs should be comprised of flat-laid Belgian Block except as otherwise required by the Village Engineer.
- [14] New curb cuts to provide road access to new development should be minimized, with shared curb cuts to be utilized whenever practicable. Existing curb cuts and driveways should be removed whenever a reduction in road access points can be achieved and adequate road access can still be provided.
- (d) The HPPC shall advise the referring agency on the proposed action's potential effects on the listed or nominated property and may make recommendations to limit said effects. In advising the agencies on their respective applications, the HPPC shall consider the following:
- [1] The general design, character and appropriateness to the property of the proposed alteration or new construction;
 - [2] The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
 - [3] Texture, materials, and color and their relation to similar features of other properties in the neighborhood;
 - [4] Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties on streets, including setback; and
 - [5] The importance of historic, architectural, or other features to the significance of the property.
- (e) If the HPPC fails to act upon the application within 30 days of receipt of the application, the HPPC shall be deemed to have issued a favorable recommendation on the proposed action.
- (18) Penalties for offenses; civil remedies. **[Added 4-16-2008 by L.L. No. 2-2008]**
- (a) Failure to comply with any of the provisions of this section shall be deemed a violation, and the violator shall be liable to a fine of not less than a minimum amount for each day of violation, but not more than an amount in the aggregate if the violation continues, said amounts as set by the Village Board by resolution from time to time.
 - (b) Any person who demolishes, substantially alters an historic element or aspect, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this section 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 Village Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

- (19) Appeals. Any person aggrieved by a decision of the Historic Preservation and Parks Commission relating to hardship or a certificate of appropriateness may, within 15 days of the decision, file a written application with the Village Board for review of the decision. Reviews shall be conducted based on the same record that was before the Commission and using the same criteria. The Village Board will have up to 62 days to hold a public hearing upon the filing of an appeal and up to 62 days in which to render a decision after closing the hearing. [Added 4-16-2008 by L.L. No. 2-2008]

D. Parks and Recreation.

- (1) It shall also be the duty and authority of the HPPC to supervise and control all of the Village parks, recreational areas and grounds, and open spaces, in the care and maintenance of the same, subject to the approval of the Board of Trustees. The HPPC shall oversee the design or redesign of all parks so as to provide for the most efficient use of said parks. Other powers and duties shall include assisting in any application for any grants that may be used within the park system with the Board of Trustees, and, in conjunction with the Village Board of Trustees providing for any and all expansion of the park system and the hiring of any employees for said parks.
- (2) The HPPC shall annually submit a proposed budget under Section 6-602 of the Village Law of the State of New York to the Village Board of Trustees for official approval and ratification. The Commission may also solicit or receive any gifts or bequests of money or personal property or any donation to be applied, principal or income, for temporary or permanent use for any of the purposes set forth above. Also, no Commission member may spend any Village funds without permission of the Commission which may not expend more than \$200 without authorization from the full Board of Trustees, which amounts may be increased by resolution of the Village Board.
- (3) The Village Treasurer shall be custodian of the monies made available for expenditure and will make payments therefrom upon audit by the Village Board. The Village Treasurer shall submit a balance of accounts quarterly to the Chairman of the HPPC. This balance will consist of the amount left in each separate item as listed in the approved budget.
- (4) The HPPC shall make a semiannual report re: parks and recreation to the Village Board of Trustees and such other reports as from time to time may be requested by said Board.
- (5) The HPPC shall recommend additional powers and duties re: Parks and Recreation subject to the approval of the Board of Trustees.
- (6) The HPPC shall study and recommend, from time to time, the acquisition of parklands and the making of improvements thereto.

2. Section 2. Amend entire Village Code, changing wherever "Historic Preservation Commission," "Parks Commission" and "HPC", may appear, to "Historic Preservation and Parks Commission," or "HPPC". Such changes include amending the following:

a) "Historic Preservation Commission":

§ 167-38B(4)

§ 167-39

Chapter 195, Art. XI title

§ 195-59C(4)

§ 195-64.1C

§ 195-124, the definition of "Historic Preservation," Subsections A and C

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Chapter 195, Attachment 12, the first sentence

b) "HPC":

§ 195-59C(4)

§ 195-124, the definition of "Historic Preservation," Subsection C

c) "Parks Commission":

§ 122-2A and C

§ 122-4B

§ 176-3, the definition of "Tree Fund"

3. Section 3. By authority of Municipal Home Rule Law §20 Subdivision 5 to be effective upon filing with the Secretary of State

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