

CHAPTER 155: HISTORIC PRESERVATION

Section

155.01 Legislative intent and purpose

155.02 Definitions

155.03 Historic Preservation Commission

155.04 Certificate of appropriateness for alteration, demolition, or new construction affecting landmarks or historic districts

155.05 Criteria and designation of landmarks or historic districts

155.06 Historic district

155.07 Interior landmark

155.08 Scenic landmark

155.09 Notice and hearing requirements for proposed designation

155.10 Notice of public hearing; multiple properties proposed for designation

155.11 Affirmative maintenance and repair requirement

155.12 Enforcement and violations

155.13 Approval authority; advisory authority

155.14 Compliance with New York State Certified Local Government Requirements

155.99 Penalty

§ 155.01 LEGISLATIVE INTENT AND PURPOSE.

The Franklinville Village Board of Trustees ("Village Board of Trustees") finds that there exist within the Village of Franklinville places, sites, structures and buildings of historic or architectural significance, antiquity, uniqueness of exterior design or construction, which should be conserved, protected and preserved to maintain the architectural character of the village to contribute to the aesthetic value of the village and to promote the general good, welfare, health and safety of the village and its residents. The purpose of this chapter is to promote the general welfare by providing for the identification, protection, enhancement, perpetuation, and use of buildings, structures, signs, features, improvements, sites, and areas within the village that reflect special elements of the village's historical, architectural, cultural, economic or aesthetic heritage for the following reasons:

(A) To foster public knowledge, understanding, and appreciation in the beauty and character of the village and in the accomplishments of its past;

(B) To ensure the harmonious, orderly, and efficient growth and development of the village;

(C) To enhance the visual character of the village by encouraging new design and construction that complements the village's historic buildings;

(D) To protect and promote the economic benefits of historic preservation to the village, its inhabitants and visitors;

(E) To protect property values in the village;

(F) To promote and encourage continued private ownership and stewardship of historic structures;

(G) To identify as early as possible and resolve conflicts between the preservation of historic landmarks/districts and alternative land uses; and

(H) To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

(Ord. 1-2024, passed 2-12-2024)

§ 155.02 DEFINITIONS.

As used in this chapter, the following words and phrases have the following meaning:

ACQUISITION. The act or process of acquiring fee title or other interest in real property, including acquisition of development rights or remainder interest.

ADDITION. Any act or process that changes one or more of the exterior architectural features of a building or structure by adding to, joining with or increasing the size or capacity of the building or structure.

ALTERATION. Any act or process, other than demolition or preventative maintenance, that changes the exterior appearance of significant historical or architectural features, or the historic context of a designated landmark, including, but not limited to, exterior changes, additions, new construction, erection, reconstruction, or removal of the building or structure, or grading.

APPROPRIATE. Especially suitable or compatible.

ARCHITECTURAL SIGNIFICANCE. The quality of a building or structure based on its date of erection, style and scarcity of same, quality of design, present condition and appearance or other characteristics that embody the distinctive characteristics of a type, period or method of construction.

BUILDING. Any construction created to shelter any form of human use, such as a house, garage or barn, and which is permanently affixed to the land. Building may also refer to a historically related complex, such as a house and a barn.

BUILDING OFFICIAL. The person, or his or her designee, authorized to grant permits for construction, alteration, and demolition pursuant to the codes adopted by the village.

CERTIFICATE OF APPROPRIATENESS. An official form issued by the Commission stating that the proposed work on a designated historic landmark is compatible with the historic character of the property and thus in accordance with the provisions of this chapter and therefore the proposed work may be completed as specified in the certificate; and the village's departments may issue any permits needed to do the work specified in the certificate.

CERTIFICATE OF ECONOMIC HARDSHIP. An official form issued by the Commission when the denial of a certificate of appropriateness has deprived, or will deprive, the owner of the property of all reasonable use of, or economic return on, the property.

CHANGE. Any alteration, demolition, removal or construction involving any property subject to the provisions of this chapter.

CHARACTER. Defined by form, proportion, structure, plan, style or material. General character refers to ideas of design and construction such as basic plan or form. Specific character refers to precise ways of combining particular kinds of materials.

CODE ENFORCEMENT OFFICER. The person, or his or her designee, authorized and certified to enforce the New York State Fire Prevention and Building Code. The person, or his or her designee, who is also authorized by the Village Board of Trustees to enforce this chapter, except where another official is expressly authorized.

COMMISSION. The Historic Preservation Commission established pursuant to this chapter.

COMPATIBLE. In harmony with location, context, setting, and historic character.

CONSTRUCTION. The act of constructing an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

DEMOLISH. Any act or process that removes or destroys in whole or in part a building, structure, or resource.

DEMOLITION PERMIT. A permit issued by the building official allowing the applicant to demolish a building or structure, after having received a certificate of demolition approval from the Commission.

EVALUATION. The process by which the significance and integrity of a building, structure, object, or site is judged by an individual who meets the professional qualification standards published by the National Park Service at 36 CFR Part 61 as determined by the State Historic Preservation Office, using the designation criteria outlined in § 155.05.

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

FEATURE. Elements embodying the historical significance or architectural style, design, general arrangement and components of all of the exterior surfaces of any landmark or historic resource, including, but not limited to, the type of

building materials, and type and style of windows, doors, or other elements related to such landmark or historic resource.

HISTORIC CONTEXT. A unit created for planning purposes that groups information about historic properties based on a shared theme, specific time period and geographical area.

HISTORIC DISTRICT - LOCAL. An area designated as a historic district by this historic preservation chapter, and which contains within definable geographic boundaries a significant concentration, linkage or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. An historic district designated under this chapter shall not be construed as a zoning district of the village and nothing contained herein shall be construed as authorizing the Commission to adopt a law, by-law or regulation that regulates or limit the height and bulk of buildings, regulates and determine the area of yards, courts and other open spaces, regulates density of population or regulates or restricts the locations of trades and industries or creates zoning districts for any such purpose.

HISTORIC FABRIC. Original or old building materials (masonry, wood, metals, marble) or construction.

HISTORIC INTEGRITY. The retention of sufficient aspects of location, design, setting, workmanship, materials, feeling or association for a property to convey its historic significance.

HISTORIC LANDMARK. A building, district, site, structure or object significant in American history, architecture, engineering, archeology or culture at the national, state, or local level.

HISTORIC PRESERVATION COMMISSION. The Historic Preservation Commission appointed by the Village Board of Trustees.

HISTORIC PROPERTY. A district, site, building, structure, or object significant in American history, architecture, engineering, archeology, or culture at the national, state, or local level.

HISTORIC RESOURCE. Any evaluated building, structure, object, or site that potentially meets the designation criteria outlined herein.

HISTORIC RESOURCES SURVEY. The process of systematically identifying, researching, photographing, and documenting historic resources within a defined geographic area, and the resulting list of evaluated properties that may be consulted for future designation. For the purpose of this chapter, all surveys shall be conducted in accordance with the Secretary of the Interior's Standards and Guidelines.

HISTORIC SIGNIFICANCE. The quality of a place, site, building, district or structure based upon its identification with historic persons or events in the village.

INTEGRITY. The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

INTERIOR LANDMARK. Interior landmarks are noted for the portions of their interior that are open to the public.

INVENTORY. A list of historic properties determined to meet specified criteria of significance.

LANDMARK. Any building, structure or site that has been designated as a "landmark" by the Village Board of Trustees, pursuant to procedures described in § 155.05 that is worthy of preservation, restoration or rehabilitation because of its historic or architectural significance.

LANDMARK ALTERATION PERMIT. A permit approving an alteration to or demolition of a landmark, or demolition of a historic resource listed in the heritage resource inventory pursuant to the provisions of this chapter.

LISTING. The formal entry or registration of a property.

MAINTAIN. To keep in an existing state of preservation or repair.

MINOR WORK. Any change, modification, restoration, rehabilitation, or renovation of the features of an historic resource that does not materially change the historic characteristics of the property.

MOVE. Any relocation of a building or structure on its site or to another site.

NATIONAL REGISTER CRITERIA. The established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

NATIONAL REGISTER OF HISTORIC PLACES. The official inventory of the nation's historic properties, districts, sites, districts, structures, objects and landmarks which are significant in American history, architecture, archaeology, and culture, maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966 (16 USC. 470 et seq., 36 CFR Sections 60, 63, as may be amended).

NON-CONTRIBUTING. A feature, addition or building, structure, object or site which does not add to the sense of historical authenticity or evolution of an historic resource or landmark or where the location, design, setting, materials, workmanship, history, and/or association of the feature, addition or building, structure, object or site has been so altered or deteriorated that the overall integrity of that historic resource or landmark has been irretrievably lost.

OBJECT. Constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be moveable by nature or design, an object is associated with a specific setting or environment. Examples include boundary markers, mileposts, fountains, monuments, and sculpture. This term may include landscape features.

OWNER. Those individuals, partnerships, corporations, or public agencies holding fee simple title to property, as shown on the records of the Cattaraugus County Clerk.

PERIOD OF SIGNIFICANCE. The length of time when a property was associated with important events, activities, or persons, or attained characteristics which qualify it for landmark status. Period of significance usually begins with a date when significant activities or events began giving the property its historic significance; this is often a date of construction.

PRESERVATION. The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

PREVENTATIVE MAINTENANCE. Any work to prevent deterioration or damage to the structural integrity or any exterior feature of a landmark or historic resource that does not involve a change in design, material or exterior appearance. Such work includes, but is not limited to, painting, roof repair, foundation or chimney work, or landscape maintenance.

PROPERTY TYPE. A grouping of individual properties based on a set of shared physical or associative characteristics.

REHABILITATION. The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features of the property which convey its historical, architectural and cultural values.

REPAIR. Acts of ordinary maintenance that do not include a change in the design, material, form, or outer appearance of a resource, such as repainting. This includes methods of stabilizing and preventing further decay, and may incorporate replacement-in-kind or refurbishment of materials on a building or structure.

RESTORATION. The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

RETAIN. The act of keeping an element, detail or structure and continuing the same level of repair to aid in the preservation of elements, sites, and structures.

REVERSIBLE. An addition which is made without damage to the project's original condition.

SCENIC LANDMARK. Scenic landmarks encompass structures that are not buildings, such as bridges, piers, parks, cemeteries, sidewalks, clocks, and trees.

SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES. Principles developed by the National Park Service (36 CFR 68.3, as may be amended) to help protect historic properties by promoting consistent preservation practices and providing guidance to historic building owners and building managers, preservation consultants, architects, contractors, and project reviewers on how to approach the treatment of historic properties. The Secretary of the Interior Standards for the Treatment of Historic Properties may also be referred to in this chapter as "Secretary of the Interior's Standards."

SIGNIFICANT. Having particularly important associations within the contexts of architecture, history and culture. The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing buildings, structures or other objects. Examples of a site are a battlefield, designed landscape, trail, or camp site.

STABILIZATION. The act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

STRUCTURE. Any assemblage of materials forming a construction framed of component structural parts for occupancy or use, including buildings.

STYLE. A type of architecture distinguished by special characteristics of structure or ornament and often related in time; also a general quality of distinctive character.

UNDERTAKING. Any project or other action involving the expansion, modification, development or disposition of the physical plant or any site or building.

(Ord. 1-2024, passed 2-12-2024)

§ 155.03 HISTORIC PRESERVATION COMMISSION.

There is hereby created a commission to be known as the Village of Franklinville Historic Preservation Commission (Commission).

(A) *Membership.* The Commission shall consist of five members.

(B) *Appointments.* Members of the Commission shall be appointed by the Mayor of the Village of Franklinville ("Mayor")

subject to approval of the Village Board of Trustees. No person appointed to the Commission can also serve as a member of the Village Board of Trustees.

(C) *Term of office.* The terms for all members of the Commission shall be staggered and fixed so that the term of one member shall expire at the end of the calendar year in which all such Commission members were initially appointed. The terms of the remaining members shall be so fixed that one term shall expire at the end of each calendar year thereafter. At the expiration of the term of each member first appointed, his or her successor shall be appointed for a term which shall be equal in years to the number of members of the Commission.

(D) *Qualifications.* To the extent possible, Commission members shall be required to have the following expertise:

- (1) At least one shall be a historian;
- (2) At least one shall be a state-licensed real estate professional;
- (3) At least one shall have demonstrated significant interest in and commitment to the field of preservation planning as evidenced either by involvement in a local or regional historic preservation group, employment or volunteer activity in the field of preservation planning, or other serious interest in the field; and,
- (4) All members shall have a known interest in historic preservation and planning within the village.

(5) In the event that the Village Board of Trustees determines that any of the positions described in divisions (D)(1) through (D)(3) of this section, cannot be filled by persons so qualified, the Village Board of Trustees may fill any such position by appointing persons qualified under division (D)(4) of this section.

(E) *Vacancies.* Vacancies occurring in the Commission other than by expiration of term of office shall be filled by appointment of the Mayor subject to approval of the Village Board of Trustees. Any such appointment shall be for the unexpired portion of the term of the replaced member, and the appointment must be made in accordance with the criteria established above for original appointments.

(F) *Reappointment.* Members may serve for no more than a maximum of two full three-year terms before stepping down from the Commission. A previous appointee may be reappointed after a two-year hiatus from the Commission. Each member shall serve until the appointment of a successor, or until they serve two consecutive three-year terms. The term limits imposed by this division may be waived or modified upon recommendation of the Commission when, in the judgment of the Village Board of Trustees, it is in the best interest to do so.

(G) *Compensation.* Members shall serve without compensation.

(H) *Training and attendance requirements.*

(1) Each member of the Commission shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet this requirement. Such training shall be approved by the Village Board of Trustees and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training. The village shall pay for the training.

(2) To be eligible for reappointment to the Commission, a member shall have completed the training approved by the Village Board of Trustees.

(3) The training may be waived or modified by resolution of the Village Board of Trustees when, in the judgment of the Village Board of Trustees, it is in the best interest to do so.

(4) No decision of the Commission shall be voided or declared invalid because of a failure to comply with this division.

(5) *Organization.*

(a) *Chairperson; designation and duties.*

1. The Village Board of Trustees may designate the chairperson of the Commission. In the absence of the Village Board of Trustees' designation, the chairperson of the Commission shall be designated by vote of an affirmative majority of the members of the Commission.

2. The chairperson shall have the right to vote in all matters before the Commission.

3. All meetings of the Commission shall be held at the call of the chairperson and at such other times as the Commission may determine by affirmative vote. Such chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

(b) *Secretary.* The Village Board of Trustees shall appoint a secretary to serve as secretary to the Commission. At the time of service, the secretary shall not also serve as member of the Commission. The secretary shall keep a record of all resolutions, proceedings, and actions of the Commission, as well as attendance of Commission members.

(c) *Quorum.* A simple majority of the Commission members shall constitute a quorum for the transaction of business. An affirmative majority vote of the full Commission is required to approve any resolution, motion or other matter before the

Commission.

(6) *Records and annual report.*

(a) *Records.* The Commission shall be subject to the provisions of the Public Officers Law, including Article 7 related to the Open Meetings Law. The Commission records shall be readily available to the public. The vote or failure to vote of each Commission member shall be recorded. If any Commission member abstains from voting based on a conflict of interest or otherwise, the member must also state his or her reason(s) or ground(s) for doing so on the record.

(b) *Annual reports.* The Commission shall submit an annual report of its activities to the Village Board of Trustees and make such recommendations to the Village Board of Trustees as the Commission deems necessary to carry out the purposes of this chapter.

(l) *Promulgation of regulations; meetings.*

(1) *Regulations.* The Commission may recommend to the Village Board of Trustees regulations relating to any subject matter over which the Commission has jurisdiction under this chapter. Any such recommendation may be adopted by local law of the Village Board of Trustees.

(2) *By-laws; meetings.* The Commission may approve by-laws that are consistent with the regulations adopted by the Village Board of Trustees. Such by-laws shall provide for the time and place of holding regular meetings; and may provide for the calling of special meetings by the chairperson or by written request of at least two members of the Commission. Regular meetings shall be held at least once a month. All regular or special meetings of the Commission shall be consistent with the notice provisions of the New York Open Meetings Law and shall be open to the public.

(J) *Committees.* The Commission may, in its by-laws, establish permanent or ad hoc committees consisting of two current members of the Commission for assignments assigned to it by the full Commission.

(K) *Powers and duties of the Historic Preservation Commission.*

(1) *General and advisory powers.* The Commission shall, from time to time:

(a) Review any local laws or regulations, including existing landmarks or historic preservation laws or regulations in the village and recommend to the Village Board of Trustees any changes and/or amendments thereto;

(b) Recommend to the Village Board of Trustees additional regulations to be adopted by local law that may be necessary for the Commission to conduct its business, consistent with the scope and intent of this chapter;

(c) Recommend to the Village Board of Trustees specific criteria for regulations to be adopted by local law that identify and catalogue significant historic landmarks, and from time to time advise it on suggested changes thereto;

(d) Recommend to the Village Board of Trustees landmarks and historic districts to be adopted by local law, and from time to time changes thereto;

(e) Maintain an inventory of locally-designated historic resources or districts within the village and publicize the inventory which shall, at a minimum, be consistent with the requirements to become and remain a certified local government as set forth by the New York State Office of Parks, Recreation and Historic Preservation;

(f) Recommend to the Village Board of Trustees additional criteria to be adopted in local law to be used when evaluating applications for a certificate of appropriateness;

(g) Recommend to the Village Board of Trustees proposals for the acquisition of preservation easements or other interests in real property;

(h) Conduct investigations, prepare maps, reports and recommendations in connection with its advisory authority relating to the planning, development and administration of the village landmarks preservation policies, regulations and local law as needed, provided the total expenditures of said Commission shall not exceed the appropriation provided by the Village Board of Trustees together with any public or private grant funding received by the Village Board of Trustees for the Commission to undertake its landmarks preservation powers and duties;

(i) Report on matters referred to it by the Village Board of Trustees. The Village Board of Trustees may by resolution provide for the referral to the Commission for a report on any matter or class of matters that impact the municipality's landmarks preservation local law, policies, regulations or administrative processes before final action is taken thereon by the Village Board of Trustees or other office of the village having final authority over said matter. The Village Board of Trustees may further stipulate that final action thereon shall not be taken until the Commission has submitted its report thereon, or has had a reasonable time, to be fixed by the Village Board of Trustees in said resolution, to submit the report;

(j) Provide advice and guidance to property owners and government agencies concerning historic preservation issues;

(k) Adopt rules for the conduct of Commission business;

(l) Recommend to the Village Board of Trustees approval or disapproval of any demolition, relocation, new construction, or exterior alteration affecting designated properties; and

(m) Recommend designation of a historic district under this historic preservation chapter and that historic district is

not to be construed as a zoning district under the village zoning laws. Nothing contained in this historic preservation chapter shall be construed as authorizing the Commission to adopt a law, by-law or regulation that regulates or limits the height and bulk of buildings, regulates and determines the area of yards, courts and other open spaces, regulates density of population or regulates or restricts the locations of trades and industries or creates zoning districts for any such purpose.

(Ord. 1-2024, passed 2-12-2024)

§ 155.04 CERTIFICATE OF APPROPRIATENESS FOR ALTERATION, DEMOLITION, OR NEW CONSTRUCTION AFFECTING LANDMARKS OR HISTORIC DISTRICTS.

(A) No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or property within an historic district, nor shall any person make any material change in the appearance of such a property, including, but not limited to, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affects the appearance and cohesiveness of the historic district, without first obtaining a certificate of appropriateness from the Village Board of Trustees, after recommendation from the Commission.

(B) When determining whether or not a certificate of appropriateness will be granted, the Village Board of Trustees and the Commission shall not consider changes to interior spaces, unless they are open to the public. The Village Board of Trustees and the Commission shall have discretion to consider whether the proposed alteration, repair or renovation which is the subject of the certificate of appropriateness is visible from a public street or alley. The Commission's decisions shall be based upon the following principles:

- (1) Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
- (2) Any alteration of existing properties shall be compatible with its historic character, as well as with the surrounding district;
- (3) New construction shall be compatible with the district in which it is located.
- (4) In applying the principles of compatibility, the Commission shall consider the following factors:
 - (a) The general design, character and appropriateness to the property of the proposed alteration or new construction;
 - (b) The scale of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
 - (c) Texture and materials of the proposed alteration or new construction, as well as the materials' inherent color, and their relation to similar features of other properties in the neighborhood;
 - (d) 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
 - (e) The importance of historic, architectural or other features to the significance of the property.

(C) *Application procedure for certificate of appropriateness.* Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Historic Preservation Commission. The application shall contain:

- (1) Name, address and telephone number of applicant;
- (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) 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;
- (6) Sample(s) of color and/or materials to be used;
- (7) Any other customary and reasonable information which the Village Board of Trustees and Commission may deem necessary in order to visualize the proposed work.

(D) *Commission recommendation; public hearing; Village Board determination.*

- (1) The Commission may recommend approval, approval with modifications or denial of the application within 62 days of the submission of the application.
- (2) After receipt or recommendation from the Commission, the Village Board of Trustees shall hold a public hearing on the application.
- (3) All decisions of the Village Board of Trustees shall be in writing. A copy shall be sent to the applicant and a copy

filed with the Village Clerk's office for public inspection.

(4) Expiration of approval shall be 24 months from the date of issuance of the certificate of appropriateness, unless work has commenced. This may be extended by the Village Board for good cause.

(Ord. 1-2024, passed 2-12-2024) Penalty, see § 155.99

§ 155.05 CRITERIA AND DESIGNATION OF LANDMARKS OR HISTORIC DISTRICTS.

The Commission shall delineate landmarks or historic districts and recommend them to the Village Board of Trustees for designation under local law.

(A) *Individual landmark.* The Commission may recommend that the Village Board of Trustees delineate an individual property as an individual landmark if it:

(1) Exemplifies or possesses special character, or historic or aesthetic interest of value as part of the political, economic, or social history of the village;

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

(3) Embodies the distinguishing characteristics of a type, period or method of construction or design style, or is a valuable example of the use of indigenous materials or craftsmanship; or is representative of the work of a designer, architect or builder;

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

(5) Has yielded or may be likely to yield information important in prehistory or history.

(Ord. 1-2024, passed 2-12-2024)

§ 155.06 HISTORIC DISTRICT.

The Commission may recommend to the Village Board of Trustees designation of a group of properties within the village as an historic district if a majority of properties therein:

(A) Contain properties which meet one or more of the criteria for designation as a landmark and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district; and

(B) Constitute a unique section of the village by reason of possessing those qualities that would satisfy such criteria.

(Ord. 1-2024, passed 2-12-2024)

§ 155.07 INTERIOR LANDMARK.

The Commission may recommend that the Village Board of Trustees delineate the interior of a property as an interior landmark if such interior has special historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the village, state or nation and:

(A) It is customarily open or accessible to the public; or

(B) It is an interior into which the public is customarily invited.

(Ord. 1-2024, passed 2-12-2024)

§ 155.08 SCENIC LANDMARK.

The Commission may recommend designation or delineation a landscape feature or group of features. Recommendations for designation must be accompanied by such historical and architectural information as is required by the Commission to make an informed recommendation concerning the application, together with any fee set by the Village Board of Trustees. The boundaries of each landmark, interior landmark, scenic landmark or historic district shall be specified in detail with reference to the tax map identification number and shall be filed, in writing, in the Office of the Franklinville Village Clerk ("Village Clerk") and there made available for review by the public.

(Ord. 1-2024, passed 2-12-2024)

§ 155.09 NOTICE AND HEARING REQUIREMENTS FOR PROPOSED DESIGNATION.

The Commission shall recommend that the Village Board of Trustees delineate individual landmarks or historic districts in the following manner:

(A) *Initiation of proposed designation.* Designation of an individual historic landmark or historic district may be proposed

by the Commission, by the owner of the property, or by any resident of the village;

(B) *Public hearing; general notice.*

(1) Within a reasonable time after receipt of a full application or other matter referred to it, the Commission shall schedule a public hearing on all proposed resource, individual, landmark or historic district designations. Public notice of any such hearing shall be given by publication in the official village newspaper at least 15 days prior to the public hearing date.

(2) The Commission shall require submission of written comments on the application prior to designation of any landmark, interior landmark, scenic landmark or historic district.

(3) The Commission, property owners, and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance of the proposed resource, individual, landmark or historic district.

(Ord. 1-2024, passed 2-12-2024)

§ 155.10 NOTICE OF PUBLIC HEARING; MULTIPLE PROPERTIES PROPOSED FOR DESIGNATION.

(A) Notice of public hearing for a proposed designation involving no more than ten properties shall be sent by certified mail/return receipt requested or courier service with proof of delivery or personal service with proof of delivery to the owners of properties located within the area of the proposed historic district at least 15 days prior to the date of the public hearing. Such notice shall include a description of the properties proposed for designation and state the time and place where any public hearing to consider such designation will be held by the Commission.

(B) *Work moratorium.* Once the Commission has issued notice of a proposed designation it may recommend to the Village Board of Trustees that a moratorium be put in place, prohibiting any work relating to the individual landmark or district proposed for designation as long as the proposed designation is under active consideration by the Commission and until the Commission has made its decision on designation.

(C) *Commission record.* The Commission shall compile a public record in support of its delineation of a resource, landmark or historic district. In addition to testimony or documentary evidence received at any public hearing, the record may also contain reports, public comments, expert testimony, or other evidence offered outside of the hearing, but submitted for the Commission's consideration by the date of the hearing. At a minimum, the record of the delineation shall contain the application, Commission and/or staff reports, any comments made on the application at the public hearing, and the Commission's recommendation to the Village Board of Trustees to approve, approve with modifications, or deny the application requesting designation.

(D) *Village Board of Trustees decision.* Within 62 days after the close of the public hearing, the Village Board of Trustees shall by resolution undertake a designation in whole or in part, or shall disapprove in entirety, setting forth in writing the reasons for the decision. Notice of the Village Board of Trustees' designation shall be sent by the Village Clerk to the applicants and owners of a designated property by certified mail return receipt requested or in the case of an approved historic district, notice shall be sent by the Commission to the applicants and owners of all properties within the approved district by certified mail return receipt requested.

(E) The Commission may agree with the applicant in writing to extend the time period within which a recommendation will be made.

(F) The Village Clerk shall forward notice of each property designated as an individual landmark and the boundaries of each designated historic district to the Franklinville Village Building Department and the Commission.

(G) *Failure to send notice.* Failure to send any notice by mail to any property owners where the address of such owner is not a matter of property tax records shall not invalidate any proceedings in connection with the proposed designation.

(H) *Amendment or rescission.* The Commission may amend or rescind any designation of an individual landmark or historic district in the same manner and procedure as followed for designation.

(Ord. 1-2024, passed 2-12-2024)

§ 155.11 AFFIRMATIVE MAINTENANCE AND REPAIR REQUIREMENT.

(A) *Ordinary maintenance; repair.*

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

(2) The Commission may evaluate and decide, without public hearing, whether or not proposed work constitutes ordinary maintenance and repair or requires a certificate of appropriateness.

(B) No owner or person with an interest in real property designated as an individual landmark or included within an historic district shall permit the property to fall into a serious state of disrepair. Maintenance shall be required, consistent with the Property Maintenance Code of New York State Uniform Fire Prevention and Building Code and all other applicable local regulations.

(C) Every owner or person in charge of an improvement on a landmark site or in an historic district shall keep in good repair:

(1) All of the exterior portions of such improvements and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to deteriorate, decay or become damaged or otherwise to fall into a serious state of disrepair. Examples of types of prohibited disrepair include, but are not limited to:

- (a) Deteriorated or crumbling exterior plasters, mortar or facades;
- (b) Deteriorated or inadequate foundation;
- (c) Defective or deteriorated flooring or floor supports or any structural floor members of insufficient size to carry imposed loads with safety;
- (d) Deteriorated walls or other vertical structural supports that split, lean, list or buckle due to defective material or deterioration;
- (e) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration or are of insufficient size to carry imposed loads;
- (f) Ineffective or inadequate waterproofing of exterior walls, exterior chimneys, roofs, foundations or floors, including windows or doors, which may cause or tend to cause deterioration, decay or damage;
- (g) Defective or insufficient weather protection for roofs, foundation or exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering, which may cause or tend to cause deterioration, decay or damage;
- (h) Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with safety;
- (i) Any fault or defect in the building or structure which renders it not properly watertight or otherwise compromises the life and character of the building or structure.

(2) *Interiors.* Every owner or person in charge of an improvement to an interior landmark shall keep in good repair:

- (a) All portions of such interior landmark; and
- (b) All other portions of the improvement which, if not so maintained, may cause or tend to cause the interior landmark contained in such improvement to deteriorate, decay, or become damaged or otherwise to fall into a serious state of disrepair.

(3) Every owner or person in charge of a scenic landmark shall keep in good repair all portions thereof.

(Ord. 1-2024, passed 2-12-2024) Penalty, see § 155.99

§ 155.12 ENFORCEMENT AND VIOLATIONS.

(A) All work performed pursuant to a certificate of appropriateness issued under this chapter shall conform to the requirements expressly stated in the certificate or reasonably implied therefrom. It shall be the duty of the building inspector to periodically inspect any such work to assure compliance with the certificate and all applicable law. In the event any requirement included in the certificate of appropriateness has not been met, or upon notification of that fact by the Historic Preservation 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.

(B) Any owner or person in charge of a property who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this chapter in the absence of a certificate of appropriateness, a finding of economic hardship, or other approval by the Commission, may be required by the Franklinville Village Board to restore the property and its site to its appearance prior to the violation.

(C) If, in the judgment of the Commission, a violation of this chapter exists that will result in a detrimental effect upon the life and character of a designated historic resource, landmark, property or on the character of a historic district as a whole, the Commission shall notify the Village Code Enforcement Officer. If, upon investigation, the Village Code Enforcement Officer finds non-compliance with the requirements of the Property Maintenance Code of the New York State Fire Prevention and Building Code, or any other applicable law or regulation, the Village Code Enforcement Officer shall order such remedies as are necessary and consistent with this chapter and shall provide written notice thereof to the secretary of the Commission.

(D) The Commission shall notify the Village Board of Trustees of an enforcement matter arising under this chapter and shall refer it to the Village Attorney. Action to enforce this chapter shall be brought by the Village Attorney or other attorney designated by the Village Board of Trustees. Civil remedies authorized under this chapter shall be in addition to and not in lieu of any criminal prosecution and penalty.

(Ord. 1-2024, passed 2-12-2024)

§ 155.13 APPROVAL AUTHORITY; ADVISORY AUTHORITY.

Notwithstanding anything contained herein to the contrary, the Village Board of Trustees shall have final approval power for all approvals, permits or other binding actions set forth herein. The Commission shall be advisory only for all approvals, permits or other binding actions set forth herein.

(Ord. 1-2024, passed 2-12-2024)

§ 155.14 COMPLIANCE WITH NEW YORK STATE CERTIFIED LOCAL GOVERNMENT REQUIREMENTS.

This chapter, the Village Board of Trustees, the Commission and all applicable village officials shall comply with the regulations required by the New York State Office of Parks, Recreation and Historic Preservation to be a Certified Local Government.

(Ord. 1-2024, passed 2-12-2024)

§ 155.99 PENALTY.

A violation of this chapter is deemed an offense punishable by a fine, imprisonment or both, as follows:

(A) *First offense.* A first conviction for violation of this chapter may result in a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both;

(B) *Second offense.* A second conviction for violation of this chapter, if the occurrence that leads to conviction began within a period of five years from the date of first conviction, may result in a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both;

(C) *Third offense.* A conviction for a third or subsequent offense all of which were committed within a period of five years from when the occurrence leading to the first conviction began, shall include a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both.

(D) In addition to any penalties imposed under this chapter, continued violations of this chapter shall be punishable in any other manner provided under other local regulations, and state and federal law.

(Ord. 1-2024, passed 2-12-2024)