

ARTICLE VII: HISTORIC PRESERVATION

Section 7.01 – Purpose

- A. Within the Village of Aurora there exist individual landmarks, scenic landmarks, and historic districts of special historic significance, which by reason of their history, antiquity, uniqueness, architecture and/or character contribute to a strong sense of identity within this community and provide tangible linkages to the Village's historic, architectural, and cultural heritage.
- B. The Village of Aurora believes it important to afford proper recognition to these historic landmarks and to protect them from incompatible alterations or demolition and maintain them for the continuing recognition, use and enjoyment of current and future residents and visitors of the Village. In doing so, it is also expressly the intent of the Village of Aurora not to affect, abridge, limit or change in any way the uses permitted by the zoning regulations as applicable to such properties.
- C. By the enactment of this Article, it is the Village's intention to meet these objectives and those set forth by the Village in its Comprehensive Plan by:
 - 1. Emphasizing as a statement of local policy that the conservation, protection, enhancement and preservation of such historic landmarks is necessary to promote the cultural, economic, educational and general welfare of the Village's residents;
 - 2. Encouraging the identification and recognition of historic resources which represent distinctive elements of historic, architectural, and cultural heritage;
 - 3. Providing for the careful, thoughtful and informed evaluation of any proposed demolition or removal or alteration of the facade of any historic landmark affected by this Article;
 - 4. Promoting heritage tourism; and
 - 5. Maintaining visual compatibility with the historic character of neighboring properties in public view.

Section 7.02 – Authorization

- A. New York State General Municipal Law Chapter 24, Article 5, Section 96-a, Protection of historical places, buildings and works of art states: "In addition to any power or authority of a municipal corporation to regulate by planning or zoning laws and regulations or by local laws and regulations, the governing board or local legislative body of any county, city, town or village is empowered to provide by regulations, special conditions and restrictions for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, works of art, and other objects having a special character or special historical or aesthetic interest or value. Such regulations, special conditions and restrictions may include appropriate and reasonable control of the use or appearance of neighboring private property within public view, or both. In any such instance such measures, if adopted in the exercise of the police power, shall be reasonable and appropriate to the purpose, or if

constituting a taking of private property shall provide for due compensation, which may include the limitation or remission of taxes.”

Section 7.03 – Scope, Exceptions

- A. This Article shall apply to all designated historic landmarks and historic districts as defined in Section 7.04 herein. No changes in any exterior architectural feature, including but not limited to construction, reconstruction, alteration, renovation, restoration, removal, or demolition, shall be made except as hereinafter provided.
- B. Ordinary Maintenance; Repair.
 - 1. Nothing in this Article shall be construed as preventing the ordinary maintenance and repair of any exterior architectural feature of a designated individual historic landmark or property within a historic district that does not involve a change in design, building materials, or the outward appearance thereof.
 - 2. For the purposes of this Article, painting a previously painted exterior historic landmark structure or feature, whether in the same or different color, will be considered ordinary maintenance.
 - 3. Nothing in this Article shall be construed as preventing the construction, reconstruction, alteration or demolition of any exterior architectural feature of an individual historic landmark that the Zoning Officer shall certify is required for public safety because of dangerous or unsafe conditions.
 - 4. The Community Preservation Panel may evaluate and decide, without public hearing, whether or not proposed work constitutes ordinary maintenance and repair or requires a certificate of appropriateness.

Section 7.04 – Definitions

- A. When used in this article, unless a different meaning clearly appears from the context, the terms listed below shall have the following meanings:

Acquisition: The act or process of acquiring fee title or interest other than fee title of real property, including acquisition of development rights or remainder interest.

Adaptive Reuse: The conversion of existing historic buildings or structures from their original or most recent use to a new use while retaining exterior historic features. For example, the conversion of former hospital or school buildings to residential use, or the conversion of a historic single-family home to an office use.

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.

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.

Built Environment: The sum total of human constructions, including buildings, outbuildings, walls, fences, steps, earthworks, paving and signs.

Certificate of Appropriateness: A certificate issued by the Community Preservation Panel stating that the proposed work on an designated historic landmark is compatible with the historic character of the property and thus in accordance with the provisions of this Article and therefore: (1) the proposed work may be completed as specified in the certificate; and (2) the Planning Board and Zoning Board of Appeals may make any necessary approvals and the Code Enforcement Officer and Zoning Officer may issue any permits needed to do the work specified in the Certificate.

Certificate of Economic Hardship: A certificate issued by the Community Preservation Panel 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. The Certificate of Economic Hardship is used to ensure that the preservation of a historical resource is economically feasible.

Change: Any alteration, demolition, removal, or construction involving any property subject to the provisions of this Article.

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.

Community Preservation Panel: The public body established pursuant to Section 19.01 of this Local Law that has been given the powers and duties as prescribed in this Article by the Village of Aurora Board of Trustees.

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 Code Enforcement Officer allowing the permittee to demolish a building or structure, after having received a Certificate of Demolition approval from the Community Preservation Panel.

Exceptional Importance: Historical significance due to an association with an extraordinarily important aspect of the past or existence in a category of resources so fragile that survivors of any age are unusual. Exceptionally important resources may be significant at the local, state, or national level.

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 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: Any area which: (1) has a special character or special historical, archeological, architectural, or cultural value; or (2) represents one or more periods or styles of architecture typical of one or more eras; and (3) causes such area, by reason of such factors, to constitute a distinct section. More specifically, Historic Districts are districts which have been listed on either the New York State or National Register of Historic Places, or which have been designated by the Village of Aurora Board of Trustees as historic district in accordance with the provisions of this Article. The Aurora Village-Wells College Historic District is such a district.

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: Any building, structure, district, area, site, or object including underground and underwater sites, that is of significance in the history, architecture, archeology or culture of the state, its communities, or the nation. More specifically, Historic Landmarks are those items previously stated which have been listed on either the New York State or National Register of Historic Places, or which have been designated by the Village of Aurora Board of Trustees as either an individual landmark, scenic landmark, historic district, or notable tree in accordance with the provisions of this Article.

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 in Section 7.05.

Historic Resources Survey: Means (1) the process of systematically identifying, researching, photographing, and documenting historic resources within a defined geographic area, and (2) the resulting list of evaluated properties that may be consulted for future designation. For the purpose of this Article, all surveys shall be conducted in accordance with the Secretary of the Interior's Standards and Guidelines for Identification and Evaluation, as may be amended.

Historic Significance: The quality of a place, site, building, district, natural features, or structure based upon its identification with important historic persons, periods or events in the Village of Aurora.

Individual Landmark: Any building, structure or site that has been designated as a “landmark” by the Village of Aurora Board of Trustees, pursuant to procedures proscribed in Section 7.06 that is worthy of preservation, restoration or rehabilitation because of its historic or architectural significance.

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.

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 U.S.C. 470 et seq., 36 C.F.R. Sections 60, 63), as may be amended.

Notable Tree: Any trees which has been designated as a scenic landmark by the Village of Aurora Board of Trustees, pursuant to procedures proscribed in Section 7.06 that is worthy of preservation because of its age and/or historic significance.

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.

Ordinary Maintenance and Repair: Work on a historic resource that (1) does not, by law, require issuance of a permit or Certificate of Appropriateness; (2) involves regular, customary, or usual care of an existing building, structure, object, or site, for the purposes of preserving the property and maintaining it in a safe and sanitary condition; and (3) does not involve a change of design, material, or appearance of the property.

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.

Reconstruction: The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

Registered Property: Any historic place or property within the boundaries of the state nominated by the commissioner for listing on the National Register of Historic Places or listed on the New York State Register of Historic Places established pursuant to section 14.07 of New York State Parks, Recreation and Historic Preservation Law Chapter 36-B, Title C, Article 14.

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.

Replacement-in-Kind: When replacement of a feature on any structure within the historic district is necessary, the new feature must “match the old in composition, design, color, texture, and other visual properties, and, *where possible*, materials, e.g. “wood to wood” (emphasis added). While the use of matching materials to replace historic ones is always preferred under the Standards for Rehabilitation, the Standards also recognize that flexibility may be needed when it comes to new and replacement materials as part of a historic rehabilitation project. Substitute materials that closely match the visual and physical properties of historic materials can be successfully used on rehabilitation projects.

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. For the purposes of this Article, notable trees shall be considered Scenic Landmarks.

Secretary of the Interior's Standards for the Treatment of Historic Properties: Principles developed by the National Park Service (36 C.F.R. 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 Local Law as "Secretary of the Interior's Standards."

Setting: The setting is the larger area or environment in which a historic building is located. It may be an urban, suburban, or rural neighborhood or a natural landscape in which buildings have been constructed. The relationship of buildings to each other, setbacks, fence patterns, views, driveways and walkways, and street trees and other landscaping together establish the character of a district or neighborhood.

Significant: Having particularly important associations with the contexts of architecture, history, and culture.

Site, Historic: The building site consists of a historic building or buildings, structures, and associated landscape features and their relationship within a designed or legally-defined parcel of land. A site may be significant in its own right or because of its association with the historic building or buildings.

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.

State Register: The State Register of Historic Places established pursuant to section 14.07 of New York State Parks, Recreation and Historic Preservation Law Chapter 36-B, Title C, Article 14.

Style of Architecture: A style recognized by one (1) of the following organizations:

1. The National Register of Historic Places.
2. Historic American Buildings Survey.
3. Historic American Engineering Record, United States Department of the Interior, National Park Service.
4. New York State Office of Parks, Recreation and Historic Preservation.
5. National Trust for Historic Preservation.
6. Society of Architectural Historians.

Section 7.05 – Designation of Landmarks or Historic Districts, Criteria

- A. The natural and built environment of the Village of Aurora, as a rural village sited along Cayuga Lake, has significance extending beyond the Village of Aurora-Wells College Historic District as delineated in 1980. This environment includes homes and sites associated with the Cayuga Nation of the Haudenosaunee, settlers, those who arrived enslaved, freedom seekers, immigrants, and others who made possible the growth and sustenance of the community. Therefore, the Community Preservation Panel may review places, sites, buildings, structures, and other objects throughout the village in order to determine if said resources should be so designated and shall make such recommendation to the Village Board of Trustees.
- B. The Panel is responsible for recommending to the Village Board of Trustees the designation of identified structures or resources as individual landmarks, scenic landmarks, or historic districts within the Village as provided below.
 1. Individual Landmark: The Panel may recommend for designation an individual property as an individual landmark if it:
 - a. Qualifies for inclusion on the New York State or National Registers of Historic Places;
 - b. Exemplifies or possesses special character, or historic or aesthetic interest of value as part of the political, economic, or social history of the Village of Aurora;
 - c. Is identified with persons or events significant in local, state, or national history;
 - d. Embodies the distinguishing characteristics of a type, period or method of construction or design style, or is a valuable example of the use of indigenous materials or craftsmanship; or is representative of the work of a designer, architect or builder;
 - e. 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
 - f. Has yielded or may be likely to yield information important in prehistory or history.
 2. Scenic Landmark: The Panel may recommend for designation a landscape feature or group of features. Recommendations for designation must be accompanied by such historical and architectural information as is required by the Panel to make an informed recommendation concerning the application.
 3. Historic District: The Panel may recommend for designation a group of properties within the village as a historic district if a majority of properties therein:
 - a. Meet one or more of the criteria for designation as an individual 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 of Aurora by reason of possessing those qualities that would satisfy such criteria.

- C. The boundaries of each individual landmark, scenic landmark, or historic district shall be specified in detail with reference to the tax map identification number(s) and shall be filed, in writing, in the Village Clerk's office and there made available for review by the public.
- D. Ordinarily, properties that have achieved significance within the past fifty (50) years shall not be considered eligible for designation under this Article. However, such properties will qualify if they are:
 - 1. Integral parts of historic districts that meet the criteria for designation; or
 - 2. If they are properties of exceptional importance.

Section 7.06 – Designation of Landmarks or Historic Districts, Process

- A. Historic landmarks and historic districts may be designated by the Village Board of Trustees upon the recommendation of the Community Preservation Panel. The Panel shall consider and recommend such designations in the following manner:
 - 1. Initiation of Proposed Designation. Designation of a historic landmark or a historic district may be proposed by the Community Preservation Panel, by the owner(s) of the property, or by any resident of the Village of Aurora.
 - 2. Application and Community Preservation Panel Review Procedure. An application for the designation of an individual landmark, scenic landmark or historic district in the Village of Aurora shall be submitted to the Community Preservation Panel for review and consideration. In the event that the Panel initiates a proposed designation, a member of the Panel shall fill out and submit said application in order to create an official record of the proposal.
 - a. Public Hearing.
 - i. Within sixty-two (62) days after receipt of a complete application for designation, the Panel shall hold a public hearing on the proposed individual landmark, scenic landmark, or historic district designation.
 - ii. Notice of Public Hearing; One (1) Property or Structure Proposed for Designation. The following notice requirements shall apply for all individual landmarks and scenic landmarks:
 - [a] The Panel shall publish a public hearing notice in the Village's official newspaper and post in any other location/media that the Village deems appropriate and necessary at least **five (5)** business days prior but not more than thirty (30) calendar days prior to the date fixed for public hearing. Such notice shall include a description of the property(s) proposed for designation and state the time and place where the public hearing to consider such designation will be held by the Panel.
 - [b] The Panel shall send by **email or** certified mail a copy of the public notice to all owners of parcels that are immediately adjacent to and extending 500 feet therefrom, or of that directly opposite thereto, extending 500 feet from the street frontage of the parcel(s) of land included in the application for the

proposed designation of an individual landmark, scenic landmark, or historic district at least **five (5)** business days prior to the date of such public hearing. **If email is not confirmed by the recipient within 48 hours, notice must be sent via certified mail.** Such notice shall include a description of the property(s) proposed for designation and state the time and place where the public hearing to consider such designation will be held by the Panel.

- iii. Notice of Public Hearing; Multiple Properties Proposed for Designation. The following shall apply for historic districts:
 - [a] Ten (10) properties or less: Notice of public hearing for a proposed designation involving no more than ten (10) properties shall be sent in accordance with subparagraph ii,[a] and ii,[b] above.
 - [b] More than ten (10) properties: Where the proposed designation of a historic district includes more than ten (10) properties and the Panel deems individual notice infeasible, notice may instead be published at least once in accordance with subparagraph ii,[a] above only with no direct mail requirement. Additionally, the Panel shall post a copy of the notice in at least one (1) conspicuous location visible to the public within the boundaries of the proposed historic district; and shall make a concerted effort to inform as many affected and adjacent property owners about the public hearing as possible.
- iv. The Panel shall allow for the submission of written comments on the application prior to and during the public hearing. Any written comments submitted prior to the public hearing ~~shall be read aloud during the meeting by the Panel and~~ shall become part of the official record for the proposed designation **and posted with the minutes on the village website.**
- v. The Panel, property owners, and any interested parties may present testimony or documentary evidence at the public hearing which shall become part of the official record regarding the historic, architectural, or cultural importance of the proposed individual landmark, scenic landmark, or historic district.
- b. Community Preservation Panel Record. The Panel shall compile a public record in support of its recommendation to designate an individual landmark, scenic landmark, or historic district. In addition to testimony or documentary evidence received at any required meeting, the record may also contain reports, public comments, expert testimony, or other evidence offered outside of the meeting, but submitted for the Panel's consideration by the date of the meeting. At a minimum, the record of the proposed designation shall contain the application, Panel and/or staff reports, any comments made on the application at the required meeting, and the Panel's recommendation to approve, approve with modifications, or deny the application requesting designation.
- c. Community Preservation Panel Decision. Within sixty-two (62) days after the close of the public hearing, the Panel shall by resolution recommend a designation in whole

or in part, or shall disapprove in entirety, setting forth in writing the reasons for the recommendation. Notice of the Panel's recommendation shall be sent to the applicant(s) and owner(s) of the subject property(s), or in the case of a historic district, notice shall be sent to the applicants and owners of all properties within the subject district. The Panel shall submit a copy of their recommendation accompanied by a complete copy of their record as described in subparagraph b above to the Village Board of Trustees within this same sixty-two (62) day timeframe.

3. Village Board of Trustees Approval: ~~Upon receipt of the written report of the Community Preservation Panel, the Village Board of Trustees shall schedule a public hearing thereof and inform in writing the owner(s) of the property(s) thus nominated in the same manner as required in subparagraphs 2,a,ii and 2,a-iii above.~~
- a. If after the aforesaid **Community Preservation Panel** public hearing, the Village Board of Trustees desires to designate a particular place, site, building, structure, tree and/or other object as an individual landmark, scenic landmark, or historic district, the Village Board of Trustees shall designate the same by enacting a Local Law to accomplish such purpose.
 - b. Upon the effective date of such Local Law, the Village Clerk shall make appropriate notations and references to the location of the designated individual landmark, scenic landmark, or historic district on the Historic Resource Map attached to this Zoning Law as Appendix IV; and shall forward a copy of such to the Community Preservation Panel, Planning Board, Zoning Board of Appeals, Code Enforcement Officer, and Zoning Officer.
 - c. The Community Preservation Panel shall assist the Village Clerk with maintaining a Register of Historic Landmarks both as a list and a map of all landmarks and districted listed on the State or National Register as well as any that are designated in accordance with this Article. Such Register is attached to this Zoning Law as Appendix IV. The Register shall be updated from time to time as required with the date of the most recent edition clearly marked on it.
4. Amendment or Rescission. The Village Board of Trustees may amend or rescind any designation of an individual landmark, scenic landmark, or historic district in the same manner and procedure as are followed for designation as prescribed herein.

Section 7.07 – Certificate of Appropriateness for Alteration, Demolition, New Construction, or Relocation Affecting Individual Landmarks, Scenic Landmarks, or Historic Districts

- A. The Community Preservation Panel is responsible for the approval or disapproval of proposals for exterior changes to an individual landmark, scenic landmark, or historic district designated in accordance with this Article. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction to, or relocate a designated historic landmark or property within a designated historic district without first obtaining a Certificate of Appropriateness that authorizes such work from the Community Preservation Panel. The Certificate of Appropriateness required by this Article shall be in

addition to, and not in lieu of, any building permit, Special Use Permit, Site Plan approval, Area Variance or Use Variance as required by the Village of Aurora Zoning Law or the, New York State Uniform Fire Prevention and Building Code.

- B. The requirements for Certificates of Appropriateness apply to all designated landmarks within the village regardless of ownership, including those which may be owned by the Village of Aurora.

Section 7.08 – Criteria for Certificates of Appropriateness

- A. Certificate of Appropriateness; General Criteria. The Community Preservation Panel shall approve the issuance of a certificate of appropriateness only if it determines that the proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the individual landmark or scenic landmark, or if the proposed work is within a historic district, on the neighboring properties in such district.
- B. Alteration or New Construction. In making this determination, the Panel's decision to approve, approve with modification(s) or deny an application for a certificate of appropriateness for exterior alteration or new construction to an individual landmark or scenic landmark will be guided by the Secretary of the Interior's ~~Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1983)~~ Standards for the Treatment of Historic Properties: (36 C.F.R. 68.3, as may be amended) and the following principles:
 - 1. The distinguishing original qualities or character of a building, structure, or site and its environment should not be destroyed, and therefore the removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
 - 2. Changes that may have taken place in the course of time to a building, structure, or site and its environment are evidence of its history and development. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 - 3. Whenever possible, deteriorated architectural features should be repaired rather than replaced. In the event replacement is necessary, the composition, design, texture and other visual qualities of the new material should match as closely as possible the material being replaced.
 - 4. Repair or replacement of missing architectural features should be substantiated by historic, physical, or pictorial evidence, rather than based on conjectural designs or the availability of different architectural elements from other buildings or structures.
 - 2. New additions or alterations to structures should, whenever possible, be done in such a manner that if such additions or alterations were removed in the future, the essential form and integrity of the structure would be unimpaired.
 - 3. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure or site should be treated with sensitivity.
 - 4. The surface cleaning of a structure shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials should not be undertaken.

5. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, material and character of the property, neighborhood or environment.
 6. Alterations that seek to create an appearance earlier than (or older than) that of the original structure shall be discouraged.
 7. Every reasonable effort should be made to use a property for its originally intended purpose, or in the event when that is not possible, to provide a compatible use that requires minimal alteration of the building, structure, or site and its environment.
- C. Additionally, the Panel's decision to approve, approve with modification(s) or deny an application for a certificate of appropriateness for an improvement or property located within a historic district shall be based on the following principles:
1. Properties which contribute to the character of the historic district shall be retained, with their exterior historic features altered as little as possible.
 2. Any exterior alteration of existing properties shall be compatible with the surrounding historic district;
 3. New construction shall be compatible with the historic district in which it is located.
- D. In applying the principle of compatibility set forth in subsections B and C above, the Panel shall consider the following factors:
1. The general design and character of the proposed alteration or new construction relative to existing exterior features of the property or improvement;
 2. The scale and visual compatibility of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
 3. Texture and materials, and their relation to similar exterior features of the property and other properties in the neighborhood;
 4. Visual compatibility with surrounding properties, including proportion of the property's 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 exterior historic physical and visual features to the significance of the property.
- E. In approving an application for a certificate of appropriateness, the Panel shall find that the building or structure for which the certificate was requested, if erected or altered in accordance with the submitted plan or with stated modifications, would be consistent with the spirit and intent of this Article, would not be visually offensive or inappropriate by reason of poor quality of exterior design, monotonous similarity or visual discord in relation to the sites or surroundings, would not mar the appearance of the area, would not impair the use, enjoyment and desirability or reduce the values of properties in the area, would not be detrimental to the character of the neighborhood, would not prevent an appropriate development and utilization of the site or of adjacent lands and would not adversely affect

the functioning economic stability, prosperity, health, safety and general welfare of the community.

- F. Where the Panel grants a certificate of appropriateness under circumstances where the permitted activity is likely to uncover or affect archaeological resources, the Panel shall require reasonable efforts to protect and preserve such resources. Where such protection and preservation is not feasible, the Panel shall nonetheless impose appropriate and reasonable conditions to insure that the archaeological resource is made accessible for a reasonable period to qualified persons.
 - 1. Burials. The long history of human occupancy in the Village renders possible the discovery of human remains in the course of excavation or construction. In the event that human remains are encountered during construction or archeological investigations, the New York State Office of Parks, Recreation and Historic Preservation protocols shall be followed, a copy of which is on file with the Community Preservation Panel and the Village Clerk.
- G. In approving an application for a certificate of appropriateness, the Panel shall not consider changes to interior spaces.
- H. Demolition or Relocation. In making this determination, the Panel's decision to approve, approve with modification(s) or deny an application for a certificate of appropriateness for the demolition, relocation, or removal of a portion or all of an exterior feature or structure that is **located within the historic district or is** part of an individual or scenic landmark shall be based on the following:
 - 1. The **property or** landmark is of such architectural or historic interest that its demolition, relocation or removal would be to the detriment of the public interest;
 - 2. Retention of the **property or** landmark in its current form or location is important to the Village's history or character;
 - 3. The **property or** landmark is of such old and unusual or uncommon design, texture and material that it could not be reproduced or be reproduced only with great difficulty;
 - 4. Retention of the **property or** landmark would help preserve and protect a historic place or area of historic interest in the Village; and
 - 5. Retention of the **property or** landmark will promote the general welfare by maintaining and increasing real estate values and encourage interest in American and local history and architecture.
- I. If the Community Preservation Panel determines that an application for certificate of appropriateness for demolition, relocation, or removal should be denied, the applicant may apply for relief on the ground that the determination results in a hardship in accordance with the procedures in Section 7.13.

Section 7.09 – Certificates of Appropriateness Application Procedure

- A. Prior to the commencement of any work requiring a certificate of appropriateness, the property owner shall file an application for a building permit with the Code Enforcement Officer and an application for such certificate with the Community Preservation Panel.
- B. Application for a Certificate of Appropriateness shall be made to the Community Preservation Panel, in writing, upon forms prescribed by the Panel and available in the Village Clerk's office, and shall contain the following, where appropriate:
 - 1. The name, mailing address, email address and telephone number of the applicant, and of the owner if the applicant is not the owner;
 - 2. Signed, written permission of the owner if the applicant is not the owner;
 - 3. The Tax Map number and street address location of the building, structure or land the exterior architectural features of which are proposed to be changed;
 - 4. The building permit application number as assigned by the Code Enforcement Officer;
 - 5. The name, mailing address, email address and telephone number of the individual, contractor, or corporation performing the proposed work;
 - 6. A brief description of the nature of the work proposed, and elevation drawings, if available;
 - 7. A brief description of the history of the recent (i.e., past 10 years) use, occupancy and ownership of the property;
 - 8. Photographs of each side of the landmark;
 - 9. Plans and elevations of the proposed change which also show all existing and proposed structures on the site;
 - 10. Perspective drawing(s) of the proposed change, including relationship to adjacent properties, if available;
 - 11. Samples of exterior building materials to be used;
 - 12. Where a proposed change includes signs or lettering, the following additional material shall be supplied:
 - a. a scale drawing showing kind of lettering;
 - b. all dimensions;
 - c. a description of materials to be used and method of illumination, if any; and
 - d. a plan showing location on building or property.
 - e. For additional regulations for signs, see Article XII.
 - 13. Application fee receipt;
 - 14. All completed forms and supplemental information as required by Article 8 of the New York State Environmental Conservation Law, known as the State Environmental Quality Review Act, and regulations at NYCRR Part 617 adopted thereunder (collectively, "SEQRA"); and

15. Any additional information required by the Panel to make a determination on the application.
- C. Prior to application, consultations with the Community Preservation Panel are encouraged.
- D. Upon receipt of all the information required herein, the Panel shall deem the application complete and shall place the application on the agenda of the next meeting of the Panel when such application is received in the Village Clerk's office at least ten (10) business days before the next regular meeting. The Panel shall determine at that meeting if the application is complete. All applications must provide adequate information. Incomplete applications and applications failing to describe proposed work in detail sufficient for an adequate review may be subject to postponement or denial.
- E. Upon submission of a complete application, the ~~Panel~~ **code officer and CPP chair** shall have the authority to, without public hearing and notice:
1. Determine whether the proposed work constitutes ordinary maintenance and repair for which a certificate of appropriateness is not required **and allow work to proceed; or**
 2. **Refer to the Panel all applications which are not ordinary maintenance, for which the Panel may approve work and issue a Certificate of Appropriateness, as outlined in Section 7.10.** ~~which is considered replacement in-kind.~~
 3. **Include written documentation of their determination in the application file.**
- ~~F. The Community Preservation Panel shall provide a written report on all activities and decisions made in accordance with subsection E above to the Village Board of Trustees on a monthly basis.~~

Section 7.10 – Certificate of Appropriateness Approval Process

- A. The Community Preservation Panel shall hold a public hearing prior to rendering a decision on any application for a certificate of appropriateness which does not meet the exception standards in Section 7.09, E. Notice of the public hearing shall be published in a newspaper of general circulation in the Village at least ten (10) calendar days prior to the public hearing date. The notice shall specify the time and place of the public hearing, a brief description of the proposal, and the location where the proposal may be reviewed prior to the hearing. The property owner and any interested party may present testimony or documentary evidence regarding the proposal at the hearing, which will become a part of the record. The record may also contain staff reports, public comments, and other evidence offered outside of the hearing, but presented by the hearing date.
- B. Within sixty-two (62) days after the close of the public hearing the Panel shall approve, approve with conditions or modifications, request additional information, or deny the certificate of appropriateness. In making their decision the Community Preservation Panel shall determine:
1. Whether the proposed construction, reconstruction, renovation or alteration, or demolition of the exterior architectural feature involved will be appropriate to the overall preservation of the historic landmarks and districts within the Village for the purposes of this Article; and

2. Whether, notwithstanding that the proposed construction, etc. may be inappropriate owing to conditions affecting the structure involved, but not affecting the Village generally, failure to issue a Certificate of Appropriateness will impose a substantial hardship to the applicant and whether such a Certificate may be issued without substantial detriment to the public welfare and without substantial deviation from the intent and purposes of this Article.
- C. If no public hearing is held, the Panel must render a decision on the application within sixty-two (62) days following its receipt of a complete application.
- D. In the event, however, that the Panel shall make a finding of fact that the circumstances of a particular application require further time for additional study and information than can be obtained within the aforesaid sixty-two (62) day period after close of the public hearing, then the Panel shall have a period of up to one additional sixty-two (62) day period from the date of any such finding within which to act upon such an applications.
- E. All decisions of the Panel shall be in writing. The Chair of the Community Preservation Panel shall within five (5) business days after the Panel's decision was made, inform the applicant in writing of the decision, file a copy of the same with the Code Enforcement Officer, Zoning Officer, and the Village Clerk for public inspection. The Panel's decisions shall state the reasons for denying or modifying any application.
- F. If the Community Preservation Panel does not respond to the applicant within the time frames or in the manner prescribed within this Article, the applicant may proceed with the submitted plan.
- G. Where a Certificate of Appropriateness is required for a development project that also requires a Special Use Permit and/or Site Plan Review by the Planning Board, or an Area Variance by the Zoning Board of Appeals, the Community Preservation Panel shall coordinate with the relevant Board(s) to ensure that all required reviews and approvals are completed in a timely manner in accordance with the relevant provisions of this Local Law. In these instances, the Panel shall submit a copy of their decision to the appropriate Board in the same manner as required in Subsection E above.

Section 7.11 – Expiration and Extension of Certificate of Appropriateness Approval

- A. Certificates of appropriateness shall be valid for twenty-four (24) months, after which time the owner must reapply if he/she still wishes to undertake work on the property, unless an extension has been granted by the Community Preservation Panel following a written request by the applicant. An application for an extension of a certificate of appropriateness approval shall not be considered a new certificate of appropriateness application.

Section 7.12 – Alteration Hardship Process and Criteria

- A. An applicant whose certificate of appropriateness for a proposed exterior alteration of a landmark property has been denied may apply for relief on the ground of economic hardship. In order to prove the existence of economic hardship related to a proposed exterior alteration, the applicant shall establish that the denial of a certificate of

appropriateness will prevent the property owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.

- B. As promptly as is practicable after making a preliminary determination of hardship as provided in this Article, the Community Preservation Panel, with the aid of such experts as it deems necessary, shall, in consultation with the applicant, endeavor to develop a plan whereby the improvement may be preserved and perpetuated in such manner as to effectuate the purpose of this Article, and also rendered capable of earning a reasonable return.
- C. Consultation; Plan Development. The applicant shall consult in good faith with the Panel, local preservation groups, and other interested parties in a diligent effort to seek an alternative that will result in appropriate preservation of the property. The consulting parties may include interested purchasers, as well as preservation and other interested organizations, public agencies, developers, real estate agents and individuals who may be instrumental in developing an economically feasible solution.
- D. Economic Hardship; Criteria. Following the denial of a certificate of appropriateness, the applicant may request a certificate of economic hardship. In all cases other than a proposed demolition, removal or relocation, the applicant shall prove the existence of economic hardship by establishing that:
 - 1. The applicant will suffer significant economic injury if required to comply with the Panel's decision, as applied to the subject property; and the character of the landmark or historic district will be preserved and not substantially changed by the proposed alterations; or
 - 2. The property is incapable of earning a reasonable return due to the Panel's denial of the certificate of appropriateness.
- E. Public Hearing.
 - 1. The Panel shall hold a public hearing on the hardship application at which an opportunity will be provided for the applicant and public to present their views on the hardship application. The public hearing shall be held within sixty-two (62) days following the Panel's receipt of a complete application for a certificate of economic hardship.
 - a. A complete application includes the conclusion of all activities under Subsection C above, initiated to consult with necessary parties to determine whether the property may be preserved or rehabilitated in a manner that alleviates the hardship that would otherwise result while substantially accomplishing the goals of this Article;
 - b. All completed forms and supplemental information as required by Article 8 of the New York State Environmental Conservation Law, known as the State Environmental Quality Review Act, and regulations at NYCRR Part 617 adopted thereunder (collectively, "SEQRA"); and

- c. Receipt by the Panel of all submissions necessary to meet the applicant's burden of proof.
 2. The Panel must render a decision on the hardship application within sixty-two (62) days following the public hearing and determine whether the applicant has met his or her burden of proof.
- F. Community Preservation Panel Decision.
1. If the Panel finds that the applicant's burden of proof has not been met, the Panel shall deny the application for a certificate of economic hardship.
 2. If the Panel finds that the applicant's burden of proof has been met, the Panel shall issue a Determination of Economic Hardship within sixty-two (62) days of the close of any public hearing held on the application or within sixty-two (62) days after the Panel has received a complete application.
 3. All decisions of the Panel shall be in writing. The Chair of the Community Preservation Panel shall within five (5) business days after the Panel's decision was made, inform the applicant in writing of the decision, and file a copy of the same with the Code Enforcement Officer, Zoning Officer, and the Village Clerk for public inspection. The Panel's decision shall state the reasons for granting or denying the hardship application.
- G. No building permit or other land use approvals shall be issued unless the Panel makes a finding that a hardship exists. If the hardship application is granted, the Panel shall approve only such work as is necessary to alleviate the hardship.

Section 7.13 – Demolition, Removal or Relocation Hardship Process and Criteria

- A. An applicant whose certificate of appropriateness for a proposed demolition, removal or relocation of a landmark, resource or property **which is within a historic district or is a landmark outside a historic district** has been denied may apply for relief on the ground of economic hardship. In order to prove the existence of economic hardship sufficient to justify demolition, removal, or relocation, the applicant shall establish that the denial of a certificate of appropriateness will prevent the property owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.
- B. In evaluating whether such prohibition will subject the applicant to undue hardship, the Community Preservation Panel shall consider the following criteria:
1. Whether the owner is capable of earning a reasonable return on investment without such demolition, removal or relocation, regardless of whether that return represents the most profitable return possible;
 2. Whether the landmark can be altered, restored, renovated or adapted for any other use pursuant to a certificate of appropriateness under this Article, either by the owner or a subsequent purchaser, which would result in a reasonable return;
 3. Whether efforts to find a purchaser interested in acquiring the property and preserving it have failed;

4. Whether removal or relocation is necessary or appropriate to preserve the landmark;
 5. Whether the claimed hardship has been self-created by waste, neglect, or failure to maintain the landmark, thereby permitting the property to fall into a serious state of disrepair; and
 6. The public interest in preserving the landmark and its relation to the historic character of the community and Village of Aurora.
- C. Before approving the removal, relocation or demolition of an individual landmark or structure within a historic district, the Panel may suspend the application for up to one hundred and eighty (180) days to allow the applicant to consult in good faith with the Panel, local preservation groups, and the public in a diligent effort to seek a less intrusive alternative to demolition.
- D. Public Hearing.
1. The Panel shall hold a public hearing on the hardship application at which an opportunity will be provided for the applicant and public to present their views on the hardship application. The public hearing shall be held within sixty-two (62) days following the Panel's receipt of a complete application for a certificate of economic hardship.
 - a. A complete application includes receipt by the Panel of all submissions necessary to meet the applicant's burden of proof; and
 - b. All completed forms and supplemental information as required by Article 8 of the New York State Environmental Conservation Law, known as the State Environmental Quality Review Act, and regulations at NYCRR Part 617 adopted thereunder (collectively, "SEQRA").
 2. The Panel must render a decision on the hardship application within sixty-two (62) days following the public hearing and determine whether the applicant has met his or her burden of proof.
- E. Nothing herein shall be construed to prevent the demolition or removal of any structure which has been determined by the Code Enforcement Officer to be dangerous or unsafe.

Section 7.14 – Affirmative Maintenance and Repair Requirement

- A. No owner or person with an interest in real property designated as an individual landmark or located within a 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 the New York State Uniform Fire Prevention and Building Code and all other applicable local regulations.
- B. Every owner or person in charge of an improvement on an individual landmark or structure within a historic district shall keep in good repair (1) all of the exterior portions of such improvement and (2) 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:

1. Deteriorated or crumbling exterior plasters, mortar or facades;
 2. Deteriorated or inadequate foundation;
 3. Defective or deteriorated flooring or floor supports or any structural floor members of insufficient size to carry imposed loads with safety;
 4. Deteriorated walls or other vertical structural supports that split, lean, list or buckle due to defective material or deterioration;
 5. 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;
 6. 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;
 7. 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;
 8. 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;
 9. 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.
- C. Every owner or person in charge of a scenic landmark shall keep in good repair all portions thereof.

Section 7.15 – Notable Trees

- A. Trees designated as Notable Trees must meet one or more of the criteria outlined in Section 7.05 and be designated through the procedure outlined in Section 7.06.
- B. A Certificate of Appropriateness shall be required for the removal of a Notable Tree, but no Certificate of Appropriateness shall be required for the removal of other trees.

Section 7.16 – Appeals

- A. Any person aggrieved by a decision of the Community Preservation Panel relating to hardship or a certificate of appropriateness may, within fifteen (15) days of the decision, file a written appeal with the Village Board of Trustees for review of the decision. Appellate reviews shall be conducted based on the same record that was before the Panel and using the same criteria prescribed in this Article.

Section 7.17 – Enforcement and Penalties

- A. All activities conducted and work performed pursuant to a Certificate of Appropriateness issued by the Community Preservation Panel under this Article shall conform to the

requirements expressly stated in the certificate or reasonably implied there from. It shall be the duty of the Zoning Officer to periodically inspect any such work to assure compliance with the certificate and all applicable laws. In the event any requirement included in the certificate of appropriateness has not been met, or upon notification of that fact by the Community Preservation Panel, the Zoning Officer shall issue a stop-work order in accordance with Article XVIII of this Local Law, 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 Article in the absence of a certificate of appropriateness, a finding of economic hardship, or other approval by the commission, may be required to restore the property and its site to its appearance prior to the violation.
- C. If, in the judgment of the Community Preservation Panel, a violation of this Article 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 Panel shall notify the Zoning Officer. If, upon investigation, the Zoning 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 Zoning Officer shall order such remedies as are necessary and consistent with this Article and shall provide written notice thereof to the Panel.
- D. The Community Preservation Panel shall notify the Village Board of Trustees of all enforcement matters arising under this Article, who may refer to the Village Attorney any such matter that should be enforced in court. Court action to enforce this Article shall be brought by the Village Attorney or other attorney designated by the Village Board of Trustees. Civil remedies authorized under Article XVIII of this Local Law shall be in addition to and not in lieu of any criminal prosecution and penalty.
- E. Any violation of the provisions of this Article shall constitute a violation of the Zoning Law and shall be subject to the procedures, fines, penalties, etc. as prescribed in Article XVIII of this Local Law.