



Appendices

Appendix 1: The National Register Criteria for Evaluation; Code of Federal Regulations: 36 CFR § 60.4

This appendix is adapted from Section 2 of National Register Bulletin: How to Apply the National Register Criteria for Evaluation, National Park Service, U.S. Department of the Interior.

Criteria for Evaluation

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of significant persons in or past; or
- C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded or may be likely to yield, information important in history or prehistory.

Criteria Considerations

Ordinarily cemeteries, birthplaces, graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

1. A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
2. A building or structure removed from its original location, but which is primarily significant for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or
3. A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building associated with his or her productive life; or

4. A cemetery that derives its primary importance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
5. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
6. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or
7. A property achieving significance within the past 50 years if it is of exceptional importance.

Appendix 2: National Historic Landmark Criteria for Evaluation; Code of Federal Regulations: 36 CFR § 65.4

Specific Criteria of National Significance

The quality of national significance is ascribed to districts, sites, buildings, structures and objects that possess exceptional value or quality in illustrating or interpreting the heritage of the United States in history, architecture, archeology, engineering and culture and that possess a high degree of integrity of location, design, setting, materials, workmanship, feeling and association, and:

1. That are associated with events that have made a significant contribution to, and are identified with, or that outstandingly represent, the broad national patterns of United States history and from which an understanding and appreciation of those patterns may be gained; or
2. That are associated importantly with the lives of persons nationally significant in the history of the United States; or
3. That represent some great idea or ideal of the American people; or
4. That embody the distinguishing characteristics of an architectural type specimen exceptionally valuable for a study of a period, style, or method of construction, or that represent a significant, distinctive, and exceptional entity whose components may lack individual distinction; or
5. That are composed of integral parts of the environment not sufficiently significant by reason of historical association or artistic merit to warrant individual recognition but collectively compose an entity of exceptional historical or artistic significance, or outstandingly commemorate or illustrate a way of life or culture; or

6. That have yielded or may be likely to yield information of major scientific importance by revealing new cultures, or by shedding light upon periods of occupation over large areas of the United States. Such sites are those which have yielded, or which may reasonably be expected to yield, data affecting theories, concepts, and ideas to a major degree.

National Historic Landmark Exclusions

Ordinarily, cemeteries, birthplaces, graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings and properties that have achieved significance within the past 50 years are not eligible for designation. Such properties, however, will qualify if they fall within the following categories:

7. A religious property deriving its primary national significance from architectural or artistic distinction or historical importance; or
8. A building or structure removed from its original location, but which is nationally significant primarily for its architectural merit, or for association with persons or events of transcendent importance in the nation's history and the association consequential; or
9. A site of a building or structure no longer standing but the person or event associated with it is of transcendent importance in the nation's history and the association consequential; or
10. A birthplace, grave or burial if it is of a historical figure of transcendent national significance and no other appropriate site, building or structure directly associated with the productive life of that person exists; or
11. A cemetery that derives its primary national significance from graves of persons of transcendent importance, or from an exceptionally distinctive design or from an exceptionally significant event; or
12. A reconstructed building or ensemble of buildings of extraordinary national significance when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other buildings or structures with the same association have survived; or
13. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own national historical significance; or
14. A property achieving national significance within the past 50 years if it is of extraordinary national importance.

National Park Service (2002). How to Apply the National Register Criteria for Evaluation. Retrieved from: <https://www.nps.gov/nr/publications/bulletins/nrb15/>

Appendix 3: Definitions

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.

Design Review Guidelines: A standard of design quality that will preserve the historic and architectural character of a landmark or a structure within a designated historic district.

Archeological Resource: Any material remains or physical evidence of past human life or activities that are of archeological interest, including the record of the effects of human activities on the environment. An archeological resource is capable of revealing scientific or humanistic information through archeological research.

Archaeological Site: Any archaeological site on, or eligible for inclusion on, the National Register of Historic Places, or any site that contains archaeological objects and the contextual associations of the archaeological objects, located on land, including, but not limited to, submerged and submersible lands, and the bed of any river, creek, or streamlet within the City's jurisdiction. Examples of archaeological sites include, but are not limited to: lithic quarries, camps, burial sites, lithic scatters, fortifications, house sites, and road beds.

Architectural Feature: A feature contributing to the general arrangement of the exterior of a structure, including but not limited to, the surface texture, building materials, roof shape, eaves, awnings, arcades, pilasters, cornices, wall offsets, and other building articulations.

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 structure having a roof supported by columns or walls, either wholly or partially enclosed within exterior walls or within exterior or party walls, intended to be used for the shelter or enclosure of persons, animals or property.

Building Permit: An official document or certification that is issued by the Chief Building Official pursuant to the Building Code and authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or structure as being in compliance with Building Code standards.

Certificate of Appropriateness (COA): A certificate issued by the Historic Resources Commission to permit construction, alteration, or modification or other actions to or near a landmark structure or a structure in a historic district.

Certificate of Economic Hardship: An official form issued by the Historic Resources 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.

Certified Local Government: A program that certifies communities that have met certain requirements in establishing local historic preservation programs. Once certified, communities gain access to grants and technical assistance to implement their local preservation programs. The Certified Local Government program is jointly administered by the National Park Service (NPS) and the New York State Office of Parks, Recreation and Historic Preservation.

Character: For purposes of historic resource regulations, this term is 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.

Commission: The Albany Historic Resources Commission established by the City of Albany.

Contextual: Relating to buildings and development in the nearby or surrounding area or block face. Several development standards in this USDO vary to allow new development, buildings and additions and modifications to buildings to be similar to the height, size, width, separation, and location of development and buildings in the nearby or surrounding area.

Contributing Resource: Contributing resources are the buildings, objects, sites, and structures that contribute to understanding the architectural and historical development within a National Register or Local Historic District. The contributing resource usually retains a high level of integrity.

Demolition: Any intentional defacement, destruction, and/or other action that would cause partial or total destruction of the physical elements of a structure.

Design Review: Design review is the formal process of reviewing proposed projects seeking a Certificate of Appropriateness from the Historic Resources Commission.

Developer: Any person, including a governmental agency, undertaking development.

Development: The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure, any mining, excavation, landfill or land disturbance, or any change in use, or alteration or extension of the use, of land.

District: A district possesses a significant concentration, linkage, or continuity of buildings, sites, structures or objects united historically or architecturally by plan or physical development. A district derives its importance from being a unified entity, even though it is often comprised of a variety of resources.

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 the Unified Sustainable Development Ordinance.

Exterior: The architectural style, design, general arrangement and components of the outer surfaces of an improvement, as distinguished from the interior surfaces enclosed by said outer surfaces, including but not limited to the kind or texture of building materials and the type and style of windows, doors, lights, signs, sidewalks, landscaping and other such exterior fixtures.

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: Research 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 with defined boundaries so designated by the Common Council that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically by past events or united aesthetically by plan or development. An historic district may also comprise individual elements, separated geographically, but linked by association or history.

Historic District - National Register: An area with defined boundaries so approved by the New York State Board for Historic Preservation and the Keeper of the National Register that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically by past events or united aesthetically by plan or development. An historic district may also comprise individual elements, separated geographically, but linked by association or history.

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 Resource: A historic resource is an aspect of a cultural system that is valued by or significantly representative of a culture, or that contains significant information about a culture. A historic resource is considered important if it is greater than 50 years of age. Historic resources are categorized as districts, sites, buildings, structures, and objects for the National Register of Historic Places. Archaeological sites are also considered historic resources.

Historic Resources Survey: a) the process of systematically identifying, researching, photographing, and documenting historic resources within a defined geographic area, and b) the resulting list of evaluated properties that may be consulted for future designation. 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 Structure: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs

Interior Landmark: A landmark noted for the portions of its interior that are open to the public.

Inventory: A listing of properties evaluated as contributing or noncontributing to a historic district or potentially eligible for local landmark designation or for listing in the National Register of Historic Places. Inventories are derived from field surveys.

Integrity: The authenticity of a property's historic identity. The seven qualities of integrity as defined by the National Register of Historic Places are location, setting, feeling, association, design, workmanship, and materials.

Landmark: All or any part of an object or structure or property designated as a landmark structure or site pursuant to the Unified Sustainable Development Ordinance which is worthy of rehabilitation, restoration and preservation due to its historic and/or architectural significance to the City of Albany.

National Register of Historic Places (NRHP): 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 Resource: A feature, addition, building, object, site, and structure that does not contribute to the historic character, 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: The term "object" is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale. Objects may include a boundary marker, fountain, monument, sculpture, or statuary.

Preservation. The act or process of applying measures to sustain the existing form, integrity, and material of a historic building, site, structure, or object. 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. Preservation may also entail the act of designating a historic resource a landmark or its protection as part of a historic district.

Rehabilitation. The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic and architectural values.

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.

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 local law as "Secretary of the Interior's Standards."

Secretary of the Interior's Standards for Rehabilitation: The Secretary of the Interior's Standards for Rehabilitation outlines preservation standards for rehabilitation projects and are sometime used as the base set of standards for COA reviews by historic preservation commissions. Rehabilitation standards acknowledge the need to alter or add to a cultural landscape to meet continuing or new uses while retaining the landscape's historic character.

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

Site: 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 sites include parks, designed landscapes and natural features.

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 Historic Preservation Office (SHPO): State Historic Preservation Offices are state agencies that manage and administer statewide preservation planning and cultural resource management programs, including the National Register of Historic Places and the Certified Local Government program. In New York, the SHPO is the Office of Parks, Recreation and Historic Preservation.

Structure: Anything constructed or erected which requires permanent or temporary location on the ground or attachment to something permanently attached to the ground. This term shall include, but not be limited to, buildings, walls, fences, awnings, signs, billboards, lighting fixtures, screen enclosures, works of art, electronic transmission or reception devices or other electronic devices and mechanical devices related to a building function.

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.

Survey: A survey is a study designed to identify and evaluate properties in a community, district or area to determine whether they may be of historic, architectural, archeological, engineering or cultural significance.

Vacant: A building, building portion, or property that is unoccupied and left unsecured, not in use, is in temporary use, or lacks permanent improvement.

Appendix 4: Unified Sustainable Development Ordinance (Historic Preservation) (Adopted 2017)

Section 375-1. General Provisions

(B) Purpose:

- (3) Protect and preserve the city's residential neighborhoods.
- (7) Promote, preserve, and encourage the aesthetic quality and reinforce the historic urban form and fabric of the City.

Section 375-2. Zoning Districts

(F) Overlay Districts

(1) HR-O Historic Resources Overlay

(a) Purpose

There exist within the City places, sites, structures and buildings of historic or architectural significance, antiquity, uniqueness of exterior design or construction, that should be conserved, protected and preserved to maintain the architectural character of the City, to contribute to the aesthetic value of the City and to promote the general good, welfare, health and safety of the City and its residents. The purpose of this local law 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 City that reflect special elements of the City's historical, architectural, cultural, economic or aesthetic heritage.

(b) Designated Historic Areas and Structures

- (i) Pursuant to General Municipal Law §96-a and 119-dd(1), the following described areas are designated as areas, buildings, structures and objects having a special historical or aesthetic interest or value. Maps of these areas accompany each table listing street addresses in that district.
- (ii) This Overlay addresses locally designated historic districts and structures. There may be additional designated areas and structures throughout the City that are regulated at the state or federal level.
- (iii) Amendments to existing districts and the boundaries of any historic districts designated in the future shall be specified in detail and shall be filed in the Planning office for public inspection.

(c) General Guidelines

This section provides general guidelines applicable to all historic districts and landmarks.

(d) Rehabilitation Guidelines

This section provides guidelines applicable to the rehabilitation of historic properties applicable to all historic districts and landmarks.

(e) New Construction Guidelines

This section provides guidelines applicable to new construction within primarily residential and commercial historic districts not including the Downtown Albany Historic District.

(f) New Construction Guidelines in or Adjacent to the Downtown Albany Historic District

This section provides guidelines applicable to new construction in or adjacent to the Downtown Albany Historic District including but not limited to the Fort Orange/ Downtown Albany Archaeological Review District and the Secondary Downtown Albany Archaeological Review District.

(Consider eliminating the review of paint colors to streamline the review process. Painting is not a physical alteration to a building and is temporary in nature. Reviewing paint colors can be construed as arbitrary and can cause contentious meetings. It would also ease community perception regarding control by HRC.)

(For items (c), (d), (e) and (f), consider codifying the Secretary of the Interior's Standards for Rehabilitation in the ordinance, per the "NYS Model Ordinance," and use them as a basis for creating a comprehensive review standards or guidelines manual to be used for all landmarks and districts. Create guidelines that are user-friendly, easy to read and understand and include photos and graphics. Post the PDF of each set of guidelines on the city's website.)

(g) Fence, Wall and Accessory Structure Guidelines

This section provides guidelines applicable to fences, walls, signs and accessory structures within historic districts and for landmarks.

(h) Ordinary Repair and Maintenance Permitted

This section states that ordinary repair and maintenance of properties within historic districts and for landmarks.

(i) Requirements and Procedures

This section states that no work shall be carried out on properties within historic districts and landmarks without a Minor or Major Certificate of Appropriateness and that no permits for new construction, fences, walls, signs or accessory structures shall be issued without a Certificate of Appropriateness. It also states that the procedures for designating new historic districts and landmarks are subject to the requirements of Section 375-5(E)(25) (Designation of Historic Landmarks).

(2) AR-O Archaeological Resources Overlay

(a) Purpose

The purpose of the AR-O overlay district is to ensure that development in areas designated as archaeologically sensitive or potentially archaeologically sensitive occurs in ways that protect those designated areas and resources.

(b) Standards

(i) For proposed development within the Primary AR-O, as described below, the applicant must submit any necessary cultural resource investigation reports to the Historic Resources Commission, including at a minimum a Phase IA Cultural Resources Investigation. If a potential for resources does exist and cannot be readily avoided or mitigated, the Commission may require additional examination including but not limited to Phase 1B, Phase II and Phase III reports to establish the significance of the resources and agree upon appropriate mitigation.

(ii) For proposed development in areas outside of the Primary AR-O, a basic review of readily available cultural resources information is required to be submitted to the Chief Planning Official. The Chief Planning Official may require a Phase IA Cultural Resource Investigation based upon available information about potential archaeological resources in the area.

(iii) If upon review of a Phase 1A survey, the Chief Planning Official concludes that there is no potential for cultural resources to be discovered or if modifications to the proposed project are made to avoid or minimize potential impacts, the survey process is completed. If a potential for resources does exist and cannot be readily avoided or mitigated, the Chief Planning Official may require additional examination by means of a field investigation and a Phase IB Cultural Resource Investigation.

(iv) If resources are discovered as a part of a Phase 1B survey, modifications to the proposed project may be permitted to avoid or minimize potential impacts. If resources are identified and cannot be readily avoided, then the review shall be referred to the Historic Resources Commission for consideration of the need for further examination, including but not limited to Phase II and III reports, to establish the significance of the resources and agree upon appropriate mitigation. The Historic Resources Commission shall issue a Certificate of Appropriateness as a part of its determination.

(v) The applicant or the authorized agent thereof shall confer with the City prior to preparing any submission to define and agree upon guidelines for such cultural resource investigation. The City may refer any application or report to the New York State Office of Parks, Recreation and Historic Preservation for advice and consent thereon.

(vi) Cultural resource investigations shall be consistent with the Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State promulgated by the New York Archaeological Council, be prepared by a professional archaeologist.

(vii) The applicant shall be responsible for all costs associated with the review and reporting.

(c) Areas Designated as Archaeologically Sensitive

(i) Fort Orange/Downtown Albany Archaeological Review District

- A. The boundaries of the district are provided on a map.
- B. These archaeologically sensitive areas of the City are deemed to have special archaeological significance by virtue of their location within the earliest settled portion of the City, which was comprised of a 17th Century stockaded community and certain surrounding areas.
- C. Any applicant proposing subsurface excavation in these areas should be aware that a "Phase IA Cultural Resource Investigation" is required and shall be performed as part of the environmental and development plan review.

(i) Secondary Downtown Albany Archaeological Review District

- A. The boundaries of the Secondary Downtown Albany Archaeological Review District are shown on the map to the right and include all of the area shown except for that land within the Fort Orange/Downtown Albany Archaeological Review District shown above.
- B. This area is considered archaeologically sensitive because it is supportive to the Downtown Albany Archaeological District and Fort Orange areas by reason of proximity, similar street configuration and an interspersing of similar structures.
- C. Projects in this area are subject to requirements related to Section 375-2(F)(1)(f) (New Construction in or Adjacent to the Downtown Albany Historic District) and/or Section 375-5(E)(17) (Demolition Review).

- D. Any applicant proposing subsurface excavation in this area should be aware that at a minimum a Phase IA Cultural Resource Investigation is required and shall be performed as part of the environmental and development plan review.
- E. All properties located within the Secondary Downtown Review District that have been designated as landmarks or are included in an historic district are subject to all the provisions of this Section 375-2(F)(2)(c)(ii).

(iii) Remainder of the City

- A. This area of potential archaeological sensitivity includes all of the rest of the land within City limits but not within the Fort Orange/Downtown and Secondary Downtown Albany Archaeological Review Districts.
- B. Any applicant proposing subsurface excavation in this area should be aware that a Phase IA Cultural Resource Investigation may be required as part of a permit or development plan review based on available information about potential archaeological resources in the area, including but not limited to the presence of any of the features listed in Subsection (c) below.
- C. If any of the following features are discovered on the site, all activity that could disturb, dislocate, damage, or destroy the feature must stop immediately, and the applicant or property owner must notify the City promptly of the existence of such features:
 - 1. Evidence of human remains or burial grounds;
 - 2. Evidence of foundation, roof, walls, or infrastructure built with construction materials or techniques not commonly used during the last 50 years; or
 - 3. Evidence of railroad structures, or canals, dams, or locks.

(d) Requirements and Procedures

This section states that no grading or road work shall be carried out on properties within historic districts and landmarks without a Minor or Major Certificate of Appropriateness and that no permits for grading or road work shall be issued without a Certificate of Appropriateness. It also states that the procedures for designating new historic districts and landmarks are subject to the requirements of Section 375-5(E)(25) (Designation of Historic Landmarks).

Section 375-2. Administration and Review

(B) Procedure Summary Chart

This chart provides a summary of the development and review procedures, including the type of applications, whether they are Administrative, Discretionary or Policy decisions, the type of public notice required, and the reviewing body (including City Staff and the Historic Resources Commission). Included in the chart are the procedures for review of demolition and Major Certificates of Appropriateness.

(C) Review and Decision-Making Bodies

(1) City Staff

(b) Chief Planning Official

(ii) Powers and Duties

D. To serve as or assign professional staff to the Historic Resources Commission.

(3) Historic Resources Commission

The Historic Resources Commission is that body established by Chapter 42, Part 4, of the Albany City Code, and shall perform those functions specified in this USDO, Chapter 42 (Departments and Commissions), and other applicable Chapters of the Albany City Code.

(Review of Chapter 42, Part 4 of the Albany City Code regarding the Commissions establishment is reviewed separately following this section.)

(D) General Procedures

(8) Historic Resources Commission Review and Action

(a) If a development application is subject to a recommendation or a final decision by the Historic Resources Commission (see Table 375-5-1 Summary of Development Review Procedures), the Historic Resources Commission shall review and act on the application in compliance with Section 375-5(E)(19) (Major Certificate of Appropriateness) and Section 375-5(E)(25) (Designation of Historic Landmarks).

(b) No officer, department, or agency of the City whose approval is required by law for the construction or effectuation of a City-owned or City-sponsored project shall approve the plans, proposal or the application for any such project located in or adjacent to a Historic District or Landmark, unless such officer or agency has received from the Historic Resources Commission a report or a notification that

the proposed action has been reviewed and approved as per these provisions.

(c) Any City agency that conducts historic preservation planning surveys or applies for or receives notification of state or federal historic designation of any property within the City shall provide copies of materials relating to these matters to the Historic Resources Commission for central filing

(E) Specific Procedures

(13) Minor Certificate of Appropriateness

There is a graphic that shows the decision of the Chief Planning Official may be appealed to the Historic Resources Commission.

(a) Applicability

This section applies to all applications for permits for work involving any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or a property within an historic district; any material change in the appearance of such a property or its windows, light fixtures, signs or awnings, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley; or any grading or roadwork on a designated landmark property or property in a historic district:

(i) That does not involve the construction of a new primary structure; and

(ii) That does not include subsurface excavation in the area defined in Section 375-(ii)2(F)(2)(c)(i) (Fort Orange/Downtown Albany Archaeological Review District), or Section 375-2(F)(2)(c)(ii) (Secondary Downtown Albany Archaeological Review District); and

(iii) That the Historic Resources Commission has designated to be a Minor Alteration (including but not limited to ordinary maintenance and repair of the site and any structures on the site, and any change to the features of a landmark or a contributing property in a historic district that does not materially change the historic characteristics of the property); and

(iv) The following activities:

- A. Change of paint color;
- B. Replacement of a feature that is an element of the structure;
- C. Restoring original materials on a structure or site;
- D. Changes in-kind to a sign on the property;

- E. Replacement of non-original or missing windows;
- F. Replacement of non-original or roofing materials;
- G. Replacement of non-historically appropriate materials with historically appropriate materials based on physical or pictorial evidence

(b) Procedure

(i) The Chief Planning Official shall review the application and make a decision on the Minor Certificate of Appropriateness.

(ii) The Chief Planning Official may refer the application to a staff member or member of the Historic Resources Commission or member of the Planning Board with knowledge of historic and/or archaeological resources for review, at the Chief Planning Official's discretion.

(iii) If the Chief Planning Official denies the application for a Minor Certificate of Appropriateness, the applicant may request review of the application by the Historic Resources Commission. If so requested, the application shall be referred to the Historic Resources Commission, and shall be reviewed and a decision made pursuant to Section 375-5(E)(19) (Major Certificate of Appropriateness).

(c) Review Criteria

The Chief Planning Official may approve a Minor Certificate of Appropriateness if he or she determines that the Review Criteria in Section 375-5(E)(19)(c)(ii) (Major Certificate of Appropriateness Review Criteria) have been met.

(Consider providing an educational brochure outlining the submittal and review process for a Minor Certificate of Appropriateness and combine with the submittal and review process for a Major Certificate of Appropriateness.)

(17) Demolition Review

There is a graphic that shows the decision of the Chief Planning Official may be appealed to the Historic Resources Commission.

(a) Applicability

No person shall demolish any building, structure or any portion of a building or structure without a valid Demolition Permit as issued by the Chief Building Official pursuant to this Section 375-5(E)(17), unless the demolition involves one of the following:

- A. Designated historic properties, which are subject to review by the Historic Resources Commission pursuant to Section 375-5(E)(13) or Section 375-5(E)(19), as applicable.
- B. Any principal structure located within the I-2 zoning district containing less than 20,000 square feet of gross floor area;
- C. Partial demolitions involving less than 25 percent of the non-street facing portions of the principal structure; and
- D. Accessory structures containing less than 500 square feet of gross floor area.

(ii) This Section shall not reduce any emergency powers or any other powers of the Chief Building Official as to public safety, health and welfare

(b) Procedure

(i) Application Submittal and Acceptance

- A. An application, including a redevelopment or restoration plan, shall be submitted and accepted, and may be withdrawn, in accordance with Section 375-5(D)(4).
- B. The applicant shall provide a plan to ensure a minimum of 35 percent of construction and demolition debris generated from the demolition project is diverted from disposal in landfills through recycling, reuse, and diversion programs

(ii) Staff Review and Action

- A. The Chief Planning Official shall review the application and prepare a staff memorandum and recommendation in accordance with Section 375-5(D)(5). In addition, the Chief Building Official and City Engineer shall review the application and indicate whether the demolition would violate any City building codes or other ordinances under their respective jurisdictions. Any application for demolition may be referred to the Historic Resources Commission for a review and report on the project.
- B. The Planning Board shall review the application and decide the application in accordance with Section 375-5(D)(7)

(c) Review Criteria

The following criteria shall be evaluated by the Planning Board, any or all of which may be used by the Planning Board in making its determination to approve or deny an application for a Demolition Review:

- (i) Whether the demolition and/or proposed redevelopment plan is consistent with the Comprehensive Plan, neighborhood or District Plans, this USDO, and/or City or regional planning objectives.
- (ii) Whether the structure has significant historical, architectural, aesthetic or cultural value in its present or restored condition and whether the loss of the building would be detrimental to the historical or architectural heritage of the City.
- (iii) The relationship of the building to the character of the neighborhood as an established and definable area, the streetscape and its environs, or any adjacent or attached buildings.
- (iv) The age and condition of the building, its architectural, archaeological or historic importance, and its importance to the streetscape and the surrounding neighborhood.
- (v) The public health and safety.
- (vi) Whether the proposed redevelopment project is consistent with the requirements and whether any required approvals for variances or conditional use permits have been granted.
- (vii) The architectural merits of the proposed new construction, as compared to the building or structure proposed to be demolished, and as related to the character of surrounding neighborhood or district.
- (viii) The details of the development plan and proposed use, and the timeframe within which the applicant intends to commence the proposed redevelopment of the site.
- (ix) Whether realistic alternatives, including adaptive uses, are likely based upon the nature or cost of work necessary to preserve the structure.
- (x) The condition of the structure(s), the economic viability of rehabilitation, and whether the building or structure can be rehabilitated or reused.
- (xi) Whether the hardship is self-created or whether the building or structure proposed for demolition is structurally unsound despite efforts by the owner to properly maintain it.

(xii) Whether some portion of the building, such as a façade or distinctive architectural details, can or should be retained or reused in the new construction.

(xiii) Evidence or testimony presented by any established City board, committee or department, community organization, neighborhood association, elected official or member of the general public

(Consider increasing the percentage of construction and demolition debris generated from the demolition project being diverted from disposal in landfills through recycling, reuse, and diversion programs.)

(Consider increasing the percentage of construction and demolition debris generated from the demolition project being diverted from disposal in landfills through recycling, reuse, and diversion programs.)

(Consider consulting the HRC on all demolitions outside of the historic districts that are within areas that have been surveyed and recommended for designation.)

(Consider adding a section on Demolition Delay, which would suspend pending demolitions of significant historic resources. A delay period could range between 60 to 180 days; a standard delay period is 90 days. The purpose of the delay is to work closely with property owners on potential alternatives to demolition, including potential adaptive reuse plans, stabilization plans, or assistance with property rehabilitation or sale.)

(Consider adding Demolition by Neglect provisions, which enable a local community to initiate action to prevent historic resources from falling into significant disrepair. Such actions may include issuing citations on any violations of minimum maintenance standards, requiring property owners to submit property stabilization plans, and referring such cases to legal action if a stabilization plan has not been implemented. Such provisions would apply to Local Landmarks and all properties located within a Local Landmark District. The Historic Resources Commission, Planning and Development Department and Building Department would be responsible for its administration and management.)

(17) Major Certificate of Appropriateness

There is a graphic that shows the review and recommendation of the Chief Planning Official is forwarded to the Historic Resources Commission.

(a) Applicability

This Section 375-5(E)(13) applies to all applications for permits involving any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or a property within an historic district, that does not qualify for review as a Minor Certificate of Appropriateness under Section 375-5(E)(13), including without limitation:

- (i) Demolition of a structure
- (ii) Construction of a new structure on a site containing a landmark or in a historic district;
- (iii) Substantial alterations to the façade of a landmark or a property within a historic district;
- (iv) Replacing historically appropriate materials with non-historically appropriate materials; and/or
- (v) Any subsurface excavation, grading, or roadwork on a designated landmark property, or in a historic district, or in the Fort Orange/ Downtown Albany Archaeological Review District

(b) Procedure

- (i) The Chief Planning Official shall review the application for compliance with other requirements of this USDO and shall forward the application to the Historic Resources Commission.
- (ii) Public notice of the application for a Major Certificate of Appropriateness shall be posted by the owner or owner's representative on the property for a minimum of ten days. This notice must remain in place until a decision to approve or deny the application has been made. The notice shall specify the proposed work, the time and place of the public hearing, and to whom and by when any public comments are to be communicated. The notice must be placed at or near the lot line in the front yard so that it will be plainly visible from the street, and, in cases where a property has frontage on more than one street, an additional sign must be placed at or near the lot line on any additional street frontage so that the sign will be plainly visible from the street on which it has such additional frontage.
- (iii) The Historic Resources Commission shall hold a public hearing prior to rendering a decision on any application for a Major Certificate of Appropriateness. Mailed notice of the public hearing shall be provided

pursuant to Section 375-5(D)(6)(c)(ii). 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 relevant documents.

(iv) The Commission shall make a decision within 60 days of the determination that the application is complete. In the event that no decision is made by the Commission within the allotted time, the permit may be issued by the Chief Planning Official without a decision of the Commission.

(v) Each decision of the Commission shall be in writing and, if an approval with or without conditions or modifications, shall be in the form of a Certificate of Appropriateness. The Commission's decision shall state the reasons for denying or modifying any application.

(vi) A Major Certificate of Appropriateness is valid for a period of one year from the date of issue. An applicant may apply, in writing, for an extension and shall explain the reasons for the extension request. The Historic Resources Commission may grant an extension of one year for good cause shown.

(Consider eliminating the public hearing requirement for the general review of a Certificate of Appropriateness which would streamline the review process and allow the HRC to approve applications the night of the meeting. Use the public hearing process for larger reviews such as demolition and appeals.)

(COA procedures – consider adding a consent agenda to HRC meetings to approve projects that meet the Guidelines.)

(c) Review Criteria

The Historic Resources Commission may approve a Major Certificate of Appropriateness if it determines that:

- (i) In cases that involve review pursuant to Section 375-2(F)
- (2) (Archaeological Resources Overlay) where the results of any required Cultural Resources Investigation indicate that it is not likely that significant archaeological features exist on the site, or that the proposed activity will not damage or disrupt any significant archaeological features on the site, or the applicant has committed to adequate protection or relocation of any significant archaeological features likely to be found on the site.

(ii) In cases that involve changes to the property or the site visible from the public right-of-way, and the application conforms to those guidelines in Section 375-2(F)(1)(c) (General Guidelines), Section 375-2(F)(1)(d) (Rehabilitation Guidelines), Section 375-2(F)(1)(e) (New Construction Guidelines), Section 375-2(F)(1)(f) (New Construction in or Adjacent to the Downtown Albany Historic District), and Section 375-2(F)(1)(g) (Fence, Wall, and Accessory Structure Guidelines), to the maximum extent practicable and/or the applicant has mitigated any departures to the maximum extent practicable

(20) Design Review of Tall Buildings in MU-DT

There is a graphic that shows the review and recommendation of the Chief Planning Official is forwarded to the Planning Board.

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) Applicability

This Section applies to all applications to build a building over 100 feet in height in the MU-DT zoning district.

(b) Procedure

- (i) The Chief Planning Official shall review the application and prepare a staff memorandum and recommendation in accordance with Section 375-5(D)(5).
- (ii) The Planning Board shall review the application, hold a public hearing, and decide the application in accordance with Section 375-5(D)(7).
- (iii) Notwithstanding subsection (b)(ii) above, if the property is located in the HR-O district, the Planning Board shall make a recommendation to the Historic Resources Commission.

(c) Review Criteria

An application for Design Review shall be approved if the Planning Board determines that:

- (i) The design complies with the standards in Section 375-4 (G) (Building and Streetscape Design) except as necessary to comply with the standards in subsections (ii) through (vii) below;

- (ii) The design reflects architectural excellence in terms of orientation to adjacent streets and open spaces, variety and durability of building materials, façade articulation, and emphasis on pedestrian entrances and sitting gathering spaces.
- (iii) The design allows for adequate light and air for nearby public streets, sidewalks, trails, parks, and open spaces;
- (iv) The design, including but not limited to the streetscape and vehicular and pedestrian access points, contributes to the walkability of adjacent streets;
- (v) The design does not cast significant shadows on nearby public parks or open spaces between the hours of 9:00 am and 3:00 pm on October 31, or if significant shadows are cast on that date, the shadows have been mitigated to the maximum extent feasible through building shaping and design;
- (vi) The ground level design contributes to encouraging street activity on adjacent streets; and
- (vii) The design is consistent with the intended character of the downtown area, as described in the adopted Comprehensive Plan, and with the intent of the MU-DT zone district.

(23) Historic Property Hardship Modification

There is a graphic that shows the review and recommendation of the Chief Planning Official is forwarded to the Historic Resources Commission.

All applicable provisions of Section 375-5(D) (General Procedures) apply unless specifically modified by the provisions of this Subsection.

(a) Applicability

This section applies to:

- (i) All applications for a modification or waiver of some or all of those historic preservation standards and guidelines in Section 375-2(F)(1) (HR-O Historic Resources Overlay), which can only occur after a denial of a Major Certificate of Appropriateness by the Historic Resources Commission pursuant to Section 375-5(E)(19); and
- (ii) All applications to demolish, remove, or relocate a designated landmark or a contributing structure in a historic district, unless the Department of Buildings and Regulatory Compliance has made a written decision that the building presents an imminent threat to the public health, safety, or welfare

(b) Procedure

- (i) An applicant may request, in writing, a waiver or modification of any of the standards or guidelines in Section 375-2(F)(1) (HR-O Historic Resources Overlay) or may request in writing permission to demolish, remove, or relocate a designated landmark or a contributing structure in a historic district.
- (ii) The Chief Planning Official may require additional information to be appended to the application, which will verify the practical difficulties or economic hardship claimed by the applicant.
- (iii) The Historic Resources Commission reserves the right to waive or otherwise modify such standards or guidelines, or to permit the demolition, removal, or relocation of a structure, upon a finding that such action is necessary to eliminate practical difficulties or economic hardship associated with strict interpretation of these provisions. The applicant shall have the burden of proving any practical difficulty or economic hardship that is claimed.
- (iv) The Commission shall limit any waiver or modification of the standards or guidelines, or the approval of any demolition, removal, or relocation of a structure, to the minimum required to alleviate the economic hardship or practical difficulty, and may prescribe conditions that it deems necessary or appropriate.
- (v) The Commission shall hold a public meeting on the Historic Property Hardship application at which the applicant and public will have an opportunity to present their views on the application.
- (vi) If the Commission finds that the applicant's burden of proof has been met, the Commission shall issue a decision to approve the application with or without conditions. Its decision shall clarify which of the standards or guidelines in Section 375-2(F)(1) have been waived or modified, and the nature and extent of the waivers or modifications, or shall clarify its permission to demolish, remove, or relocate a structure
- (vii) In the case of an application to demolish, remove, or relocate a landmark structure or a contributing structure in a historic district, the Commission may also decide to approve the application subject to a waiting period of up to 120 days to allow the Commission to document the structure, to consider options to relocate the structure, and/or to consider options to modify the building for future uses that preserves the architectural and historical integrity of the building.

- (viii) The decision of the Commission shall be in writing and shall state the reasons for its decision. A copy shall be sent to the applicant by first class mail or personal service with proof of delivery, and a copy filed with the City clerk's office for public inspection.

(c) Review Criteria

- (i) Applications That Do Not Involve A Demolition, Removal, or Relocation

The Historic Resources Commission may approve the application, with or without conditions, if it determines that:

- A. The applicant cannot realize a reasonable return if compliance with the commission's decision is required, provided, however, that the lack of reasonable return is proven by the applicant to be substantial as demonstrated by competent financial evidence;
- B. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- C. The requested relief, if granted, will not alter the essential character of the neighborhood; and
- D. The alleged hardship has not been self-created.

- (ii) Applications for Demolition, Removal, or Relocation

The Historic Resources Commission may approve the demolition, with or without conditions, if it determines that:

- A. The applicant has proposed an imminent plan for the redevelopment or reuse of the affected property;
- B. The denial of demolition, removal, or relocation will prevent the property owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.
- C. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return;
- D. Efforts to find a purchaser interested in acquiring the property and preserving it have failed; and
- E. The owner has not created his own hardship through waste and neglect that allowed the property to fall into a serious state of disrepair

(Consider adding additional submittal requirements for demolition hardship requests as outlined in the "NYS Model Ordinance." Demolition in historic districts should only be permitted due to proven economic hardship or public safety issues:

i. Current level of economic return;

ii. Amount paid for the property, date of purchase, party from whom purchased, and relationship between the owner of record, the applicant, and person from whom property was purchased;

iii. Annual gross and net income from the property for the previous three years; itemized operating and maintenance expenses for the previous three years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;

iv. Remaining balance on the mortgage or other financing secured by the property and annual debt-service, if any, during the prior three years;

v. Real estate taxes for the previous four years and assessed value of the property according to the two most recent assessed valuations;

vi. All appraisals obtained within the last two years by the owner or applicant in connection with the purchase, financing, or ownership of the property;

vii. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other;

viii. Any state or federal income tax returns relating to the property for the last two years;

ix. Any listing of property for sale or rent, price asked, and offers received, if any, within the previous two years, including testimony and relevant documents regarding: (a) any real estate broker or firm engaged to sell or lease the property, (b) reasonableness of price or rent sought by the applicant, or (c) any advertisements placed for the sale or rent of the property;

x. Feasibility of alternative uses for the property that could earn a reasonable economic return;

xi. Report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings on the property and their suitability for rehabilitation;

xii. Cost estimates for the proposed construction, alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the requirements for a certificate of appropriateness;

xiii. Estimated market value of the property: (a) in its current condition; (b) after completion of the proposed alteration or demolition; and (c) after renovation of the existing property for continued use;

xiv. Expert testimony or opinion on the feasibility of rehabilitation or reuse of the existing structure by an architect, developer, real estate consultant, appraiser, and/or other real estate professional experienced in historic properties and rehabilitation;

xv. Any evidence of self-created hardship through deliberate neglect or inadequate maintenance of the property; and

xvi. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.)

(25) Designation of Historic Landmarks

There is a graphic that shows the review and recommendation of the Chief Planning Official is forwarded to the Historic Resources Commission, whose review and recommendation is forwarded to the Common Council.

(a) Applicability

This Section 375-5(E)(25) applies to all applications to designate a City of Albany landmark or historic district.

(b) Procedure

(i) The Chief Planning Official shall review the application and prepare a staff memorandum and recommendation in accordance with Section 375-5(D)(5).

(ii) Notice of a proposed designation shall be sent by registered mail to the owner of each property proposed for designation or located adjacent to a property proposed for designation, describing the property and announcing a public hearing by the Historic Resources Commission (HRC) to consider the designation. Where the proposed designation involves so many properties that individual notice to affected owners is impractical, notice may instead be published at least twice in a newspaper of general circulation a minimum of 10 days prior to the date of the public hearing. Once the HRC has issued notice of a proposed designation, no building permit for work in the affected area shall be issued by the Commissioner of Buildings and Regulatory Compliance until the Common Council has approved or disapproved the designation, unless the HRC has reviewed the permit request according to the procedures and criteria for a certificate of appropriateness

(iii) The HRC shall hold a public hearing before recommending designation of any landmark or historic district. The HRC, owners of affected property and any other interested parties may present testimony or documentary evidence at the hearing regarding the

historic, architectural or cultural importance of the proposed landmark or historic district. Such testimony or evidence shall be included in the record of the hearing. The record may also contain staff reports, public comments or other evidence offered outside of the hearing.

(iv) The HRC shall supply the City Clerk's office with a notice and explanation of its recommendation of designation of a landmark or historic district. Such notice shall include a description of each property proposed for landmark designation or the boundaries of each proposed historic district.

(v) The City Clerk shall cause the HRC's recommendation to be presented to the Common Council at its next scheduled meeting.

(vi) After the HRC's recommendation is presented, the Common Council may approve or disapprove the proposed designation of a landmark or historic district.

(vii) Upon Common Council approval of a designation, a list of the landmarks or historic districts designated shall be filed with the City Clerk, the Chief Planning Official, the Chief Building Official, the City Engineer and the Albany County Hall of Records.

(viii) Notice of a designation shall be sent to the owner of each property that is designated or located adjacent to a designated property. Where the designation involves so many properties that individual notice to affected owners is impractical, notice may instead be published at least twice in a newspaper of general circulation

(c) Review Criteria

(i) For Individual Landmarks:

The Historic Resources Commission may recommend designation of an individual property as a landmark if it determines that the property:

- A. Possesses special character or historic, aesthetic or archaeological interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation;
- B. Is identified with historic personages or events significant in local, state, or national history;
- C. Embodies the distinguishing characteristics of a cultural period, an architectural style, a period or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship;

- D. Is the work of a designer, architect or builder whose work has significantly influenced an age; or
 - E. Represents an established and familiar visual feature of the neighborhood due to a unique location or singular physical characteristic
- (ii) For a Historic District:
- The Historic Resources Commission may recommend designation of a group of properties as a historic district if it determines that the area:
- A. Contains a majority of the properties that meet one or more of the criteria for designation of a landmark and may have within its boundaries other properties or structures that, while not of such historic or architectural significance to be designated as landmarks, contribute to the overall visual characteristics of the historic resources within the district;
 - B. Constitutes a significant and distinguishable entity whose components may lack individual distinction;
 - C. Embodies the distinctive characteristics of a type, period, or method of construction;
 - D. Portrays the environment of a group of people in an era of history characterized by a distinctive architectural type;
 - E. Has yielded, or is likely to yield, information important in history or prehistory;
 - F. Possesses high artistic value; or
 - G. Has a relationship to designated landmarks or a historic zone which makes the area's preservation critical.

(G) Enforcement and Penalties

(4) Violations and Responsible Parties

(b) Specific Violations

It shall be a violation of this Code to undertake any activity contrary to the provisions of this USDO, including but not limited to any of the following:

- (xiii) Demolish, alter, construct, or permit a designated landmark or other building or structure in a historic district to fall into serious disrepair, or to be damaged in a way that increases its likelihood of total failure, without obtaining approval of a Major Certificate of Appropriateness pursuant to Section 375-5(E)(19) or a Minor Certificate of Appropriateness pursuant to Section 375-5(E)(13), as applicable.

(6) Remedies and Penalties

(a) Deny or Withhold Permits or Approvals

- (ii) If the City determines that a designated landmark or other building or structure within an historic district has been demolished in violation of this USDO, the Chief Planning Official may withhold all permits and approvals for the subject property for a period of two years from the date of the completion of the improper demolition

(e) Restoration of the Property

If the City determines that there has been a violation of the standards and requirements of Section 375-2(F)(1) (HR-O Historic Resources Overlay), any Major or Minor Certificate of Appropriateness issued under Sections Section 375-5(E)(13) or Section 375-5(E)(19) or any Demolition Review issued under Section 375-5(E)(17), the City may require the property owner to restore the property to its appearance prior to the violation

Chapter 42, Part 4 of the Albany City Code

§ 42-82. Establishment.

The Common Council, in order to preserve and protect places, sites, buildings, structures, works of art and other objects having a special character or special historic or aesthetic interest or value, does deem it in the best interest of the City of Albany that there hereby be established an Historic Resources Commission, with the powers and duties described herein.

§ 42-83. Purpose and intent.

The Historic Resources Commission shall administer the provisions of this article so as to:

- A. Regulate the appearance, style and components of new construction in historic districts and of additions or alterations to landmarks or to existing structures which are visible from the public right-of-way within designated historic districts and adjacent areas.
- B. Protect, preserve and enhance those places, sites, buildings, structures, objects and significant public interiors which are of special character or interest to the City of Albany.
- C. Foster civic beauty.
- D. Foster civic pride in the accomplishments of the past.
- E. Protect and enhance the attractiveness of the City of Albany to visitors and the support and stimulus to the economy thereby provided.

- F. Foster harmonious, orderly and compatible physical development within the City of Albany.
- G. Safeguard and preserve the historic, cultural, architectural and archaeological heritage of the City of Albany.

§ 42-84. (Reserved)1

§ 42-85. Membership; organization; meeting; vacancies; powers and duties.

- A. Membership; organization; meetings; vacancies.
 1. The Historic Resources Commission shall consist of nine members, who shall be appointed by the Mayor of the City of Albany with the advice and consent of the Common Council. All Commission members shall have a demonstrated interest, competence or knowledge of historic preservation and archaeology, at least two of whom shall be professional archaeologists. To the extent that such professionals are available in the community, Commission members shall be drawn from among the disciplines of history, architectural history, architecture, historic architecture, planning, archaeology, historic preservation or closely related fields.

(Consider adding additional requirements for at least two members to be property owners who reside in historic districts and one to own property in Downtown Albany. Are two archaeologists needed? Consider reducing to one to allow for additional professional diversity. Also consider achieving diversity in age, income, gender and race.)
 2. Three of the initial members shall be appointed for one year, two for two years and two for three years. Subsequently, members shall be appointed for terms of three years as terms expire. Members of the Commission may be reappointed for succeeding terms.

(Consider instituting term limits for commission members. The "NYS Model Ordinance" states the following: 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.
 3. The Mayor shall designate one member as Chairman of the Commission and one member as Vice Chairman. The Vice Chairman shall act in the absence of the Chairman.

4. The presence of five members of the Commission shall constitute a quorum. The concurring vote of five members shall be required to carry out an action of the Commission.
5. A vacancy occurring in the membership of the Commission for any cause shall be filled by a person appointed by the Mayor for the unexpired term.
6. The Commission shall meet as often as is necessary to discharge its duties in a timely fashion, but at least eight times per year.

(Consider adding reporting requirements such as posting meeting minutes on the City’s website in a timely manner and submitting an annual report to the Common Council. The recommendation in the “NYS Model Ordinance” reads as follows:

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 town supervisor or mayor and each member of the (Village/Town/City) governing board and make such recommendations to the governing board as the commission deems necessary to carry out the purposes of this local law.)

(Consider adding the following section from the “NYS Model Ordinance” regarding the training of local commissioners:

Training and attendance requirements:

(i) 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 City of Albany Common Council 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.

ii. To be eligible for reappointment to the commission, a member shall have completed the training approved by the City of Albany Common Council.

iii. The training may be waived or modified by resolution of the governing board when, in the judgment of the City of Albany Common Council, it is in the best interest to do so.

iv. No decision of a commission shall be voided or declared invalid because of a failure to comply with this subdivision.)

(Consider adding language allowing the HRC to create working committees. The “NYS Model Ordinance” reads as follows:

Committees: The commission may, in its bylaws, establish permanent or ad hoc committees consisting of no less than three current members of the commission for assignments assigned to it by the full commission.)

(Consider creating a Permit Review Committee to meet separately and work with applicants on projects to help them meet the Guidelines, to prevent unnecessarily extensive reviews at the Commission level. The Permit Review Committee would forward a recommendation to the HRC or for placement on the Consent Agenda. As the HRC meets twice a month, perhaps the first meeting could be only the Committee and the second the HRC.)

B. The powers of the Commission shall include:

1. Delegation of administrative and procedural matters to staff and professional consultants as necessary to carry out the duties of the Commission. [Amended 5-15-2017 by Ord. No. 26.31.17]
2. Consultation with individuals or groups in the carrying out of its duties.
3. Adoption of rules and regulations necessary to establish criteria and standards for the conduct of its business or necessary to carry out the provisions of this article.
4. Adoption of criteria for the identification of significant historic, architectural, archaeological and cultural landmarks and for delineation of historic districts.
5. Conduct of surveys of significant historic, architectural, archaeological and cultural landmarks and historic districts within the City.

6. Recommending to the Common Council the designation of identified structures or sites as landmarks or historic districts and making recommendations regarding nominations for listing on the National Register of Historic Places.
7. Approval, approval with modifications or denial of certificates of appropriateness pursuant to this article.
8. Regulation of development within areas adjacent to historic districts. The Commission shall limit its review of such development to new construction, signage and site improvements.
9. Increasing public awareness of the value of historic, cultural, archaeological and architectural preservation by developing and participating in public education programs.
10. Making recommendations to City government concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the City.
11. Maintenance of central files for the City on all historic surveys and designations prepared for City, state or federal programs.
12. Review development plans which involve potential archaeological sites, cause to be conducted preliminary assessments of the potential archaeological significance of any site plan area and of the impact of any proposed ground-disturbing activities on such area, and make recommendations as to the necessity of cultural resource investigations. [Added 5-15-2017 by Ord. No. 26.31.17]

(Consider adding language from the “NYS Model Ordinance” regarding Cooperation of City Departments.

Cooperation of City Departments: All (Village/Town/City) departments shall, upon request of the commission, assist and furnish available permits, plans, reports, maps and statistical and other information which the commission may require for its work.”

§ 42-86. through § 42-88. (Reserved)

§ 42-89. Opinion of Commission.

In the event that the Commission is not the lead agency for the environmental review process, the opinion of the Commission, as an involved agency, shall be sought for all applications under this article.

§ 42-90. Certificate of appropriateness

(This section may now be found in the USDO.)



St. Joseph's Church



Aerial View of Albany



Ten Broeck Triangle Historic District



Historic Carriage House



Broadway-Livingston Avenue Historic District



Ten Broeck Place



Historic Albany Pump Station

Back Cover Images (Top left to bottom right): Steamboat Square, Source: AlbanyGroup; North Pearl Street from Canal to Orange (1898), Source: AlbanyGroup; Dutch Demo House (1937), Source: AlbanyGroup; Albany High School, Source: AlbanyGroup; Boats along the Hudson River, Source: Albany Group; and Northern Boulevard, Source: AlbanyGroup.

All photos by The Lakota Group unless otherwise noted in the report.



Albany

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HISTORIC
PRESERVATION
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Prepared for the City of Albany

