

COLD SPRING CODE

Chapter 64

HISTORIC DISTRICT

- § 64-1 Purpose and Public Policy**
- § 64-2 Usage and Definitions**
- § 64-3 District Boundaries**
- § 64-4 Architectural and Historic District Review Board**
- § 64-5a Powers and Duties of Architectural and Historic District Review Board**
- § 64-5b Cooperation of Village Departments**
- § 64-6 Designation of Historic Landmarks or Modifications to the Historic District Boundaries**
- § 64-7a Regulation of Alterations within the Historic District**
- § 64-7b Ordinary Maintenance and Repair Requirement**
- § 64-8 Remediating Dangerous Conditions**
- § 64-9 Public Notice Requirements**
- § 64-10 Certificate of Appropriateness Procedure**
- § 64-11 Signage**
- § 64-12 Public Hearing Requirements and Procedures**
- § 64-13 Fees and Escrow**
- § 64-14 Determinations of Review Board**
- § 64-15 Extension of Time**
- § 64-16 Penalties for Offenses**
- § 64-17 Certificate of Economic Hardship Process and Criteria**
- § 64-18 Appeal of Determinations of Review Board**
- § 64-19 Conflicting Provisions**

[HISTORY: Adopted by the Mayor and Board of Trustees of the Village of Cold Spring 7-13-76 as L.L. No. 1-1976. [Amended 2-18-97 by L.L. 1-1997; 12-5-00 by

HISTORIC DISTRICT

L.L. 2000-11; 9-12-06 by L.L. 2006-01; 11-13-07 by L.L. 2007-02; 05-01-18 by L.L. 2018-02; 1-8-19 by L.L. 2019-01]

GENERAL REFERENCES

Subdivision of Land - See Ch. 111.

Zoning - See Ch. 134.

§64-1

§64-1

§64-1. Purpose and Public Policy**A. Preamble of 1976.**

Purpose. The Mayor and Board of Trustees of the Village of Cold Spring find that the village has a large number of buildings and improvements which faithfully reflect elements and characteristics of 19th Century Hudson River architecture. The Mayor and Board of Trustees recognize that the existence of many 19th Century buildings, especially along Main Street, Cold Spring, creates a unique architectural scheme which is well preserved and scenically located. The Mayor and Board of Trustees have witnessed the change or destruction of the architectural character of several buildings on Main Street which threatens the essential 19th Century character of the area. In 1976 the Mayor and Board of Trustees received a written report from James Marston Fitch, Professor of Architecture at Columbia University, New York, New York, which outlined the unique and distinctive architectural heritage of Cold Spring and suggests its preservation. The Mayor and Board of Trustees recognize further that preservation of Cold Spring's architectural character will promote pride in the heritage of the community and result in direct economic benefits to Cold Spring by uniformly preserving its distinctive character. Accordingly, the Mayor and Board of Trustees thereby created an Architectural and Historic District and hereby establish an Architectural and Historic District Review Board with power to review all changes in the exterior architectural features of improvements located within the District. [Amended 5-01-2018 by L.L. 2018-02]

B. 2018 Addendum to Preamble of 1976. The Architectural and Historic District also contains a number of significant, contributing buildings and improvements dating to the Early and Mid-Twentieth Century. These resources contribute to the evolving character of the Village of Cold Spring. Over time they have achieved their own architectural and historic significance and equally contribute to the unique and distinctive character of Cold Spring. [Added 05-01-2018 by L.L. 2018-02]

C. Findings and Enabling Authority. The Board of Trustees finds that there exist within the Village places, sites, buildings and improvements of historic or architectural significance, or uniqueness of exterior design or construction, which should be protected and preserved to maintain the architectural character of the Village, to contribute to the aesthetic value of the Village and to promote the general good, welfare, health and safety of the Village and its residents. Accordingly, pursuant to Article 5, § 96-a; Article 5-G, Article 5-J and Article 5-K, § 119-aa-dd of the New York State General Municipal Law; Article 14 of the New York State Parks,

HISTORIC DISTRICT

§64-1

§64-1

Recreation and Historic Preservation Law; and § 10 of the New York State Municipal Home Rule Law, the Board of Trustees hereby continues the Village Architectural and Historic District (“District”) and Architectural and Historic District Review Board (“Review Board”) with powers and duties described in this Chapter. **[Added 5-01-2018 by L.L. 2018-02]**

- D. **Public Policy.** The purpose of this local law is to promote the general welfare by providing for the identification, protection, enhancement, perpetuation, preservation and use of buildings, improvements, signs, natural resources, sites, and areas within the Village that reflect special elements of the Village’s historical, architectural, cultural, economic or aesthetic heritage. It is therefore the public policy of this chapter:
- (1) To protect, enhance, perpetuate and preserve the Village’s historic, aesthetic, architectural and cultural heritage as reflected in the improvements, buildings and structures located within the District, and promote the continued use, care and maintenance thereof; **[Amended 5-01-2018 by L.L. 2018-02]**
 - (2) To foster public knowledge, understanding, and civic pride in the beauty and character of the Village and in the accomplishments of its past; **[Amended 5-01-2018 by L.L. 2018-02]**
 - (3) To ensure the harmonious, orderly, and efficient growth and development of the District; **[Added 5-01-2018 by L.L. 2018-02]**
 - (4) To enhance the visual character of the District by encouraging new design and construction that complements the Village’s historic resources; **[Added 5-01-2018 by L.L. 2018-02]**
 - (5) To protect and promote the economic benefits of historic preservation to the Village, its inhabitants and visitors; **[Amended 5-01-2018 by L.L. 2018-02]**
 - (6) To identify as early as possible and attempt to resolve conflicts between the preservation of historic resources and proposed modifications **[Added 5-01-2018 by L.L. 2018-02]**
 - (7) To promote the use of the District for the education, pleasure and welfare of the people of the Village of Cold Spring; and,
 - (8) To conserve valuable material and energy resources by promoting and encouraging the ongoing use and maintenance of the existing built environment. **[Added 5-01-2018 by L.L. 2018-02]**

§64-2

§64-2

§ 64-2. Usage and Definitions

- A. **Usage.** Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular, and vice versa. The word "shall" is intended to be mandatory; the word "person" includes a firm, association, partnership or corporation. **[Amended 5-01-2018 by L.L. 2018-02]**
- B. As used in this local law, the following words and phrases have the following meaning:
- (1) **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. **[Amended 5-01-2018 by L.L. 2018-02]**
 - (2) **Alteration:** Any act or process, other than preventive 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, or placement of any improvement, substantially visible from any public way; erection, demolition, reconstruction, or removal of the building or structure, subdivision or merger of lots, or grading. Alteration shall not include interior improvements that do not affect the exterior architectural features of any structure subject to regulation under this Chapter. **[Amended 5-01-2018 by L.L. 2018-02]**
 - (3) **Appropriate:** Especially suitable or compatible. **[Amended 5-01-2018 by L.L. 2018-02]**
 - (4) **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. **[Added 5-01-2018 by L.L. 2018-02]**
 - (5) **Beneficial Occupancy:** The status of an historic landmark, improvement or property being capable of achieving a Certificate of Occupancy, a Certificate of Completion or Compliance, or a full or partial Temporary Certificate of Occupancy, as those terms are used in the New York State Fire Prevention and Building Code. **[Added 5-01-2018 by L.L. 2018-02]**

HISTORIC DISTRICT

§64-2

§64-2

- (6) **Building:** Any construction which is affixed or sited on the land. Building may also refer to an historically-related set of buildings, such as a house and a barn. [Added 5-01-2018 by L.L. 2018-02]
- (7) **Code Enforcement Officer:** The person, or his or her designee, who is also authorized by the Board of Trustees to enforce the New York State Fire Prevention and Building Code or its equivalent, and to enforce this Chapter. [Added 5-01-2018 by L.L. 2018-02]
- (8) **Certificate of Appropriateness:** An official form issued by the Review Board stating that the proposed work on a property in the District or designated historic landmark is compatible with the historic character of the District and/or property and thus in accordance with the provisions of this Chapter. [Amended 5-01-2018 by L.L. 2018-02]
- (9) **Certificate of Economic Hardship:** See §64-17. [Amended 5-01-2018 by L.L. 2018-02]
- (10) **Character:** Character refers to ideas of design and construction defined by form, proportion, structure, plan, style or materials. [Added 5-01-2018 by L.L. 2018-02]
- (11) **Compatible:** In harmony with location, context, setting, and historic character. [Added 5-01-2018 by L.L. 2018-02]
- (12) **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. [Added 5-01-2018 by L.L. 2018-02]
- (13) **Demolish/Demolition** Any act or process that removes or destroys, in whole or in part, a building, improvement, historic landmark, or natural resource. [Added 5-01-2018 by L.L. 2018-02]
- (14) **Exterior Architectural Features:** The architectural style, general design and general arrangement of the exterior of any improvement, including but not limited to the kind and texture of the building material and the type and style of the doors, windows, roofs, light fixtures, steps, entryways, vents and other architectural openings, grillwork, canopies, signs and other appurtenant fixtures, but shall not include color of paint or stain on any improvement. [Amended 5-01-2018 by L.L. 2018-02]

- (15) **Historic District:** An area designated as a Historic District under this Chapter which contains within definable geographic boundaries a significant concentration, linkage or continuity of sites, buildings, improvements or natural resources united historically or aesthetically by plan or physical development. **[Added 5-01-2018 by L.L. 2018-02]**
- (16) **Historic Fabric:** Original building materials or materials/construction of a later period but having historic significance (including but not limited to glass, masonry, wood, metals). **[Added 5-01-2018 by L.L. 2018-02]**
- (17) **Historic Landmark:** Any building, improvement or site that has been designated by the Board of Trustees pursuant to procedures described in §64-6 of this local law, or designated by New York State or the US Department of the Interior that is worthy of preservation, restoration or rehabilitation because of its historic or architectural or cultural significance. **[Added 5-01-2018 by L.L. 2018-02]**
- (18) **Historic Property/Site:** A place, site, building, improvement or natural resource significant in history, architecture, engineering, archeology, or culture at the national, state, or local level; the location of a significant event, a prehistoric or historic occupation or activity, or a building or improvement, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing buildings, improvements or natural resources. Examples of a site are a battlefield, designed landscape, trail, or campsite. **[Added 5-01-2018 by L.L. 2018-02]**
- (19) **Historic Significance:** The quality of a place, site, building, district, improvement, natural resource based upon its identification with historic persons or events or exemplification of an architectural style or era. **[Added 5-01-2018 by L.L. 2018-02]**
- (20) **Improvement:** Any building or manmade fixture located within the District or subject to the provisions of this Chapter, including but not limited to houses, stores, warehouses, churches, schools, barns, fences, outhouses, pumps, gravestones, light fixtures, bridges, piers, parks, cemeteries, sidewalks, clocks, boundary markers, mileposts, fountains, monuments, sculpture, outdoor signs, cultural artifact, and other outdoor fixtures. **[Amended 5-01-2018 by L.L. 2018-02]**

HISTORIC DISTRICT

§64-2

§64-2

- (21) **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 of significance. [Added 5-01-2018 by L.L. 2018-02]
- (22) **Maintenance and Repair:** Acts of ordinary maintenance that do not include a change in the design, material, form, or outer appearance of a resource. This includes methods of stabilizing and preventing further decay, and may incorporate replacement-in-kind or restoration of materials on a building or structure. [Added 5-01-2018 by L.L. 2018-02]
- (23) **National Register of Historic Places:** The official inventory of the nation's historic properties, districts, sites, structures, objects and landmarks maintained by the US 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). [Added 5-01-2018 by L.L. 2018-02]
- (24) **Natural Resource:** A unique geological or geographical feature that contributes to the character of an individual landmark or the Historic District, including but not limited to rock outcroppings, shorelines and streambeds. [Added 5-01-2018 by L.L. 2018-02]
- (25) **Non-contributing:** An architectural feature, addition, building, structure, object or site which does not add to the sense of historical authenticity or evolution of an individual landmark or the District, or where the location, design, setting, materials, workmanship, history, and/or association of the feature, addition or building, improvement or site has been so altered or deteriorated its overall historic integrity has been irretrievably lost. [Added 5-01-2018 by L.L. 2018-02]
- (26) **Owner:** Those individuals, partnerships, corporations, or public agencies holding title to property, as identified in public records. [Added 5-01-2018 by L.L. 2018-02]
- (27) **Period of Significance:** The measure of time when a property was associated with important events, activities, or persons, or attained characteristics that qualifies it for landmark status or inclusion in the Historic District. [Added 5-01-2018 by L.L. 2018-02]
- (28) **Preservation:** The act or process of applying measures to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the

§64-2

§64-2

property, generally focuses upon the ongoing maintenance and repair of historic materials and architectural 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. [Added 5-01-2018 by L.L. 2018-02]

- (29) **Public Way:** Any street, road, sidewalk, alley, path or navigable waterway freely available for use by the public. [Added 9-12-06 by L.L. 2016-01; Amended 5-01-2018 by L.L. 2018-02]
- (30) **Rehabilitation:** The act or process of making possible a continued or compatible use of a property through repair, alterations, and additions while preserving those portions or architectural features of the property that convey its historical, architectural and cultural values. [Added 5-01-2018 by L.L. 2018-02]
- (31) **Relocation:** moving, in whole or in part, a building, improvement or natural resource within the bounds of the Historic District. [Added 5-01-2018 by L.L. 2018-02]
- (32) **Removal:** the removal, in whole or in part, a building, improvement or natural resource from the bounds of the Historic District. [Added 5-01-2018 by L.L. 2018-02]
- (33) **Restoration:** The act or process of repairing the form, architectural features, and character of a property as it appeared at a particular period of time; and or alteration to remove architectural features from other periods in its history and/or reconstruct missing architectural features from the period/s of significance. [Added 5-01-2018 by L.L. 2018-02]
- (34) **Reversible Change:** An alteration that creates little or no damage to the historic property's or site's original condition and can be undone at a later time. [Added 5-01-2018 by L.L. 2018-02]
- (35) **Review Board:** The Architectural and Historic District Review Board established pursuant to this Chapter. [Amended 5-01-2018 by L.L. 2018-02]

HISTORIC DISTRICT

§64-2

§64-4

- (36) **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 building owners and/or managers of historic buildings, preservation consultants, architects, contractors, and project reviewers on how to approach the treatment of historic properties. The Secretary of the Interior's Standards for the Treatment of Historic Properties may also be referred to in this local law as "Secretary of the Interior's Standards." [Added 5-01-2018 by L.L. 2018-02]
- (37) **SEQRA:** New York State Environmental Quality Review Act (6NYCRR Part 617). [Added 5-01-2018 by L.L. 2018-02]
- (38) **Significant:** Having particularly important associations within the contexts of history, architecture, engineering, archaeology and/or culture. [Added 5-01-2018 by L.L. 2018-02]
- (39) **Stabilization:** The act or process of applying measures designed to establish or reestablish a weather resistant enclosure and/or the structural stability of an unsafe or deteriorated property. [Added 5-01-2018 by L.L. 2018-02]
- (40) **Village of Cold Spring Architectural and Historic District:** The Architectural and Historic District shall consist of the area designated on the map made a part of this chapter and shall be filed with the Village Clerk. [Added 5-01-2018 by L.L. 2018-02]

§ 64-3. District boundaries.

The Architectural and Historic District shall consist of the area designated on the map attached to and made a part of this chapter¹ and shall be filed with the Village Clerk. The boundaries of the District may be changed or enlarged upon the recommendation of the Review Board and/or Planning Board and amendment of this law by the Mayor and Board of Trustees as set forth in Section 64-6.

§ 64-4. Architectural and Historic District Review Board

- A. To effect the purposes declared in this chapter, the Board created by 64-1(b) shall be known as the "Architectural and Historic District Review Board." The Review Board shall have such powers and duties as shall be prescribed by this chapter and any other law, rule or regulation relating to the protection and preservation of historic resources in the District. [Amended 5-01-2018 by L.L. 2018-02]

¹ Editor's Note: The map referred to is on file in the office of the Village Clerk.

§64-4

§64-5a

- B. The Review Board shall consist of five (5) members, all of whom shall be residents of the Village of Cold Spring and at least three (3) of whom shall be residents of the District. All of the members shall have demonstrated interest, competence or knowledge of preservation of the District. All of the members of the Review Board shall serve without compensation.
- C. The original members of the Review Board were appointed by the Mayor and Board of Trustees as follows: One (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years and one (1) for five (5) years. The members of the Review Board thereafter shall be appointed by the Mayor and Board of Trustees for five-year terms. The term of each member first taking office shall commence on the date of his or her appointment. Each member shall serve until the appointment and qualification of his or her successor. **[Amended 5-01-2018 by L.L. 2018-02]**
- D. In the event a vacancy occurs during the term of a member of the Review Board, the Mayor shall make an interim appointment to complete the unexpired term of such member.
- E. The Mayor and Board of Trustees shall designate one (1) of the members of the Review Board to be Chairperson, and in the absence of such a designation, the Review Board shall select a Chairperson from amongst its members. The Review Board shall annually designate additional officers as needed. **[Amended 5-01-2018 by L.L. 2018-02]**
- F. The Review Board shall be required to hold at least one (1) regular meeting each month and forward the minutes of such meeting to the Village Clerk in accordance with the New York State Open Meetings Law. **[Amended 5-01-2018 by L.L. 2018-02]**
- G. A majority of the Board constitutes a quorum for the purpose of transacting business, that is three (3) of five (5) members. Approval of applications requires a minimum of three affirmative votes. Members must be present in order to vote. **[Added 5-01-2018 by L.L. 2018-02]**

64-5a. Powers and Duties of the Review Board

- A. General and Advisory Powers. The Review Board shall:
 - (1) Have authority to promulgate rules and regulations as may be necessary for the conduct of its business, including development of Design Standards, required forms and maintenance of necessary records; **[Amended 5-01-2018 by L.L. 2018-02]**

HISTORIC DISTRICT

§64-5a

§64-5a

- (2) Retain or employ professional consultants or other personnel as may be necessary to assist it in carrying out its duties, except that if a charge is to be incurred for such use, approval shall first be obtained from the Mayor and Board of Trustees;
 - (3) Conduct surveys of historic resources and recommend to the Mayor and Board of Trustees the designation of historic landmarks improvements, and natural resources and modifications to the District as set forth in Section 64-6 below; conduct investigations, prepare maps, reports and recommendations in connection with its advisory authority relating to the planning, development and administration of the Village landmarks preservation policies and local law as needed; **[Amended 5-01-2018 by L.L. 2018-02]**
 - (4) Review proposed alterations to designated properties; approve or deny certificates pursuant to Sections 64-10 and 64-17 of this law and any Design Standards adopted by the Review Board; and make determinations available to the public. **[Amended 5-01-2018 by L.L. 2018-02]**
 - (5) Recommend to the Mayor and Board of Trustees any changes to the Village Code when the Review Board deems it appropriate to accomplish the public policy as stated in Section §64-1;
 - (6) Recommend, when appropriate, to the Mayor and the Board of Trustees proposals for the acquisition of preservation easements or other interests in real property; **[Added 5-01-2018 by L.L. 2018-02]**
 - (7) Report on matters referred to it by the Mayor and Board of Trustees; the Mayor and Board of Trustees may stipulate that final actions shall not be taken until the Review Board has submitted its report or has had a reasonable time, to be fixed by the Board of Trustees, to submit the report. **[Added 5-01-2018 by L.L. 2018-02]**
- B. Administrative Reviews. In accordance with the regulations adopted by the Review Board, it shall approve, approve with modifications, or deny: **[Added 5-01-2018 by L.L. 2018-02]**
- (1) Evaluate, without public hearing, an application for ordinary maintenance and repair of historic resources, properties or landmarks; **[Added 5-01-2018 by L.L. 2018-02]**
 - (2) Evaluate an application for a Certificate of Appropriateness as per Section 64-10 and 64-11; **[Added 5-01-2018 by L.L. 2018-02]**

§64-5a

§64-6

- (3) Evaluate an application for a Certificate of Economic Hardship as per Section 64-17; **[Added 5-01-2018 by L.L. 2018-02]**
- (4) Evaluate nominations for the addition of individual landmarks and modifications to District boundaries. **[Added 5-01-2018 by L.L. 2018-02]**
- C. General Duties. The Review Board shall prepare recommendations for an annual budget, produce minutes from workshops and meetings, and prepare periodic reports to the Mayor and Village Board, as well as perform other administrative responsibilities. **[Added 5-01-2018 by L.L. 2018-02]**

§ 64-5b. [Added 5-01-2018 by L.L. 2018-02] Cooperation of Village Departments

- A. All Village Departments, Boards and Committees shall, upon request of the Review Board, assist and furnish available permits, permit applications, plans, reports, maps and statistical and other information that the Review Board may require for its work.
- B. No final determinations shall be made by the Planning Board or Zoning Board of Appeals, nor shall permits be granted by the Code Enforcement Officer, or Mayor and Board of Trustees regarding the alteration of any improvement located within the District unless a Certificate of Appropriateness or Economic Hardship has been obtained from the Review Board.

§ 64-6. Designation of Historic Landmarks or Modifications to the Historic District Boundaries

- A. Any person or group may request designation of an historic landmark or modification to the District Boundaries by submitting a written application for such designation to the Review Board. The application shall be accompanied by such information as deemed necessary by the Review Board, including, but not limited to, descriptive information in narrative and photographic form, maps and legal descriptions of the property involved, and documentation of the property's historic, architectural, and cultural significance. The Review Board may also initiate such designation on its own motion. **[Amended 5-01-2018 by L.L. 2018-02]**
- B. The Review Board may recommend to the Mayor and Board of Trustees the designation of an historic landmark or the modification of District boundaries if it:
 - (1) Exemplifies or possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or

HISTORIC DISTRICT

§64-6

§64-6

social history of the community, region, state or nation;
[Amended 5-01-2018 by L.L. 2018-02]

- (2) Is identified with persons or events significant in local, state or national history; [Amended 5-01-2018 by L.L. 2018-02]
 - (3) Embodies the distinguishing characteristics of a type, period or method of construction or design style, or is a valuable example of the use of indigenous materials or craftsmanship; or is representative of the work of a designer, architect, engineer, or builder; or [Amended 5-01-2018 by L.L. 2018-02]
 - (4) Because of a unique location of singular physical characteristics, represents an established and familiar visual feature of the Village; [Amended 5-01-2018 by L.L. 2018-02]
 - (5) Has yielded or may be likely to yield information important in pre-history or history; [Added 5-01-2018 by L.L. 2018-02]
 - (6) Contains properties which meet one or more of the criteria above 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. [Added 5-01-2018 by L.L. 2018-02]
- C. Ordinarily, properties and/or improvements that have achieved significance within the past fifty (50) years are not considered eligible for designation/delineation under this chapter adopted by the Mayor and Board of Trustees, however, such properties and/or improvements shall qualify if they are: (1) integral parts of the Historic District that meet the criteria for designation; or are (2) properties of exceptional importance, as determined by the Review Board after a public hearing. [Added 5-01-2018 by L.L. 2018-02]
- D. [Added 5-01-2018 by L.L. 2018-02] An application for the designation of an individual landmark or the modification of the District shall be considered complete when it contains:
- (1) Narrative description and rationale for designation/modification;
 - (2) Name, address, e-mail address and telephone number of applicant/s and of property owner/s, if different;
 - (3) Tax map identification number/s ;

§64-6

§64-6

- (4) In the case of proposed district modification, map delineating proposed area keyed to numbers (2) and (3) above;
- (5) In the case of proposed individual property designation, survey of tax map parcel showing all buildings and improvements thereon;
- (6) Location and photographs of properties; location, photographs and elevation drawings of individual proposed property, if available;
- (7) Perspective photographs, showing relationship to adjacent properties and street context;
- (8) Copies of documentation, to the extent available, addressing requirements set forth in Sec. 64-6 B. (1) through (6) above;
- (9) Environmental review submissions when required by the Review Board;
- (10) Such other and further information as the Review Board deems necessary to accomplish the purposes of this Chapter; and
- (11) Proof of payment of application fee and escrow fee, as applicable.

E. Public Notice for Consideration of Designation or Delineation

- (1) When the Review Board has determined the completeness of an application for designation or delineation, the Review Board shall notice the consideration of the property/ies being considered for designation or delineation. The Notice shall be published in the Village's newspaper of record. In addition, when the HDRB has the ability to do so, notice shall also be placed on the Village's website.
- (2) The Review Board shall send notice, by registered mail, to the owner of the property/ies under consideration. **[Amended 5-01-2018 by L.L. 2018-02]**
- (3) Notices shall include a brief description of the nomination, and the location where the proposal may be reviewed by the public. **[Added 5-01-2018 by L.L. 2018-02]**

F. Work Moratorium: Once the Review Board has issued notice that a property/ies is under consideration for designation or delineation, no permit for exterior alteration may be issued for that property/ies except as necessary to correct an unsafe or dangerous condition pursuant to Sec. 64-8. It shall be unlawful for any person to carry out any activity requiring a Certificate of Appropriateness for any property within the boundaries of a

HISTORIC DISTRICT

§64-6

§64-6

proposed historic district while a submitted application for designation or delineation is pending, without first having obtained a Certificate of Appropriateness. This moratorium shall not apply to work begun under a valid building permit issued prior to notice that a property/ies is under consideration and which has already substantially commenced prior to such notice. This moratorium shall remain in effect until the proposed designation is approved or disapproved by the Mayor and Board of Trustees. **[Amended 5-01-2018 by L.L. 2018-02]**

- G. When the Review Board has compiled, by its own determination, sufficient information to consider designation or delineation, it shall fix a time and place for a public hearing thereon. Notice of the public hearing shall be sent by registered mail to the owner of each property proposed for designation or delineation at least ten (10) days prior to the scheduled hearing. Notice shall also be published at least twice in the Village's newspaper of record. A public hearing notice sign along with a detailed instructions package will be furnished by the Village Clerk at no cost to the applicant. Two (2) signs are provided for corner lots. The applicant will obtain the public hearing sign and detailed instruction package from the Village Office during regular business hours. The sign will be marked with all boards having scheduled hearings. The applicant will post the sign at the property under review at least ten (10) days before the hearing, and the sign shall remain on display until all hearings are formally closed. **[Amended 5-01-2018 by L.L. 2018-02; 1-8-19 by L.L. 2019-01]**
- H. The Review Board shall conduct a public hearing on the proposed designation or delineation, at which the Review Board, owners and any interested parties may present testimony or document any evidence that will become part of a record regarding its historic, architectural or cultural importance. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing within a period of ten (10) days following the public hearing. **[Amended 5-01-2018 by L.L. 2018-02]**
- I. Within sixty-two (62) days of the close of the public comment period, the Review Board shall issue a report to the Mayor and Board of Trustees with a copy to the Planning Board for their review and comment. This report shall contain the application, the record of the public hearing and all relevant documentation, along with its recommendation as to approval or disapproval, in whole or in part, of the application. The recommendation may limit itself to the property/ies proposed in the application or may include modifications thereto. In making its determination and recommendation, the Review Board shall be guided by the Secretary of the Interior's Standards for Rehabilitation. **[Amended 5-01-2018 by L.L. 2018-02]**

§64-6

§64-7a

- J. Within sixty-two (62) days of receiving the Review Board's report, the Mayor and Board of Trustees shall decide upon designation of the proposed landmark or modification to the boundaries of the District. The Mayor and Board of Trustees shall base their decision upon the recommendation and record presented by the Review Board. The Mayor and Board Trustees may solicit additional advice through consultation with property owners, other Village officials, or invited experts. The Mayor and Board of Trustees may hold a public hearing as well.
[Amended 5-01-2018 by L.L. 2018-02]
- K. Upon designation of an historic landmark or modification to the boundaries of the District, the Village Clerk shall notify the property owners and affected Village officials and shall record the new designation on the official Village Map. **[Amended 5-01-2018 by L.L. 2018-02]**
- L. Designation of historic landmark or modification to the boundaries of the District may be amended in the same manner in which they were created.
[Amended 5-01-2018 by L.L. 2018-02]
- M. The Architectural and Historic District of the Village of Cold Spring, established by Local Law 1 of 1976, is hereby confirmed to meet the criteria set forth above and designated as a Historic District under this law.

§ 64-7a. [Added 5-01-2018 by L.L. 2018-02] Regulation of Alterations within the Historic District

- A. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, removal or relocation of an individual historic landmark, improvement, natural resource or property within a designated Historic District without first obtaining a Certificate of Appropriateness or Economic Hardship that authorizes such work from the Review Board.
- B. All changes to publicly-owned property affecting an individual landmark, or an improvement or natural resource or within a Historic District shall be subject to the provisions of this local law.
- C. The Review Board may require that an application for a Certificate of Appropriateness or Economic Hardship be supplemented by such additional information or materials as may be necessary for a complete review.

§64-7b

§64-10

§ 64-7b. [Added 5-01-2018 by L.L. 2018-02] Ordinary Maintenance and Repair Requirement

Every owner or person responsible for an individual landmark, building, improvement or site within the Historic District shall keep in good repair all exterior features and all interior portions thereof which, if not so maintained, may cause exterior portions to deteriorate, decay or become damaged or otherwise fall into a serious state of disrepair.

- A. Nothing in this local law shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of an historic landmark or property within an Historic District that does not involve a change in design, building materials, or outward appearance, as outlined in the Design Standards adopted by the Review Board and the Secretary of the Interior's Standards.
- B. The Review Board shall evaluate and decide, without public hearing, whether or not proposed work constitutes ordinary maintenance and repair or requires a Certificate of Appropriateness.
- C. Maintenance shall be required, consistent with the Property Maintenance Code of New York State Uniform Fire Prevention and Building Code and all other applicable local regulations.

§ 64-8. Remedying Dangerous Conditions.

Nothing contained in this chapter shall be construed to make it unlawful for any person without prior issuance of a Certificate of Appropriateness to comply with the order or direction of the Code Enforcement Officer where the alteration, demolition, relocation or removal of an improvement in the District is ordered or directed for the purpose of immediately remedying conditions determined to be a danger to life, health or property. [Amended 5-01-2018 by L.L. 2018-02]

§ 64-9. [Added 5-01-2018 by L.L. 2018-02] Public Notice Requirements

For regular business meetings, notice of the time and place of the regular meeting shall be given or electronically transmitted to the news media at least seven (7) days before the meeting and shall be posted in Village Hall at least seventy-two (72) hours before such meeting. In addition, when the HDRB has the ability to do so, notice of the regular meeting will be posted on the Village's website.

§64-10. Certificate of Appropriateness Procedure

- A. Prior to the commencement of any work requiring a Certificate of Appropriateness, the property owner or its delegate shall file an application for a Building Permit with the Village Code Enforcement

§64-10

§64-10

Officer and subsequently an application for a Certificate of Appropriateness with the Review Board. **[Added 5-01-2018 by L.L. 2018-02]**

- B. **[Added 5-01-2018 by L.L. 2018-02]** An application for a Certificate of Appropriateness shall be considered complete when it contains:
- (1) Name, address, e-mail address and telephone number of applicant and property owner;
 - (2) Tax map identification number and building permit application number as assigned by the Village Code Enforcement Officer;
 - (3) Referral from the Village Code Enforcement Office
 - (4) Project description;
 - (5) Location and photographs of property; elevation drawings of proposed changes, if available;
 - (6) Perspective drawings or photographs, including relationship to adjacent properties;
 - (7) Specifications of building materials to be used (samples required when requested by the Review Board);
 - (8) Environmental review submissions when required by the Review Board;
 - (9) Such other and further information as the Review Board deems necessary to accomplish the purposes of this Chapter;
 - (10) Proof of payment of application fee and escrow fee, as applicable;
- C. **[Added 5-01-2018 by L.L. 2018-02]** Upon receipt of all the information required herein, the Review Board shall deem the application complete and shall place the application on its next available agenda. Upon submission of a complete application, the Review Board shall have the authority to, without public hearing and public notice:
- (1) Determine whether the proposed work constitutes ordinary maintenance and repair for which a Certificate of Appropriateness is not required;
 - (2) Approve work that is considered replacement-in-kind;
 - (3) Determine SEQRA classification;

HISTORIC DISTRICT

§64-10

§64-10

- (4) Impose an additional escrow fee to fund the Review Board's use of engineers, planners, attorneys or other consultants if necessary to fulfill the purposes of this Chapter.
- D. Criteria. The Review Board 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 historic landmark, improvement or natural resource or, if the proposed work is within the Historic District, the work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance of the property itself, neighboring properties or the Historic District overall. **[Added 5-01-2018 by L.L. 2018-02]**
- (1) In making this determination, the Review Board shall be guided by the Secretary of the Interior's Standards for Rehabilitation and any Design Standards adopted by the Review Board, and by the following principles: **[Added 5-01-2018 by L.L. 2018-02]**
 - a) Properties which contribute to the character of the Historic District shall be retained with their exterior features altered as little as possible; **[Added 5-01-2018 by L.L. 2018-02]**
 - b) Insofar as possible, the proposed alteration/s shall retain exterior architectural features of the designated property which contribute to its historic character as seen from a public way; **[Amended 5-01-2018 by L.L. 2018-02]**
 - c) Alteration/s of designated property shall be compatible with its historic character, and with exterior features of neighboring properties and the District; **[Amended 5-01-2018 by L.L. 2018-02]**
 - d) New construction shall be compatible with the Historic District in which it is located. **[Added 5-01-2018 by L.L. 2018-02]**
 - (2) In applying the principle of compatibility, the Review Board shall consider the following factors:
 - a) The general design and character of the proposed alteration or new construction relative to existing features of the property, improvement, or natural resource; **[Amended 5-01-2018 by L.L. 2018-02]**

§64-10

§64-10

- b) The mass and scale of proposed alteration/s or new construction in relation to the property itself, and to surrounding properties; **[Amended 5-01-2018 by L.L. 2018-02]**
 - c) Texture and materials, and their relation to similar design features of the properties; **[Amended 5-01-2018 by L.L. 2018-02]**
 - d) Visual compatibility with surrounding properties, including proportion of the property's front façade, proportion and arrangement of windows and other openings within the façade, and roof shape; and
 - e) The importance of architectural or other features to the historic significance of the property.
- E. Public Hearing. The Review Board may hold a public hearing on the application pursuant to Section §64-12. **[Added 5-01-2018 by L.L. 2018-02]**
- F. Findings. In approving an application for a Certificate of Appropriateness, the Review Board shall find that the building, improvement, or natural resource for which the permit 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 local law, would not be visually incompatible or inappropriate by reason of exterior design, materials or construction, would not be visually discordant with the site or surroundings, would not mar the appearance of the area, and would not be detrimental to the character of the surrounding properties. **[Added 5-01-2018 by L.L. 2018-02]**
- G. Where the Review Board grants a Certificate of Appropriateness under circumstances where the permitted activity is likely to uncover or affect archeological resources, the Review Board shall require reasonable efforts to protect and preserve such resources. Where such protection and preservation is not feasible, the Review Board shall nonetheless impose appropriate and reasonable conditions to insure that the archaeological resource is made accessible for a reasonable period to qualified persons for study and documentation. **[Added 5-01-2018 by L.L. 2018-02]**
- H. Review Board Decision. After reviewing the application and the holding of a public hearing, if any, the Review Board may: **[Added 5-01-2018 by L.L. 2018-02]**

HISTORIC DISTRICT

§64-10

§64-11

- (1) Approve the application and issue a Certificate of Appropriateness; **[Added 5-01-2018 by L.L. 2018-02]**
- (2) Approve the application with modifications and conditions and issue a Certificate of Appropriateness; or **[Added 5-01-2018 by L.L. 2018-02]**
- (3) Deny the application. **[Added 5-01-2018 by L.L. 2018-02]**

§ 64-11 Signage

- A. The design, character, size and scale of signs shall be in keeping with and appropriate to the architectural design of the building or structure upon which or near which the signs are placed, the design of neighboring properties, and the character of the Historic District. To the maximum extent possible, signs shall fit within the existing features of the building façade. Signs erected in the Historic District are additionally subject to the requirements of the Village Code for the Zoning District in which they are located.
- B. A Certificate of Appropriateness or Certificate of Economic Hardship shall not be required for any sign that is to be displayed for no more than sixty (60) days, cumulatively, within a calendar year. These shall be considered temporary signs. **[Amended 5-01-2018 by L.L. 2018-02]**
- C. In the case of a request for a Certificate of Appropriateness for signage, the Review Board shall convene a quorum and process the application on an expedited basis, that being defined as three (3) business days from receipt of a complete application and referral from the Code Enforcement Officer, in accordance with the terms and provisions of §64-10. **[Amended 5-01-2018 by L.L. 2018-02]**
 - (1) The Review Board shall render a decision within the same expedited timeline. **[Added 5-01-2018 by L.L. 2018-02]**
 - (2) In the event that the Review Board fails to render a decision within three (3) business days after receipt of a complete application, the applicant may erect or alter the signage at issue without prior issuance of a Certificate of Appropriateness, but subject to such other land use approvals, if any, as may be required. **[Amended 5-01-2018 by L.L. 2018-02]**
 - (3) Failure of the Review Board to render a decision on a request for a Certificate of Appropriateness for signage within three (3) business days shall not be deemed an approval or grant of a Certificate of Appropriateness. Rather, failure to render a decision within three

§64-11

§64-11

(3) business days shall merely relieve the applicant of the obligation to obtain a Certificate of Appropriateness prior to the erection or alteration of the signage at issue. It shall be incumbent upon the applicant to obtain a Certificate of Appropriateness in order to maintain the new or altered signage after it is erected. **[Amended 5-01-2018 by L.L. 2018-02]**

(4) In the event that the Review Board fails to render a decision within three (3) business days of receipt of such application, then the Review Board shall nevertheless continue processing the application in accordance with provisions of this Section and Section §64-10 to determine whether a Certificate of Appropriateness should be issued to permit the maintenance of the signage at issue after it is erected. **[Amended 5-01-2018 by L.L. 2018-02]**

(5) In the event that the Review Board denies a Certificate of Appropriateness to maintain the signage at issue or conditions grant of such approval upon changes or alterations to the signs, the signs shall be removed or modified within thirty (30) days. **[Amended 5-01-2018 by L.L. 2018-02]**

D. Public Notice Requirements for Requests for Certificates of Appropriateness for Signage. The notice of the time and place of a Review Board meeting regarding a request for a Certificate of Appropriateness for signage shall be posted in Village Hall at least twenty-four (24) hours before such meeting. In addition, when the HDRB has the ability to do so, notice of the meeting will be posted on the Village's website. **[Amended 5-01-2018 by L.L. 2018-02]**

E. Following the procedure described in §64-6, Designation of Historic Landmarks or Modifications to the Historic District Boundaries, individual signs may be designated as individual Landmarks. The square footage of such designated signs shall not be included in the square footage calculation for allowable signage under the Village Code. The Review Board shall require the owner to preserve and maintain the condition of individually-landmarked signs, and may, to the extent practicable, require their continued visibility. **[Added 5-01-2018 by L.L. 2018-02]**

§64-12

§64-12

§ 64-12 Public Hearing Requirements and Procedure [Added 5-01-2018 by L.L. 2018-02]

- A. Upon review of an application and completion of review under the State Environmental Quality Review Act, the Review Board shall determine by vote whether to hold a public hearing prior to rendering any decisions. Criteria for requiring a public hearing may include but not be limited to: **[Added 5-01-2018 by L.L. 2018-02]**
 - (1) New construction;
 - (2) Additions to existing buildings, improvements or natural resources
 - (3) Demolition, relocation or removal;
 - (4) New or modified site plan review as it intersects with the purview of this board;
 - (5) Requests for Certificate of Economic Hardship
- B. If the Review Board determines by vote to hold a public hearing, the hearing shall be held within thirty-five (35) days. **[Amended 5-01-2018 by L.L. 2018-02]**
- C. Notice of the public hearing shall be published in the Village's newspaper of record at least seven (7) calendar days prior to the public hearing date. **[Added 5-01-2018 by L.L. 2018-02]**
- D. Ten (10) days prior to the scheduled hearing, the applicant shall send notice, by registered mail, of the public hearing to the owner of each property adjoining the property in question, including those across a public way or private street. A public hearing notice sign along with a detailed instructions package will be furnished by the Village Clerk at no cost to the applicant. Two (2) signs are provided for corner lots. The applicant will obtain the public hearing sign and detailed instruction package from the Village Office during regular business hours. The sign will be marked with all boards having scheduled hearings. The applicant will post the sign at the property under review at least ten (10) days before the hearing, and the sign shall remain on display until all hearings are formally closed. **[Amended 1-8-19 by L.L. 2019-01]**
- E. Notices 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. **[Added 5-01-2018 by L.L. 2018-02]**

§64-12

§64-13

- F. 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, or other evidence offered outside of the hearing. **[Added 5-01-2018 by L.L. 2018-02]**
- G. If the Review Board determines to continue a public hearing in order to receive written comments and/or additional evidence, these must be received within a period not to exceed ten (10) days following the continuation of the public hearing. **[Added 5-01-2018 by L.L. 2018-02]**

§ 64-13. Fees and Escrow [Amended 5-01-2018 by L.L. 2018-02]

- A. Any and all fees called for, required or hereafter required under this chapter or for the administration hereof, may be established or amended by resolution of the Mayor and Board of Trustees provided, however, that the fees charged shall be based upon the sum reasonably necessary to cover the costs of processing and enforcing certificates of appropriateness and/or certificates of economic hardship. **[Amended 11-13-07]**
- B. Village Consultants' Escrow Reimbursement
 - (1) At the discretion of the Review Board, applicants for Certificates of Appropriateness and Certificates of Economic Hardship, or for Nominations for Designation or Delineation, shall reimburse the Village for all costs and expenses incurred for review of their applications including the cost of preservation and/or planning consultants, engineering consultants, legal consultants or other professionals. **[Added 5-01-2018 by L.L. 2018-02]**
 - (2) The funds paid by applicants into escrow shall be used by the Village to pay the costs and expenses incurred in processing applications, including review of applications by consultants. **[Added 5-01-2018 by L.L. 2018-02]**
 - (3) Applicants shall replace and replenish the funds paid into escrow upon submission of an application as necessary to maintain the initial balance therein. **[Added 5-01-2018 by L.L. 2018-02]**
 - (4) The charges made by such consultants for services including, without limitation, review, consultation, attendance at board meetings and preparation of reports or other documents, shall be in accord with charges usually made for such services pursuant to contractual agreement between the Village and such consultant. All such charges shall be paid upon submission of a sworn voucher. **[Added 5-01-2018 by L.L. 2018-02]**

§64-13

§64-14

- (5) All funds paid to the Village as consultants' fees shall be held by the Village Treasurer, without interest. Funds paid into escrow for consultants' fees shall be refunded to the applicant when the applicant formally withdraws the application from consideration or when the applicant receives a final decision, and in either case all reimbursable fees and expenses incurred by the Village shall first be deducted from the escrow account. **[Added 5-01-2018 by L.L. 2018-02]**
- (6) Applicants shall, upon written request, receive a statement setting forth the nature of services and the dates upon which such services were rendered. The charges for such services shall be subject to audit before the Village Board and any party aggrieved by the outcome of such audit may seek judicial review thereof under Article 78 of the Civil Practice Law. **[Added 5-01-2018 by L.L. 2018-02]**

§ 64-14. Determinations of Review Board

- A. Within sixty-two (62) days after the close of the public hearing and public comment period, or within sixty-two (62) days after voting to forgo public hearing, the Review Board shall approve, approve with conditions or modifications, request additional information, or deny any applications. In the event, however, that the Review Board shall make a finding of fact that the circumstances of a particular application require further additional information and/or time for additional study than can be obtained or conducted within the aforesaid sixty-two (62) day period after close of the public hearing, then the Review Board shall have a period of up to one (1) additional sixty-two (62) day period from the date of any such finding within which to act upon such an applications. **[Added 5-01-2018 by L.L. 2018-02]**
- B. State Environmental Quality Review Act (SEQRA). The requirements of the SEQRA must be met prior to the Review Board's final determination. **[Added 5-01-2018 by L.L. 2018-02]**
- C. Any determination by the Review Board may prescribe conditions under which the alteration, demolition, relocation or removal of any historic landmark, improvement or natural resource within the District may be done in order to effectuate the purpose of this chapter, and any determination may include the recommendations of the Review Board. **[Amended 5-01-2018 by L.L. 2018-02]**
- D. All decisions of the Review Board shall be in writing. The Review Board's decision shall state the reasons for denying or modifying any application. A copy shall be sent to the applicant, and copies filed with the

§64-14

§64-16

Code Enforcement Officer and Village Clerk, within ten (10) days of the date of the decision. **[Added 5-01-2018 by L.L. 2018-02]**

- E. After receiving a Certificate of Appropriateness or Certificate of Economic Hardship, the Applicant shall: **[Amended 5-01-2018 by L.L. 2018-02]**
- (1) Apply for and receive within two (2) years of the date of the Certificate, a Building Permit for the alteration if required by Village Ordinances or New York State regulations. **[Amended 5-01-2018 by L.L. 2018-02]**
 - (2) Complete the proposed alteration prior to the expiration of the Building Permit or renewal permit(s) issued therefore, or if no Building Permit is required, within two (2) years from the date of issuance of the Certificate of Appropriateness. **[Amended 5-01-2018 by L.L. 2018-02]**
 - (3) If the applicant fails to accomplish either of the above, the Certificate issued shall be considered null and void and the applicant shall be required to resubmit the proposed change to the Review Board for review. **[Amended 5-01-2018 by L.L. 2018-02]**
 - (4) If modifications to the approved project are made during project planning and/or construction, or upon order of the Code Enforcement Officer, Applicant shall return to the Review Board for modifications to the Certificate of Appropriateness **[Added 5-01-2018 by L.L. 2018-02]**

§ 64-15 Extension of Time

Whenever the Review Board is required or authorized to act within a prescribed period of time, the Review Board may, with the written consent of the applicant, extend such period of time.

§ 64-16. Penalties for Offenses

- A. This chapter shall be enforced by the Code Enforcement Officer. No Building Permit shall be issued until all applicable provisions of this chapter have been observed. Any alteration to any improvement in the District that has not been reviewed by the Review Board or does not comply with the Certificate of Appropriateness or Economic Hardship shall be issued a notice to remedy violation and the Code Enforcement

HISTORIC DISTRICT

§64-16

§64-17

Officer shall notify the Village Attorney for possible imposition of penalties as stated in this Section.

- B. Any person, firm or corporation, including any owner, lessee, contractor or agent, who or which violates or causes to violate any provision of this chapter shall be guilty of an offense against this chapter, shall be subject to a penalty of not more than two hundred dollars (\$200) for each day the offense exists, and shall be liable to restoring the improvement to its condition prior to the violation. Restoration shall be to the satisfaction of the Review Board.
- C. In addition, any said violator of this chapter may be deemed to be a disorderly person, subject to prosecution in accordance with the terms, provisions and penalties of the Penal Law of the State of New York applicable to disorderly conduct.
- D. The Mayor and Board of Trustees may also enforce this chapter by injunction.

§ 64-17. Certificate of Economic Hardship Process and Criteria

An applicant whose Certificate of Appropriateness for a proposed alteration of an individual historic landmark, improvement, natural resource or property, or the demolition, removal or relocation of the same, has been denied may apply for relief on the ground of economic hardship. **[Amended 5-01-2018 by L.L. 2018-02]**

- A. In order to prove the existence of economic hardship related to a proposed alteration, the applicant must demonstrate with objectively verifiable data **[Amended 5-01-2018 by L.L. 2018-02]**
 - (1) For an income-producing property which is operated or offered in whole or in part for hire, lease or rent: 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; **[Amended 5-01-2018 by L.L. 2018-02]**
 - (2) For a property whose primary purpose or mission is philanthropic, eleemosynary, religious or charitable: that the Review Board's denial seriously interferes with the applicant's ability to continue the current use of the property and seriously interferes with the applicant's philanthropic, eleemosynary, religious or charitable purposes; **[Added 5-01-2018 by L.L. 2018-02]**

§64-17

§64-17

- (3) For a residential property, including but not limited to a single-family owner-occupied dwelling, no part of which is operated or offered for hire, lease or rent: that without the Review Board's approval of the proposed alteration the property is incapable of Beneficial Occupancy. **[Added 5-01-2018 by L.L. 2018-02]**
- B. In addition to the above subsection A, in the case of a proposed demolition, removal or relocation, the applicant must also establish that the property cannot continue to be used for its current function, or be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and reasonable efforts to find a purchaser interested in acquiring the property and preserving it have failed. In deciding upon such application for removal, relocation or demolition, the Review Board may consider whether the owner has created its own hardship through waste and neglect, thereby permitting the property to fall into a serious state of disrepair. **[Amended 5-01-2018 by L.L. 2018-02]**
- C. Consultation; plan development. The applicant shall consult in good faith with the Review Board, 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 potential 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. In the case of a proposed demolition, removal or relocation, of an individual landmark or structure within an Historic District, the Review Board may suspend the application for up to one hundred and eighty (180) days to allow the applicant to consult in good faith with the Review Board, local preservation groups, and the public in a diligent effort to seek a less intrusive alternative to demolition. **[Amended 5-01-2018 by L.L. 2018-02]**
- D. An application for a Certificate of Economic Hardship shall be considered complete when it contains the following information: **[Added 5-01-2018 by L.L. 2018-02]**
- (1) 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; **[Amended 5-01-2018 by L.L. 2018-02]**
- (2) For income-producing property which is operated or offered in whole or in part for hire, lease or rent: annual gross and net income from the property for the previous three years of operation; itemized operating and maintenance expenses for the previous

HISTORIC DISTRICT

§64-17

§64-17

three years, and **[Amended 5-01-2018 by L.L. 2018-02]**

- (3) Depreciation deduction and annual cash flow before and after debt service, if any, during the same period; **[Amended 5-01-2018 by L.L. 2018-02]**
- (4) Remaining balance on the mortgage or other financing secured by the property and annual debt-service, if any, during the prior three years; **[Amended 5-01-2018 by L.L. 2018-02]**
- (5) Real estate taxes for the previous four years and assessed value of the property according to the two most recent assessed valuations; **[Amended 5-01-2018 by L.L. 2018-02]**
- (6) All appraisals obtained within the last two years by the owner or applicant in connection with the purchase, financing, or ownership of the property; **[Amended 5-01-2018 by L.L. 2018-02]**
- (7) Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other;
- (8) Any listing of the subject 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; **[Amended 5-01-2018 by L.L. 2018-02]**
- (9) Feasibility study of alternative uses for the property that could earn a reasonable economic return; **[Amended 5-01-2018 by L.L. 2018-02]**
- (10) 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; **[Amended 5-01-2018 by L.L. 2018-02]**
- (11) 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; **[Amended 5-01-2018 by L.L. 2018-02]**
- (12) Estimated market value of the property: (a) in its current condition; (b) after completion of the proposed alteration or

§64-17

§64-17

demolition; and (c) after renovation of the existing property for continued use; **[Amended 5-01-2018 by L.L. 2018-02]**

- (13) 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; **[Amended 5-01-2018 by L.L. 2018-02]**
- (14) Any evidence of self-created hardship through deliberate neglect or inadequate maintenance of the property; and economic incentives and/or funding available to the applicant through federal, state, county or private programs. **[Added 5-01-2018 by L.L. 2018-02]**
- (15) Application fee and escrow fee, as applicable. **[Added 5-01-2018 by L.L. 2018-02]**

E. Criteria. In all cases the applicant shall have the burden of proof that an economic hardship exists by demonstrating to the Review Board that: **[Added 5-01-2018 by L.L. 2018-02]**

- (1) The applicant cannot realize a reasonable return if compliance with the Review Board's decision is required, provided, however, that the lack of reasonable return be proven by the applicant to be substantial as demonstrated by competent financial evidence; **[Amended 5-01-2018 by L.L. 2018-02]**
- (2) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; **[Added 5-01-2018 by L.L. 2018-02]**
- (3) That the requested relief, if granted, will not alter the essential character of the neighborhood; **[Added 5-01-2018 by L.L. 2018-02]**
- (4) That the alleged hardship has not been self-created; and **[Added 5-01-2018 by L.L. 2018-02]**
- (5) Demolition, relocation or removal shall be permitted only after the owner of the site has submitted and obtained design approval of his/her plans for new development under the provisions of this chapter, including an acceptable timetable and guarantees, which may include performance bonds for demolition and completion of the project. In no case shall the time between demolition and commencement of new construction or lot improvement exceed six months. **[Added 5-01-2018 by L.L. 2018-02]**

HISTORIC DISTRICT

§64-17

§64-19

- F. Public hearing. The Review Board may hold a public hearing on the hardship application as per Section §64-12. **[Added 5-01-2018 by L.L. 2018-02]**
- G. Review Board decision. **[Amended 5-01-2018 by L.L. 2018-02]**
 - (1) If the Review Board finds that the applicant's burden of proof has not been met, the Review Board shall deny the application for a Certificate of Economic Hardship.
 - (2) If the Review Board finds that the applicant's burden of proof has been met, the Review Board shall issue a determination of economic hardship within sixty-two (62) days of the close of any public hearing held.
 - (3) The Review Board shall approve the Certificate of Economic Hardship subject to other modifications or conditions.
 - (4) A decision of the Review Board on the hardship application shall be in writing and shall state the reasons for granting or denying it. A copy shall be sent to the applicant and the Code Enforcement Officer, and a copy filed with the Village Clerk's office for public inspection. **[Amended 5-01-2018 by L.L. 2018-02]**
 - (5) The Review Board, in the granting of a Certificate of Economic Hardship, shall grant the minimum terms deemed necessary and adequate to address the hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community

§ 64-18. Appeal of Determinations of Review Board

A person aggrieved by a decision of the Review Board may appeal to the New York State Supreme Court for review by a proceeding under Article Seventy-Eight (78) of the Civil Practice Law and Rules, and commencement of such a proceeding shall automatically stay all proceedings and to enforce the decision appealed from, but such stay shall not continue through any appeals. Additionally no work shall be completed on the subject property related to the decision under appeal. **[Amended 5-01-2018 by L.L. 2018-02]**

§ 64-19. Conflicting Provisions

Whenever the requirements of this chapter are in conflict with one another or are at variance with the requirements of any other lawfully adopted laws, rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.