

## **7.0 PERMITS AND APPROVALS**

### **7.1 SPECIAL USE PERMIT**

#### **7.1.1 INTENT AND DELEGATION TO PLANNING BOARD**

The intent of this Article is to set forth requirements that shall apply to certain land uses which, due to their particular characteristics and potential impacts, require special consideration to ensure the protection of public health, safety and welfare and to mitigate any adverse impacts on surrounding properties and community character. The Planning Board is hereby authorized to administer and carry out the intent established in this Article.

#### **7.1.2 APPLICABILITY AND EXEMPTIONS**

The Planning Board shall conduct Special Use Permit Review for any use so required by Article 2.2 with the following exemption. Special use permit review shall not be required if the following two conditions are met:

1. The action does not result in an increase in the required number of parking spaces as set forth in Article 6.2
2. The action does not alter, either individually or in combination, the impermeable or building coverage by more than 2% or 1200 s.f., whichever is less, from the most recent, approved site plan.

Neither of these exemptions shall permit the alteration of any specific approval conditions of prior Special Use Permits without Planning Board approval.

#### **7.1.3 EVALUATION CRITERIA FOR SPECIAL USE PERMITS**

A. To ensure that the proposed use will not adversely affect surrounding properties and community character, the Planning Board's evaluation of Special Use applications shall include the following:

1. The extent to which the use is in harmony with and promotes the general purposes and intent of the Comprehensive Plan and this Chapter.
2. The density, intensity and compatibility of the use with the neighborhood and community character.
3. Safe and efficient pedestrian and vehicular access, circulation and parking.
4. Existing and future demand on infrastructure, public facilities and services.
5. The environmental and natural resources of the site and neighboring lands including any potential erosion, flooding or excessive light, noise, vibration and the like.
6. The long-term economic viability of the site, neighboring properties and districts.

B. The approval of a special use permit shall be limited to its own facts, site conditions and circumstances and shall have no precedential effect entitling or implying that a similar use would be approved elsewhere.

**7.1.4 APPLICATION PROCEDURES**

- A. For all uses that require a special use permit, as indicated in Article 2.2, application may be made directly to the Planning Board or as a referral by the Zoning Officer.
- B. The Planning Board shall not accept any application for review that includes a parcel for which there is an outstanding, unresolved written violation from the Zoning Officer that is not the subject of the application.
- C. An eligible applicant for a special use permit must be the owner, lessee or purchaser under contract for involved parcel. A lessee and purchaser under contract must have written permission of the current property owner(s) to submit an application.
- D. Applications for Special Use Permit shall be on forms prescribed by the Planning Board and shall be accompanied by a fee as established by the City Council.

**7.1.5 PUBLIC HEARING NOTICE**

- A. Within 62 days of the submission of a complete application, the Planning Board shall conduct a public hearing on that application.
- B. The Planning Board shall advertise the hearing in a Saratoga Springs newspaper of general circulation at least five days prior to the date thereof. The applicant shall be responsible for payment for this notice. Prior to the hearing, the applicant shall be responsible for filing with the Planning Board an affidavit from the newspaper confirming such publication and payment.

**7.1.6 PROPERTY OWNER NOTIFICATION**

The applicant shall provide notice of a hearing to neighboring property owners as follows.

- A. The applicant shall obtain from the City the names and addresses of property owners within a 250 foot geographic radius from the applicant's subject property boundary.
- B. The applicant shall receive from the Planning Board a property owner notification notice and shall send only this notice to the identified property owners by first class mail. This notice shall be postmarked no less than 7 days but not more than 20 calendar days prior to the scheduled hearing.
- C. Prior to the public hearing, the applicant shall submit to the Planning Board confirmation of the property owner notification by obtaining a "certificate of mailing" from the U.S. Postal Service.
- D. Failure to provide notice in exact conformance with these provisions shall not invalidate a Planning Board determination provided the Planning Board finds that

substantial compliance has occurred and the public has been fairly apprised of the fundamental character of the proposed action.

**7.1.7 SARATOGA COUNTY PLANNING BOARD REFERRAL**

A. Any application for a special use permit that meets the referral requirements of General Municipal Law Section 239-m shall be referred to the Saratoga County Planning Board for its review prior to the public hearing. No action shall be taken by the Planning Board on such application until an advisory recommendation has been received from the County Planning Board or 30 calendar days have passed from when the County Planning Board received the full statement.

B. If the Saratoga County Planning Board recommends modification or disapproval of a proposed action, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

**7.1.8 INTERMUNICIPAL NOTIFICATION**

Pursuant to General Municipal Law Section 239-nn, if the land involved in an application for a special use permit lies within 500 feet of the boundary of another municipality, the Planning Board shall submit a copy of the official notice of the public hearing to the municipal clerk of the other municipality at least 10 days prior to the public hearing.

**7.1.9 ADVISORY OPINION**

The Planning Board may request an advisory opinion of the Design Review Commission or any administrative department or agency in its evaluation of a special use permit.

**7.1.10 DECISIONS**

A. In rendering its decision on any application, the Planning Board shall comply will all applicable provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

B. The Planning Board shall issue a written decision on an application within 62 days of the close of the public hearing. This time frame may be extended by mutual consent of the applicant and Planning Board.

C. Four affirmative votes are required to pass a motion regarding an application before the Planning Board.

D. The Planning Board may grant one of three types of permits:

1. A PERMANENT SPECIAL USE PERMIT allows a specific use to continue indefinitely until the specific use ceases for any reason for a period of 12 consecutive months.

2. A TEMPORARY SPECIAL USE PERMIT allows a specific use to continue until a

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specific date at which time the special use permit shall automatically terminate and the use shall be permanently discontinued. A temporary permit shall not be renewed nor extended.

3. A RENEWABLE SPECIAL USE PERMIT allows a specific use to continue until a specific date unless renewed by the Planning Board for an additional period of time. A request for renewal shall be submitted prior to the expiration of the renewable special use permit. If not renewed, the use shall be permanently discontinued.

E. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related, and incidental, to the proposed special use permit. Upon its granting of said special use permit, any such condition must be met in connection with the issuance of permits by the City.

As a condition of approval of a special use permit, the Planning Board may require a letter of credit or equivalent security approved by the City to guarantee satisfactory performance of all required improvements or conditions.

### F. Administrative Approval

The Chairperson shall have the authority to approve minor modifications to existing special use approvals if the Chairperson deems the changes are not material, substantial or substantive in nature and are not contrary to the intent of the original decision. The Chairperson shall issue all administrative approvals in writing and report them to the Planning Board in a timely manner.

G. Every special use permit decision shall be signed and dated by the Chairperson and shall document the circumstances of the application and the findings on which the decision is based.

H. Every special use decision shall be filed in the Office of the City Clerk within five business days thereof and a copy provided to the applicant and to the Building Department.

### **7.1.11 SITE PLAN REVIEW**

A. An application subject to special use permit may also be subject to site plan review as indicated in Article 2.2.

B. The Planning Board may waive site plan review as a condition of a special use permit if the Planning Board determines that considerations customarily evaluated under site plan review have been appropriately considered as part of the special use permit process.

**7.1.12 EXPIRATION**

Unless otherwise specified or extended by the Planning Board, a decision on any request for a special use permit shall expire 18 months following the filing date of such decision if the applicant has not complied with any required conditions and started actual construction, or otherwise implemented this approval. Actual construction is defined as the fastening or placing of construction materials in a permanent manner, the excavation of a basement, or the demolition or removal of any existing structure if no new construction is approved.

**7.1.13 EXTENSIONS**

The Planning Board may grant up to two 18-month extensions for an approved special use permit provided that the application was properly submitted prior to the expiration date of either the original special use permit or the first extension. When requesting an extension, it shall be the applicant's responsibility to prove that there have been no significant changes to the site or neighborhood and that the circumstances and findings of fact by which the original approval was granted have not significantly changed.

## **7.2 SITE PLAN REVIEW**

### **7.2.1 INTENT AND DELEGATION TO PLANNING BOARD**

The City finds that a safe, well-planned and attractive natural and man-made environment is essential to the economic health of the community and to the general safety and welfare of its residents. Therefore, the intent of this Article is to set forth the process by which to review the site characteristics to ensure consistency with the goals and objectives of the City's Comprehensive Plan and to regulate the preservation, conservation and efficient use of City resources. The Planning Board is hereby authorized to administer and carry out the intent established in this Article.

### **7.2.2 APPLICABILITY AND EXEMPTIONS**

#### **A. Applicability**

Site Plan Review shall be conducted for the following actions:

1. Any use so required by Article 2.2.
2. To construct, modify or demolish any structure other than a single-family or two-family residence and associated residential accessory structures in any district.
3. To implement a use variance except for 1- or 2-family structures.
4. To amend a prior site plan approval.

#### **B. Exemptions**

An action otherwise requiring site plan review may be exempt if the following two conditions are met:

1. The action does not result in an increase in the required number of parking spaces as set forth in Article 6.2; and
2. The action does not alter, either individually or in combination, the impermeable or building coverage by more than 2% or 1200 s.f., whichever is less, from the most recent, approved site plan.

Neither of these exemptions shall permit the alteration of any specific conditions of prior site plan approvals without Planning Board approval.

### **7.2.3 SPECIAL USE PERMIT AND SITE PLAN REVIEW**

#### **A. Review**

The Planning Board shall conduct site plan review independently or in conjunction with special use permit as required by Article 2.2. Such review may occur concurrent with or subsequent to special use permit review. Separate applications and application fees are required for each review.

#### **B. Waiver**

The Planning Board may waive site plan review as a condition of a special use permit if the Planning Board determines that considerations customarily evaluated under site plan review have been appropriately considered as part of the special use permit process.

**7.2.4 EVALUATION CRITERIA FOR SITE PLAN REVIEW**

To ensure that the development of a proposed site will not adversely impact surrounding properties, community character or the general health, safety and welfare of the community, the Planning Board's evaluation of Site Plan Review applications shall include the following:

1. Location, arrangement, size, design and general site compatibility of buildings and sign structures.
2. Adequacy and arrangement of vehicular traffic access and circulation including intersections, road widths, pavement surfaces, dividers and traffic controls.
3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
5. Adequacy of storm water and drainage facilities with attention to impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
6. Adequacy of water supply including pressure and quantity.
7. Adequacy of sanitary sewer including size and inverts, or adequacy of sewerage disposal facilities including soil borings, percolation tests, soil characteristics and professional certification of system adequacy.
8. Adequacy and arrangement of on-site and off-site illumination.
9. Adequacy, type, size, and arrangement of trees, shrubs and other landscaping. Parking, service areas, and loading and maneuvering areas shall be reasonably landscaped and screened from neighboring areas.
10. Adequacy of fire lanes and other emergency zones; location and arrangement of fire hydrants, stand pipes, and other fire safety facilities.

**B. Design and Construction Standards**

The Planning Board shall adopt and maintain a set of design and construction standards which shall apply to all actions that require site plan review. They will be available in the Office of Planning and Economic Development and on the City's website.

**7.2.5 APPLICATION PROCEDURES**

- A. For all uses that require site plan review, as indicated in Article 2.2, application may be made directly to the Planning Board or as a referral by the Zoning Officer.
- B. The Planning Board shall not accept any application for site plan review that includes a parcel for which there is an outstanding, unresolved written violation from the Zoning Officer that is not the subject of the application.
- C. An eligible applicant for site plan review must be the owner, lessee or purchaser under contract for the involved parcel. A lessee and purchaser under contract must have written permission of the current property owner(s) to submit an application for site

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plan review.

D. Applications for site plan and sketch plan review shall be on forms prescribed by the Planning Board and shall be accompanied by a fee as established by the City Council.

### **7.2.5.1 SKETCH PLAN REVIEW**

A. The submission of a sketch plan to the Planning Board is a non-binding option available to the applicant prior to formal site plan review with the intent to seek advice and direction. Sketch plan submission shall be in conformance with the requirements contained in Appendix B.

B. The applicant, or authorized representative, shall attend the Planning Board meeting to discuss the proposed project and satisfaction of the requirements of this Article.

C. Unless authorized by the Planning Board, the applicant will be limited to 2 sketch plan discussions.

### **7.2.5.2 FORMAL SITE PLAN REVIEW**

A. Formal site plan submission shall be in conformance with the requirements contained in Appendix B.

B. The official submission date of the site plan shall be the first meeting at which the site plan is discussed by the Board.

C. The applicant, or authorized representative, shall attend the meeting of the Planning Board to discuss the site plan.

D. The Planning Board may recoup from an applicant costs incurred by the Planning Board for consultation fees, special studies or other expenses in connection with the review of a proposed site plan.

### **7.2.6 PUBLIC HEARING NOTICE**

A. The Planning Board may hold a public hearing on any site plan at the direction of the Chair or upon a majority vote of the Planning Board.

B. In the event a public hearing is scheduled, the Planning Board shall advertise the hearing in a Saratoga Springs newspaper of general circulation at least five days prior to the date thereof. The applicant shall be responsible for payment for this notice. Prior to the hearing, the applicant shall be responsible for filing with the Planning Board an affidavit from the newspaper confirming such publication and payment.

**7.2.7 PROPERTY OWNER NOTIFICATION**

In the event a public hearing is scheduled, the applicant shall provide notice of a hearing to neighboring property owners as follows.

- A. The applicant shall obtain from the City the names and addresses of property owners within a 250 foot geographic radius from the applicant's subject property boundary.
- B. The applicant shall receive from the Planning Board a property owner notification notice and shall send only this notice to the identified property owners by first class mail. This notice shall be postmarked no less than 7 days, but not more than 20 calendar days prior to the scheduled hearing.
- C. Prior to the public hearing, the applicant shall submit to the Planning Board confirmation of the property owner notification by obtaining a "certificate of mailing" from the U.S. Postal Service.
- D. Failure to provide notice in exact conformance with these provisions shall not invalidate a Planning Board determination provided the Planning Board finds that substantial compliance has occurred and the public has been fairly apprised of the fundamental character of the proposed action.

**7.2.8 SARATOGA COUNTY PLANNING BOARD REFERRAL**

- A. Any application for site plan review that meets the referral requirements of General Municipal Law Section 239-m shall be referred to the Saratoga County Planning Board for its review prior to the public hearing, if required, or final action if no public hearing is required. No action shall be taken by the Planning Board on such application until an advisory recommendation has been received from the County Planning Board or 30 calendar days have passed from when the County Planning Board received the full statement.
- B. If the Saratoga County Planning Board recommends modification or disapproval of a proposed action, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

**7.2.9 INTERMUNICIPAL NOTIFICATION**

Pursuant to General Municipal Law Section 239-nn, if the land involved in an application for site plan review lies within 500 feet of the boundary of another municipality, the Planning Board shall submit a copy of the official notice of the public hearing to the municipal clerk of the other municipality at least 10 days prior to the public hearing.

**7.2.10 ADVISORY OPINION**

The Planning Board may request an advisory opinion of the Design Review Commission or any administrative department or agency in its evaluation of a site plan application.

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### **7.2.11 DECISIONS**

A. In rendering its decision on any application for site plan review, the Planning Board shall comply will all applicable provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

B. The Planning Board shall issue a written decision on an application within 62 days of the close of the public hearing, if scheduled, or of the official submission date. This time frame may be extended by mutual consent of the applicant and Planning Board.

C. Four affirmative votes are required to pass a motion regarding an application before the Planning Board.

D. The Planning Board shall have the authority to approve, approve with modifications or disapprove site plans and may impose such reasonable conditions, easements, covenants and restrictions as are directly related, and incidental, to the proposed site plan.

E. Every site plan notice of decision shall be signed and dated by the Chairperson and shall document the circumstances of the application and the findings on which the decision is based.

F. Every site plan review decision shall be filed in the Office of the City Clerk within five business days thereof and a copy provided to the applicant and to the Building Department.

G. Administrative Approval

The Chairperson shall have the authority to approve minor modifications to existing site plan approvals if the Chairperson deems the changes are not material, substantial or substantive in nature and are not contrary to the intent of the original decision. The Chairperson shall issue all administrative approvals in writing and report them to the Planning Board.

### **7.2.12 EXPIRATION AND EXTENSION OF PLANNING BOARD APPROVAL**

A. In order to maintain Planning Board approval, the official signature of the Planning Board Chairperson must be placed on the final site plan no later than 18 months from the date of the Board's decision. The signed site plan shall be filed in the office of Planning and Economic Development.

B. The Planning Board may grant up to two 18-month extensions in addition to the initial 18 month period in which the applicant must obtain signature of the final plans provided such request is properly submitted prior to expiration of the initial 18 month period or the first extension. When requesting an extension, it shall be the applicant's

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responsibility to prove that there have been no significant changes to the site or neighborhood and that the circumstances and findings of fact by which the original approval was granted have not significantly changed.

### **7.2.13 FINAL SITE PLAN SUBMISSION**

- A. No site disturbance may occur prior to signature of the final plans by the Planning Board Chairperson.
- B. The following requirements shall be satisfied prior to the review and approval of final site plans by the Planning Board Chairperson:
  - 1. Review and approval of construction details and final site plans by the City Engineer. Final Plan submission shall be in accordance with the requirements identified in Appendix B.
  - 2. Submission of a performance guarantee properly issued to the City as set forth in Section 7.2.15.
  - 3. Documentation of conformance with all required approval conditions.
  - 4. Proof of payment for any and all required fees.

### **7.2.14 FINAL SITE PLAN EXPIRATION**

- A. Regardless of the terms of any properly issued Building Permit, final site plan approval shall expire if actual construction has not commenced within 18 months of the signing of the final site plan. Actual construction is defined as the fastening or placing of construction materials in a permanent manner, the excavation of a basement or the demolition or removal of any existing structure if no new construction is approved.

### **7.2.15 PERFORMANCE GUARANTEES**

A letter of credit or acceptable equivalent security shall be delivered to the City to guarantee that the applicant shall construct and complete the required improvements as indicated on the approved final site plan. The Planning Board may waive the requirement for a performance guarantee if the estimated cost of site improvements is less than \$10,000.

- A. Establishment of Performance Guarantee
  - 1. The performance guarantee shall cover the full estimated cost of required off-site improvements within the public right-of-way and 25% of the full estimated cost of required on-site improvements. These improvements may include grading, curbs, sidewalks, utilities, street lighting, driveways, parking lots, plantings, signs, and the like.
  - 2. Estimates of construction costs are to be submitted to the Planning Board by the applicant's New York State licensed professional engineer/architect or landscape architect. The City Engineer shall review and revise estimated costs in accordance with current construction standards and practices or as modified by the Planning Board.

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3. The performance guarantee shall identify the City of Saratoga Springs as the beneficiary and will state that funds may be collected at an institution/location within 40 miles of the Saratoga Springs municipal boundaries upon receipt of a written demand from the City Attorney of the City of Saratoga Springs. Legal and administrative costs incurred by the City associated with the collection of a performance guarantee will be reimbursed to the City.
4. The performance guarantee shall be valid for no less than 12 months and shall expire at quarterly intervals. Upon completion of all required construction, the City shall cancel the performance guarantee by written notice to the applicant.

**B. Amendment and/or Extension to Performance Guarantee**

An applicant may request to extend and/or amend the original performance guarantee. The Planning Board Chairperson, in consultation with staff, may act upon the request administratively and report such action to the Board in a timely manner, or may refer the request to the Planning Board for its review. All applications for amendment or extension shall be accompanied by a fee as established by the City Council.

**7.2.16 CONSTRUCTION AND INSPECTIONS**

**A. Pre-construction Conference**

Following final site plan approval, a pre-construction conference shall be held with the City Engineer and relevant Departmental staff to discuss construction schedules, process and inspections.

**B. Construction Notifications**

The owner or designated representative shall notify the City Engineer 48 hours prior to commencing any work and prior to resuming work if the contractor is absent from the site for more than 7 days. In addition, the City Engineer shall be notified prior to any of the following construction activities:

1. Site clearing
2. Sanitary sewer installation
3. Storm sewer installation
4. Waterline installation
5. Sub-grade preparation
6. Gravel installation
7. Asphalt binder and wearing courses and curbing
8. Blasting
9. Any special construction

Failure to notify the City Engineer of these activities prior to completion shall make the work subject to rejection, excavation and inspection at the applicant's expense.

**C.** The City Engineer, or designee, shall inspect the required construction activity. The applicant shall be responsible for all inspection fees as established by the City

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Council. The inspection fees for the site plan shall not exceed 2% of the cost of the installation of the required improvements. If the City Engineer finds that the required improvements have not been constructed in accordance with approved plans and specifications, The City Engineer shall so report to the City Attorney, the Building Inspector and the Planning Board. The City Attorney shall then notify the applicant and, if necessary, the financial guarantor, and take all necessary steps to preserve the City's rights under the performance guarantee.

D. The City Engineer shall have the authority to suspend work on any site if it is found to be in violation of the approved site plan or conducted in an unsafe or dangerous manner. All unauthorized activity shall be suspended until the stop work order has been rescinded.

1. The stop work order shall be in writing and shall state the conditions under which the activity may resume.
2. The stop work order shall be presented to the person performing the work and, if different, the property owner in person or by certified or registered mail, and may be placed upon a conspicuous portion of the building or premises in use.

E. The City Engineer shall have the authority to direct or take immediate action to abate or remedy any hazard or imminent danger to the health, safety or general welfare of the public. Any documented costs incurred by such action shall be paid for by the owner of such property or person responsible. The City shall be authorized to institute a suit, if necessary, against the person liable for such expenses or to place a lien against the property in order to recover the said costs.

### **7.2.17 POST-CONSTRUCTION COMPLETION**

Upon completion of all required improvements, the applicant shall submit proposed "as-built" drawings to the City Engineer for review and approval.

Such "as-built" drawings shall meet the requirements established by the City Engineer and as indicated in Appendix B.

### **7.2.18 RECREATION LAND REQUIREMENTS FOR SITE PLANS CONTAINING RESIDENTIAL UNITS**

Upon finding that a proper case exists for requiring a park or other recreational facility within the City, the Planning Board shall require an offering of usable land, or fee in lieu of land, for this purpose. Such a finding shall include an evaluation of the present and anticipated future need for park and recreational facilities based on projected population growth to which the particular site plan will contribute.

A. Class A Type Usable Land

1. Class A Type usable land refers to developable land generally devoid of wetlands, drainage courses, steep slopes, and the like. The owner shall offer to the City Class A Type Usable Land equal in size to at least 10% of the subject parcel(s) for use as parkland. The Planning Board may specify which lands within the site plan shall be dedicated for parkland and may seek recommendations from the City Recreation Commission on such offers. The

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Board may require that the owner suitably grade the offered land.

2. Class B Type Usable Land

Class B Type usable land refers to land not suitable generally for development except for passive open space. Unique and scenic areas and those areas bordering streams, lakes or other watercourses may be given special consideration by the Planning Board and, should they be deemed essential or desirable for public open spaces, the Board may instead request that the owner offer Class B Type Usable Land to the City to be defined and preserved as passive open space.

B. Payment of fee in lieu of Usable Land

In the event the authorized board makes a finding that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the authorized board may require a sum of money in lieu thereof to be established by the legislative body. The fee shall be required for each new residential unit created by the site plan and shall be used by the City exclusively for neighborhood park, playground or recreation purposes including the acquisition and improvement of property.

C. Combination of land and in lieu of fee

If the Planning Board determines that only a portion of the 10% area offered by the owner is acceptable for public use, then the owner shall dedicate the acceptable land and pay a fee equal to the difference in the percentage of land offered and the 10% required.

D. Prior land set aside for subdivision

If the land included in a site plan is a portion of a previously approved subdivision, the Planning Board shall credit the applicant for any land set aside or money donated in lieu thereof under such subdivision plat approval. In the event of re-subdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.

### **7.3 LAND DISTURBANCE**

#### **7.3.1 LAND DISTURBANCE ACTIVITIES**

##### **7.3.1.1 INTENT**

This section is intended to protect the City's natural environment by minimizing the adverse effects which site preparation and associated construction activities may have on soil, water, and vegetative resources.

##### **7.3.1.2 ACTIVITIES REQUIRING PERMIT AND EXEMPTIONS**

###### **A. Activities subject to permit**

A Land Disturbance Activity Permit shall be required before undertaking the following activities:

1. Within the Rural Residential-1 district: any activity affecting 1.5 or more acres that changes the natural topography, removes or disturbs the topsoil, or removes more than 15% of trees over 4 inches in diameter at breast height (dbh).
2. Any other district: any activity affecting 0.5 or more acres that changes the natural topography, removes or disturbs the topsoil or removes more than 15% of trees over 4 inches in diameter.

###### **B. Exempt Activities**

The following activities shall be exempt from permit:

1. Agricultural activities directly related to the production of crops or livestock, excluding timber harvesting
2. Forest management practices or noncommercial tree cutting for firewood that does not remove more than 15% of trees over 4 inches in diameter
3. Authorized governmental activities
4. Bona fide emergencies

##### **7.3.1.3 PERMIT APPLICATION PROCESS**

A. For all activities that require a land disturbance activity permit, application may be made directly to the Planning Board or as a referral by the Zoning Enforcement Officer. To the extent practicable, the Planning Board shall coordinate review of the land disturbance activity permit with associated subdivision or site plan review applications.

B. Applications for land disturbance activity permits shall be on forms prescribed by the Planning Board, shall include a soil erosion and sediment control plan (basic SWPPP), and shall be accompanied by a fee as established by the City Council. The Planning Board may waive the fee if review is conducted in association with subdivision or site plan review.

C. In its review, the Planning Board may approve the application if it finds that the soil erosion and sediment control plan will adequately minimize the impact of the proposed land disturbance activity upon the City's land and water resources.

D. A Soil Erosion and Sediment Control Plan shall include a sketch plan that fully identifies the proposed activity, extent of soil and vegetative alterations or tree

harvesting, and the land protection and structural soil conservation measures to minimize soil erosion and sediment loss. Such plan should be at a scale of 1" = 100' and include the following:

1. General topographic data, soil conditions, and vegetative cover type.
2. All watercourse, wetlands, rock outcrops and other important land features (including all 100 year federally designated flood hazard and New York State regulated wetlands).
3. The location of all proposed public utilities including water supply, sewerage, and storm water drainage facilities to be constructed.
4. Any other information that the Planning Board may deem necessary for review of the project.

E. The Planning Board may require a performance guarantee to ensure that all necessary erosion and sediment control measures are completed and maintained adequately. The amount of the letter of credit, or other financial security, will not exceed \$1,000 per acre.

F. Unless otherwise specified or extended by the Planning Board, a land disturbance activity permit shall expire 18 months following the filing date of such decision if the applicant has not complied with any required conditions and started the activity, or otherwise implemented this approval.

G. The Planning Board may grant up to two 18-month extensions for an approved land disturbance activity permit provided that the application was properly submitted prior to the expiration date of either the original land disturbance activity permit or the first extension. When requesting an extension, It shall be the applicant's responsibility to prove that there have been no significant changes to the site or neighborhood and that the circumstances and findings of fact by which the original approval was granted have not significantly changed.

H. Unless waived by the Planning Board, construction inspections by the Storm Water Management Officer, or designee, shall be required for all land disturbance activity permits. The construction inspections requirements shall be identical to those set forth in Article 7.2.16.

I. Unless waived by the Planning Board, upon completion of the approved activity an as-built drawing shall be filed with the Planning Board. The requirements for an as built drawing shall be identical to those set forth in Appendix B.

**7.3.2 STORM WATER POLLUTION PREVENTION**

**7.3.2.1 INTENT**

This Section is intended to protect and safeguard the general health, safety, and welfare of the public by regulating certain activities to prevent pollution and manage storm water runoff during land development.

**7.3.2.2 ACTIVITIES REQUIRING A STORM WATER POLLUTION PREVENTION PLAN (SWPPP)**

The following land disturbance activities shall be subject to the storm water management requirements and controls as established in Chapter 242 of the Code of the City of Saratoga Springs.

- A. Residential Development (consisting of Single and Two-Family Development)
  - 1. Residential development activities that involve land disturbance of 1.0 acre to 5.0 acres shall require the submission of a basic SWPPP.
  - 2. Residential development activities that involve land disturbance exceeding 5.0 acres shall require the submission of a “full” SWPPP.
- B. Non-residential and Mixed-use Development
  - 1. Non-residential and mixed-use development activities that involve land disturbance exceeding 0.1 acre or more shall require the submission of a full SWPPP.

## **7.4 HISTORIC REVIEW**

### **7.4.1 INTENT**

It is hereby declared that the protection, enhancement and perpetuation of landmarks and historic districts are necessary to promote the economic, cultural, educational and general welfare of the public. Inasmuch as the City of Saratoga Springs has many significant historic, landscape, architectural and cultural resources that constitute its heritage, this Article is intended to:

- protect and enhance the landmarks and historic districts which represent distinctive elements of the City's historic, architectural and cultural heritage;
- foster civic pride in the accomplishments of the past;
- protect and enhance the City's attractiveness to visitors thereby providing support and stimulus to the economy; and
- ensure the harmonious, orderly and efficient growth and development of the City.

In keeping with this intent, the City hereby establishes a coordinated and comprehensive approach to preserve City Landmarks and Historic Districts, and the procedure for maintaining architectural standards in the construction, alteration and removal of buildings and landscapes within these areas.

### **7.4.2 DELEGATION TO DESIGN REVIEW COMMISSION**

The Design Review Commission ("Commission") is hereby charged with the responsibilities of administering and carrying out the intent, process and actions established in this Article and Article 7.5 "Architectural Review".

### **7.4.3 COMPOSITION OF DESIGN REVIEW COMMISSION**

#### **A. Appointments**

The Commission shall consist of seven members, to be appointed by the Mayor, to represent to the extent possible a broad cross-section of the community with demonstrated experience in historic preservation, architectural development and local history in addition to the following:

- at least one shall have demonstrated commitment to the field of historic preservation evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field
- at least one shall be an architect or related design professional
- at least one shall be a local realtor or other real estate professional
- at least one shall have construction experience working with historic buildings

All members shall be residents of the City of Saratoga Springs including at least one resident of a Historic District and one resident of an Architectural Review District.

#### **B. Term of Office**

The term of each Commission member shall be five years beginning on July 1 and members shall serve on a rotating schedule. Initial terms may be for lesser years so as to effectuate a staggered sequencing of member terms. On an alternating basis, two

member terms will expire one year with one member term expiring the next year. A member whose term has expired may serve until replaced.

C. Vacancy

If a vacancy occurs other than by expiration of a term, it shall be filled by appointment by the Mayor for the unexpired term.

D. Removal

Any member, or alternate member, may be removed by the Mayor for cause and after public hearing.

E. Alternate Members

The Mayor may appoint up to two alternate members to serve in the place of Commission members who are unavailable to attend a meeting due to recusal or other absence.

1. In the selection of alternate members, preference may be given to former Commission members or other residents that demonstrate the experience and knowledge considered for original appointments and as identified in 7.4.3 above.
2. Full Commission attendance is encouraged at all meetings. When fewer than six members are able to attend a meeting, alternate members shall be called upon to serve in the place of an absent member.
3. When serving in the place of a member, the alternate member shall have the full rights and obligations of a member. Alternate members not serving in place of a member may not participate as a Commission member in the discussion of agenda items at Commission meetings or workshops or any subcommittee thereof. In the event a Commission member is available to once again serve with regard to a matter because he/she is no longer absent or recused, the alternate member will no longer serve with regard to said matter.
4. All provisions of law relating to Commission member eligibility, terms, vacancy in office, removal, compatibility of office and service on other boards, training, continuing education, compensation, and attendance shall apply to alternate members, except that there shall be no requirement that an alternate member be a property owner in an historic or architectural review district.

**7.4.4 COMMISSION POWERS AND DUTIES**

The Design Review Commission shall have and exercise the powers and duties as follows:

1. Review and issue decisions on applications for historic review as required by this Article.
2. Review and issue decisions on applications for architectural review as required by this Chapter.
3. Promulgate rules and regulations for the transaction of Commission business.
4. Submit an annual report of Commission activities to the Mayor and City Council.
5. Submit an annual budget request to the Mayor for approval by the City Council.

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6. Employ experts, staff and legal counsel, or appoint such citizen advisory committees as may be required to carry out Commission duties within the Council-approved budget.
7. Administer on behalf, and at the request, of the City Council any full or partial interest in real property that the City may have received.
8. Accept and administer on behalf of the City such grants and funding as may be appropriate for the purposes of this Article.
9. Recommend to the City Council the adoption of ordinances designating properties or structures having special historic, community, cultural or architectural value as landmarks or Historic Districts.
10. Keep a register of all properties and structures that have been designated as landmarks or historic districts including all information required for each designation.
11. Propose or sponsor the nomination of landmarks and historic districts to the National Register of Historic Places and review and comment on any National Register proposed nominations submitted to the City Council or State Historic Preservation Office.
12. Maintain a directory of architectural styles.
13. Develop specific design guidelines for the alteration, construction or removal of landmarks or property and structures within historic districts.
14. Conduct surveys to identify historically and architecturally significant properties, structures, landmarks and areas that exemplify the cultural, social, economic, political or architectural history of the Nation, State or City.
15. Inform and educate the citizens of Saratoga Springs concerning the historic and architectural heritage of the City.
16. Advise and guide property owners on physical and financial aspects of preservation, renovation, rehabilitation and reuse, on procedures for inclusion on the National Register of Historic Places, and on participation in State and Federal historic preservation programs.
17. Confer recognition upon the owners of landmarks or property or structures within historic districts by means of certificates, plaques or markers.
18. Request advisory opinions from the City Council, the Planning Board and any other body, agency or department of the City on any matter before the Commission.
19. Review and make advisory recommendations on any matter referred to the Commission by the City Council, the Zoning Board of Appeals, the Planning Board and any other body, agency or department of the City.
20. Recommend to the City Council zoning amendments, policy initiatives and programs to protect historic properties and implement the intent and objectives of this Article.
21. Develop a preservation component in the Comprehensive Plan of the City of Saratoga Springs and recommend it to the Planning Board and the City Council.
22. Exercise all other powers conferred upon it by the City Council.

#### **7.4.5 HISTORIC REVIEW OBJECTIVES**

The Design Review Commission shall promote the following objectives:

- To prevent the demolition or destruction of significant structures, terrain, landscape or scenic views.
- To eliminate existing incongruous structures or other blighting factors and prevent the creation of any new such conditions.
- To preserve and enhance the historic context and setting within the Historic District.
- To assure architectural compatibility such as aesthetic, historical and architectural values, architectural style, design, arrangement, texture, material and color.
- To encourage and maintain appropriate protective restrictions such as easements, covenants or similar agreements.
- To improve the integrity of the Historic Districts through economic and other incentives.

#### **7.4.6 HISTORIC REVIEW STANDARDS**

In pursuit of this Article's objectives, the Design Review Commission shall employ the following standards:

**A. Preserve rather than remove**

Distinguishing original features of a structure or site are essential to the historic quality and character of that site. Distinguishing original qualities or character of a structure, site and/or its environment shall be preserved and protected to the maximum extent possible. Destruction or alteration of any historic material or distinctive architectural feature should be avoided.

**B. Repair rather than replace**

Distinctive architectural features that characterize a structure or site shall be repaired rather than replaced whenever possible. If replacement is necessary, the replacement materials should match the original in composition, design, color, texture and other visual qualities.

**C. Promote historical accuracy**

Repair or replacement of architectural features should be based on historical evidence rather than on conjectural designs or the incorporation of elements from other structures.

**D. Recognize the significance of historical time periods**

Structures and sites should be recognized and preserved as products of specific historical period(s). Changes that occurred over time are evidence of the history and development of a structure or site and may have acquired historical significance in their own right.

**E. Compatible contemporary design may be encouraged**

Contemporary design for alterations and additions to existing properties may be encouraged provided it does not destroy significant historical, architectural, or cultural material and is compatible with the size, scale, color, material, and character of the site or surrounding neighborhood. Incompatible alterations shall be discouraged.

F. Structures and sites are to be treated with sensitivity  
Archaeological resources affected by any project shall be protected and preserved to the maximum extent possible. Activities that will damage historic building materials or site features shall be discouraged. Historic structures are to be cleaned with the gentlest means possible.

#### **7.4.7 ACTIONS SUBJECT TO REVIEW**

The following actions shall be subject to historic review when occurring on City Landmarks or within Historic Districts as identified in this Article:

- A. Construction, rehabilitation, alteration or exterior change to a structure that requires the issuance of a building or demolition permit.
- B. Installation of an awning, sign or sign structure that requires a building or sign permit, or such modification with respect to size, materials, illumination, method of attachment and color.
- C. Installation of telecommunications facilities per Article 6.3.2.
- D. Regardless of the requirement for a building or demolition permit, any material change to the exterior appearance of a structure that affects the historical characteristics and context of the District including:
  - 1. Addition or removal of exterior architectural features.
  - 2. Installation, removal or change of materials on exterior building elements including but not limited to roof, siding, windows, doors, porches, and the like.
  - 3. Enclosure or screening of building openings including but not limited to windows, doors, porches, and the like.
  - 4. Installation of accessory utility, mechanical or miscellaneous structures to the exterior of a building including but not limited to HVAC equipment, solar panels, wind turbines, radio or satellite transmission/reception devices, and the like.
- E. Within a front yard setback:
  - 1. Installation, removal or change in material of drive- or walkways
  - 2. Installation or removal of architectural, sculptural or vegetative screening that exceeds 3 feet in height.
  - 3. Installation of accessory utility structures or radio/satellite transmission/reception devices exceeding 2' in diameter.
- F. Change of the exterior color of any structure within a non-residential Zoning District.

- G. Additional actions as set forth in Section 7.4.18 occurring on or to a City Landmark.

#### **7.4.8 ACTIONS EXEMPT FROM REVIEW**

The following actions are exempt from historic review:

1. Ordinary maintenance or repair of any exterior feature that does not involve a change in design, material, color or outer appearance.
2. Installation of accessory freestanding objects including but not limited to sculpture, tree houses, play equipment, clocks, fountains, flagpoles, basketball hoops, and the like.
3. Installation of Individual air conditioning units, and radio or satellite antennas/receivers less than 2 feet in diameter.

#### **7.4.9 DESIGN CONSIDERATIONS**

For actions subject to review, the Commission shall evaluate whether the proposed alteration or construction is compatible with the subject structure, site and neighboring properties in the Historic District with regard to:

##### **A. Height**

The Commission shall consider whether the height of the proposed structure is compatible with the historic form and context of the site and neighboring properties and with any specific zoning district intent.

##### **B. Scale**

The Commission shall consider whether the scale of the proposed structure is compatible with the relationship of the building and its architectural elements to neighboring structures, and character of historic setting.

##### **C. Mass and Open Space**

The Commission shall consider whether the relationship of the dimension and mass of a building to the open space between it and adjoining buildings is compatible with the character of the neighboring area and with any specific zoning district intent.

##### **D. Proportion**

The Commission shall consider whether the proposed structure and its architectural elements, including front façades, windows, doors and bays, are consistent with the dominant proportion of neighboring structures and site.

##### **E. Directional Expression**

The Commission shall consider whether the directional expression of a building and its architectural elements are compatible with the dominant horizontal or vertical expression of the neighboring buildings.

##### **F. Architectural Rhythm**

The Commission shall consider whether the architectural, rhythmic pattern resulting from repeated elements such as window and door openings, columns, arches, and

other facade elements is consistent within the subject structure and consistent with neighboring structures.

**G. Front Setback**

The front yard setback for the building line of all new construction shall be compatible with neighboring buildings and any specific zoning district intent.

**H. New Construction and Additions**

New construction and additions should be undertaken such that their removal will not impair the original historic form and integrity of the structure and site.

**I. Treatment of Major Building Elements**

1. **Doors.** Existing historic doors and door openings shall be retained and rehabilitated whenever possible. Restoration of historic openings is encouraged where previously altered. Where doorways must be altered to meet current building code and safety requirements, doors and entrance ways shall be designed to respect the exterior architectural character of the building.
2. **Windows.** Existing historic windows and window openings shall be retained and rehabilitated whenever possible. Restoration of historic openings is encouraged where previously altered.
3. **Roofs.** Features that give a roof its essential historic and architectural character shall be retained and rehabilitated whenever possible. Roof designs for new structures shall be compatible with neighboring buildings. Exterior mechanical equipment shall be minimized and screened from view.

**J. Materials**

Materials used in new construction shall be compatible with those traditionally used in the neighboring area. Contemporary materials are acceptable provided that the overall texture, color and details of the building are compatible with neighboring buildings.

**K. Colors**

Architectural features of historic buildings shall be restored with colors and finishes appropriate to the nature of the materials and to the historic character of the building. Where historically documented colors are not used, colors shall be appropriate to the building's predominant architectural style(s). Colors used in new construction shall be compatible with neighboring buildings.

**7.4.10 MAINTENANCE AND REPAIR**

No owner or person with an interest in real property designated as a City Landmark or included within a Historic District shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Commission, produce a detrimental effect upon the character of the Historic District as a whole or the life and character of the property itself. Examples of such deterioration include:

1. Deterioration of exterior walls or other vertical supports
2. Deterioration of roofs or other horizontal members

3. Deterioration of exterior chimneys
4. Deterioration or crumbling of exterior stucco or mortar
5. Ineffective waterproofing of exterior walls, roofs or foundations including broken windows or doors
6. Deterioration of any feature so as to create a hazardous condition that could lead to the claim that demolition is necessary for the public safety

#### **7.4.11 DEMOLITION**

The Commission shall determine whether the proposed structure has architectural or historic significance. "Significance" includes having particular important associations within the context of the architecture, history or culture of Saratoga Springs or region and may include listing as "contributing" on the State and National Registers of Historic Places.

##### **A. Structures with no architectural or historic significance**

The Commission may approve an application for demolition if it finds that the demolition is consistent with the intent and objectives of this Article and that the structure proposed to be demolished has no historic or architectural significance.

##### **B. Structures with architectural or historic significance**

For the proposed demolition of a structure with architectural or historical significance, the applicant must demonstrate "good cause" as to why such structure cannot be preserved.

1. The applicant shall document "good faith" efforts in seeking an alternative that will result in the preservation of the structure including consultation with the Commission and the Saratoga Springs Preservation Foundation. The relocation of structures may be permitted as an alternative to demolition;
2. The applicant shall document efforts to find a purchaser interested in acquiring and preserving the structure;
3. The applicant shall demonstrate that the structure cannot be adapted for any other permitted use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
4. The applicant shall submit evidence that the property is not capable of earning a reasonable return regardless of whether that return represents the most profitable return possible. "Dollars and cents proof" shall be required to demonstrate such hardship.
5. Application for demolition of a structure with historic or architectural significance shall include acceptable post-demolition plans for the site. Such plans shall include an acceptable timetable and guarantees which may include performance bonds/letters of credit for demolition and completion of the project. The Commission may condition the issuance of a demolition approval on the applicant's receipt of all other necessary approvals and permits for the post-demolition plan.
6. The Commission shall schedule a public hearing on an application for demolition of a structure with historic or architectural significance and shall provide notice as follows.

- a. **Public Hearing Notice**  
The Commission shall advertise the hearing in a Saratoga Springs newspaper of general circulation at least five days prior to the date thereof. The applicant shall be responsible for payment for this notice. Prior to the hearing, the applicant shall be responsible for filing with the Commission an affidavit from the newspaper confirming such publication and payment.
- b. **Property owner notification**
  - i. The applicant shall obtain from the City the names and addresses of property owners within a 250 feet geographic radius from the applicant's subject property.
  - ii. The applicant shall receive from the Commission a property owner notification notice and shall send only this notice to the identified property owners by first class mail. This notice shall be postmarked no less than 7 but no more than 20 calendar days prior to the scheduled hearing.
  - iii. Prior to the public hearing, the applicant shall submit to the Commission confirmation of the property owner notification by obtaining a "certificate of mailing" provided by the U.S. Postal Service.
  - iv. Failure to provide notice in exact conformance with these provisions shall not invalidate a Commission determination provided the Commission finds that substantial compliance has occurred.

**C. Determination of Jeopardy to Health, Safety and Welfare of Community**  
In cases where an applicant has sought demolition approval on the basis that a structure represents an imminent danger to the health, safety and welfare of the community, the Commission shall refer the application to the Building Inspector for review and report pursuant to City Code Section 118 Unsafe Structures. The Building Inspector's report shall be advisory to the Commission. The Commission shall review the Building Inspector's report and make a determination that the structure can or cannot reasonably be repaired in such a way as to remove the imminent danger.

**D. Demolition of Historic Structures by City**  
The City, through its Code Enforcement Officers or other appropriate municipal officials, may seek demolition of a structure listed individually or as a contributing structure in an historic district on the National Register of Historic Places in New York Supreme Court under N.Y. Executive Law 382. Prior to filing such an application, the matter shall be referred to the Commission for an advisory opinion as to whether the structure can or cannot be reasonably repaired in such a way as to remove the cause for demolition. The Commission shall have 30 days to render a written advisory opinion unless extended by mutual consent. The City may also seek advisory recommendations from local preservation organizations.

E. Court action

The Commission shall have no authority to act otherwise in cases where an appropriate legal action or procedure has resulted in a judgment or order by a Court of competent jurisdiction that a structure endangers the health, safety and welfare of the public and shall be demolished.

**7.4.12 HISTORIC REVIEW APPLICATION**

A. It shall be the duty of the Zoning Officer to refer to the Commission all actions identified in this Article that require historic review approval.

B. The Commission shall not accept any application for review that includes a parcel for which there is an outstanding, unresolved written violation from the Zoning Officer that is not the subject of the application.

C. An eligible applicant for historic review approval must be the owner, lessee or purchaser under contract for the involved parcel. A lessee and purchaser under contract must have the permission of the current property owners to submit an application for historic review approval.

D. The City shall collect a fee for all applications to the Commission as established by the City Council.

**7.4.13 ADVISORY OPINION**

The Commission may request an advisory opinion of the Planning Board or any administrative department or agency in its evaluation of an application for historic review.

**7.4.14 HISTORIC REVIEW DECISIONS**

A. In rendering its decision on any application, the Commission shall comply with all applicable provisions of the State Environmental Quality Review Act (SEQRA) under Article 8 of the Environmental Conservation Law and its implementing regulations.

B. Within 62 days of the determination by the Commission that the application is complete, or the close of the public hearing, a written decision shall be issued. This time frame may be extended by mutual consent of the applicant and the Commission.

C. Four affirmative votes are required to pass a motion regarding an application before the Commission. If four affirmative votes cannot be attained on a motion within this 62-day period, unless extended by mutual consent of the applicant and the Commission, the application shall be denied by default.

D. The Commission may issue any of the following decisions:

1. Approve as submitted
2. Approve with conditions

The Commission may impose appropriate conditions in connection with its approval including those related to:

- Nature and quality of building materials
- Manner of construction
- Design and other building elements

3. Preliminary approval

Prior to the granting of final approval by the Commission, an applicant may seek “preliminary approval” for the general “mass and scale” of a proposed structure. This preliminary approval is subject to a SEQRA determination and constitutes approval of the footprint and proportions of the proposed structure, including any proposed rooftop structures, and its compatibility with the surrounding neighborhood. Such preliminary approval does not constitute approval of elevations and other façade and roofline details. Unless so noted within the preliminary approval, an applicant must obtain final approval by the Commission prior to issuance of a building permit.

4. Disapprove

The Commission may disapprove an application provided the Commission finds that such construction, alteration or demolition would be in opposition to the intent and objectives of this Article, and that this finding is not based on personal preference as to taste or choice of architectural style.

E. Every Commission decision shall be signed and dated by the Commission Chairperson and shall document the circumstances of the case and the findings on which the decision is based.

F. Every Commission decision shall be filed in the Office of the City Clerk within five business days thereof and a copy provided to the applicant and to the Building Department.

G. Administrative Approval

The Chairperson shall have the authority to approve minor modifications to existing Commission approvals if the Chairperson deems the changes are not material, substantial or substantive in nature and are not contrary to the intent of the original decision. The Chairperson shall issue all administrative approvals in writing and report them to the Commission.

H. Building Permits, Inspections and Certificates of Occupancy

1. Upon receipt of Historic Review approval and confirmation of compliance with any required conditions, the Building Department may issue building, sign or demolition permits associated with the Historic Review application. No building, sign or demolition permit shall be issued in the event of Historic Review disapproval.
2. For actions subject to Historic Review but not requiring a building, sign or demolition permit, the Building Department shall perform inspections as may be necessary to confirm compliance with Commission approval and any required conditions.

3. Upon confirmation of the completion of an approved action requiring Historic Review, and any required conditions, the Building Department may issue a certificate of occupancy.

#### **7.4.15 EXPIRATION**

Unless otherwise specified or extended by the Commission, Commission approvals shall expire 18 months following the filing date of such decision if the applicant has not complied with any required conditions and started actual construction, or otherwise implemented this approval. Actual construction is defined as the fastening or placing of construction materials in a permanent manner, the excavation of a basement, or the demolition or removal of any existing structure if no new construction is approved.

#### **7.4.16 EXTENSIONS**

The Commission may grant up to two 18 month extensions for historic review approval provided that the application for extension was properly submitted prior to the expiration date of either the original historic review approval or the first extension. When requesting an extension, it shall be the applicant's responsibility to demonstrate that there have been no significant changes to the site or neighborhood, and that the circumstances and findings of fact by which the original historic review approval was granted have not significantly changed.

#### **7.4.17 DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS**

- A. The City Council of the City of Saratoga Springs may designate an individual property as a landmark if it:
  1. Possesses special character or archeological, historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation;
  2. Is identified with historically significant individuals;
  3. Embodies the distinguishing characteristics of an architectural style;
  4. Is the work of a designer whose work has significantly influenced a particular architectural period or era; or
  5. Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.
- B. The City Council may designate a group of properties as a Historic District if it:
  1. Contains properties that meet one or more of the criteria for designation of a landmark; or
  2. By reason of possessing such qualities, constitutes a distinct section of the City.
- C. Any proposed designation of landmarks or historic districts shall constitute an amendment to this Chapter and shall be subject to all public hearing, property owner notification and other applicable provisions of this Chapter.
  1. Once the City Council has accepted for review a proposed designation, no building or demolition permits shall be issued until the City Council has made its designation determination.

2. Prior to action on a proposed designation, the City Council shall request an advisory opinion from the Commission. The Commission shall have 30 days to render a written advisory opinion unless extended by mutual consent. The opinion shall contain a favorable recommendation only if the Commission finds that the proposed revision is not contrary to the intent and objectives of this Article.

#### **7.4.18 CITY LANDMARKS AND HISTORIC DISTRICTS**

The City Council hereby establishes and designates the following City Landmarks and Historic Districts.

A. CITY LANDMARKS.

1. "Bryan House", 123-125 Maple Avenue, Tax I.D. 165.44-1-31
2. "Drink Hall", 297 Broadway, Tax I.D. 165.67-1-24  
Additional actions requiring review: removal or alteration of any interior feature. Only ordinary maintenance or repair of any interior feature is excluded from review.
3. "Canfield Casino", East Congress Street, Tax I.D. 165.00-4-1  
Additional actions requiring review: removal or alteration of any interior feature. Only ordinary maintenance or repair of any interior feature is excluded from review.
4. "City Hall", 474 Broadway, Tax I.D. 165.52-4-37  
Additional actions requiring review: removal or alteration of any interior feature. Only ordinary maintenance or repair of any interior feature is excluded from review.
5. "Congress Park", Broadway, Tax I.D. 165.00-4-1  
Additional actions requiring review: removal, addition or alteration of any park feature such as, but not limited to: Spit 'n' Spat, Italian Gardens, Thorsvalden vases, Spirit of Life and surrounding stonework and landscaping, Trask stairway, War Memorial and Pavilion, Civil War monument, Brackett gates, Congress Spring Pavilion, Columbian Pavilion, Deer Park Spring Pavilion, Morrissey Rose Garden Fountain, reservoir, iron fencing, wrought iron fence surrounding park, configuration of ponds, walks and roadways, topography, Colonial Revival information booth, 1920s era gateposts, street lights, the Grotto (including sundial, pillars and statuary), informational signage, urns by northern pond, trout pond, benches and other park furniture.  
Only ordinary maintenance or repair is excluded from review.
6. "High Rock Park", High Rock Avenue, Tax I.D. 165.52-1-76, 165.44-2- lots 6, 22, 23, 24 and 25

Additional actions requiring review: removal, addition or alteration of any park feature such as structures, sculptures, monuments, pavilions, benches, topography, ponds, vegetation, fences, lights, walkways and roads. Only ordinary maintenance or repair is excluded from review.

7. "Central Fire Station", 60 Lake Avenue, Tax I.D. 165.60-2-3  
Additional actions requiring review: removal or alteration of any interior feature. Only ordinary maintenance or repair of any interior feature is excluded from review.
8. "Gideon Putnam Cemetery", South Franklin Street, Tax I.D. 165.66-2-38  
Additional actions requiring review: removal, addition alteration, or cleaning of any cemetery feature such as grave markers, structures, sculptures, monuments, pavilions, benches, topography, fences, lights, walkways and roads. Only ordinary maintenance or repair is excluded from review.

B. HISTORIC DISTRICTS

1. Commencing at a point in the north line of Fourth Street, 100 feet westerly of the west line of Broadway; running thence in a southerly direction parallel with and 100 feet westerly of the west line of Broadway or extending to the rear lot line of the property facing Broadway, whichever is greater, to a point in the northerly line of Walton Street; thence running southerly along the westerly line of Long Alley to a point in the northerly line of Washington Street; thence southerly on the extension of the line of the east line of Hamilton Street to Congress Street; thence continuing on the east line of Hamilton Street to a point in the southerly line of West Circular Street; thence along the southerly line of West Circular Street and Circular Street to a point which is the westerly boundary of property known as the Batcheller property, now owned by one Turchi; thence southerly along the westerly bounds of Turchi property to an alley; thence easterly along the alley to Whitney Place; thence along Whitney Place to the southerly bounds of property of the Presbyterian Congregation of Saratoga Springs, New York; thence easterly along the southerly bounds of the Presbyterian Congregation of Saratoga Springs, New York, to a point in the westerly line of Regent Street; running thence northerly along the westerly bounds of Regent Street to a point in the northerly line of North Lane; thence easterly along the northerly line of North Lane to Nelson Avenue; thence along the southerly and westerly boundary of property of the New York Racing Association, Inc., to a point in the northerly line of Lincoln Avenue; thence easterly along the northerly line of Lincoln Avenue to the easterly line of Frank Sullivan Place to a point directly across from the northeastern corner of Tax Parcel 179.21-3-5, (Inside District), thence across Frank Sullivan Place to the northeastern corner of said Tax Parcel 179.21-3-5, thence westerly and southerly along the boundaries of said Parcel 179.21-3-5 to the southwest corner of said parcel, thence directly across Wright Street to a point in the southerly line of Wright Street; thence westerly along the southerly line of Wright Street to the easterly line of Nelson Avenue; thence southerly along the easterly line of Nelson Avenue to a point directly across from the northeastern corner of Tax Parcel 179.00-5-5 (Inside District), thence westerly, southerly and easterly along the boundaries of said Tax Parcel 179.00-5-5 to its southeastern corner, thence directly

across Nelson Avenue to a point, thence southerly along the easterly line of Nelson Avenue to the southerly boundary of property owned by the New York Racing Association, Inc.; thence easterly along the southerly line of property of the New York Racing Association, Inc., and Yaddo to a point in the westerly line of Interstate Highway No. 87; thence northerly along the westerly line of Interstate No. 87 to a point in Union Avenue; thence westerly along the center line of Union Avenue to a point, thence northerly, easterly, northerly, and westerly along the boundary of Tax Parcel 166.-3-25 (Outside District) to a point in the southeastern corner of tax parcel 166.14-4-25 (Inside District), thence northerly, westerly and southerly along the boundaries of said tax parcel 166.14-4-25 to a point in the northerly line of Tax Parcel 166.-3-25 (Outside District), thence westerly along the northerly line of said parcel 166.-3-25 to a point in the southeastern corner of Tax Parcel of Tax Parcel 166.14-2-29 (Inside District), thence northerly along the easterly line of Tax Parcel 166.14-4-29 to a point in the southerly line of Fifth Avenue, thence northerly across Fifth Avenue to a point in the southerly line of Tax Parcel 166.14-4-14 (Inside District), thence easterly, northerly, westerly, southerly, westerly, southerly and easterly along the boundaries of said Parcel 166.14-4-14 to a point in the northerly line of Fifth Avenue, thence southerly across Fifth Avenue and along the western boundary of Tax Parcel 166.14-4-29 (Inside District), to a point in the northerly line of Tax Parcel 166.-3-25 (Outside District), thence westerly along the northerly line of Tax Parcels 166.-3-25 (outside District) and 166.-5-1 (Inside District), to a point in the northwesterly corner of said Tax Parcel 166.-5-1, thence southerly along the easterly line of East Avenue to its intersection with Union Avenue, thence westerly along the center line of Union Avenue to the easterly line of Ludlow Street to the easterly line of Ludlow; thence northerly along the easterly line of Ludlow to an alley between Mitchell Street and Union Avenue; thence westerly along said alley and a continuation thereof to a point one hundred fifty (150) feet (plus or minus) east of the easterly line of Nelson Avenue; thence northerly to northern line of George Street; thence easterly to a point 135 feet (plus or minus) east of the eastern line of Ludlow Street; thence northerly to the northern line of the unnamed alley between George Street and Madison Avenue; thence westerly 10 feet (plus or minus); thence northerly 50 feet (plus or minus); thence westerly 25 feet (plus or minus); thence northerly to the northern line of Madison Avenue; thence easterly 200 feet (plus or minus) along the northern line of Madison Avenue; thence northerly to the northern line of the unnamed alley between Fifth Avenue and Madison Avenue; thence easterly to the western line of East Avenue; thence northerly to a point 160 feet (plus or minus) north of the northern boundary of Fifth Avenue; thence westerly to a point 212 feet (plus or minus) east of the eastern line of Ludlow Street; thence northerly to the northern line of Caroline Street; thence westerly to a point 158 feet (plus or minus) east of the eastern line of Ludlow Street; thence northerly 140 feet (plus or minus); thence westerly to a point 47 feet (plus or minus) east of the eastern line of Ludlow Street, thence southerly 63 feet (plus or minus); thence westerly to the western line of Ludlow Street; thence northerly to a point 90 feet (plus or minus) from the northern line of Caroline Street; thence westerly 100 feet (plus or minus); thence northerly 70 feet (plus or minus); thence westerly 200 feet (plus or minus); thence southerly 80 feet (plus or minus); thence westerly to western line of Nelson Avenue; thence northerly to the northern line of Mitchell Place; thence westerly 250 feet (plus or minus); thence northerly to the northern line of Diamond

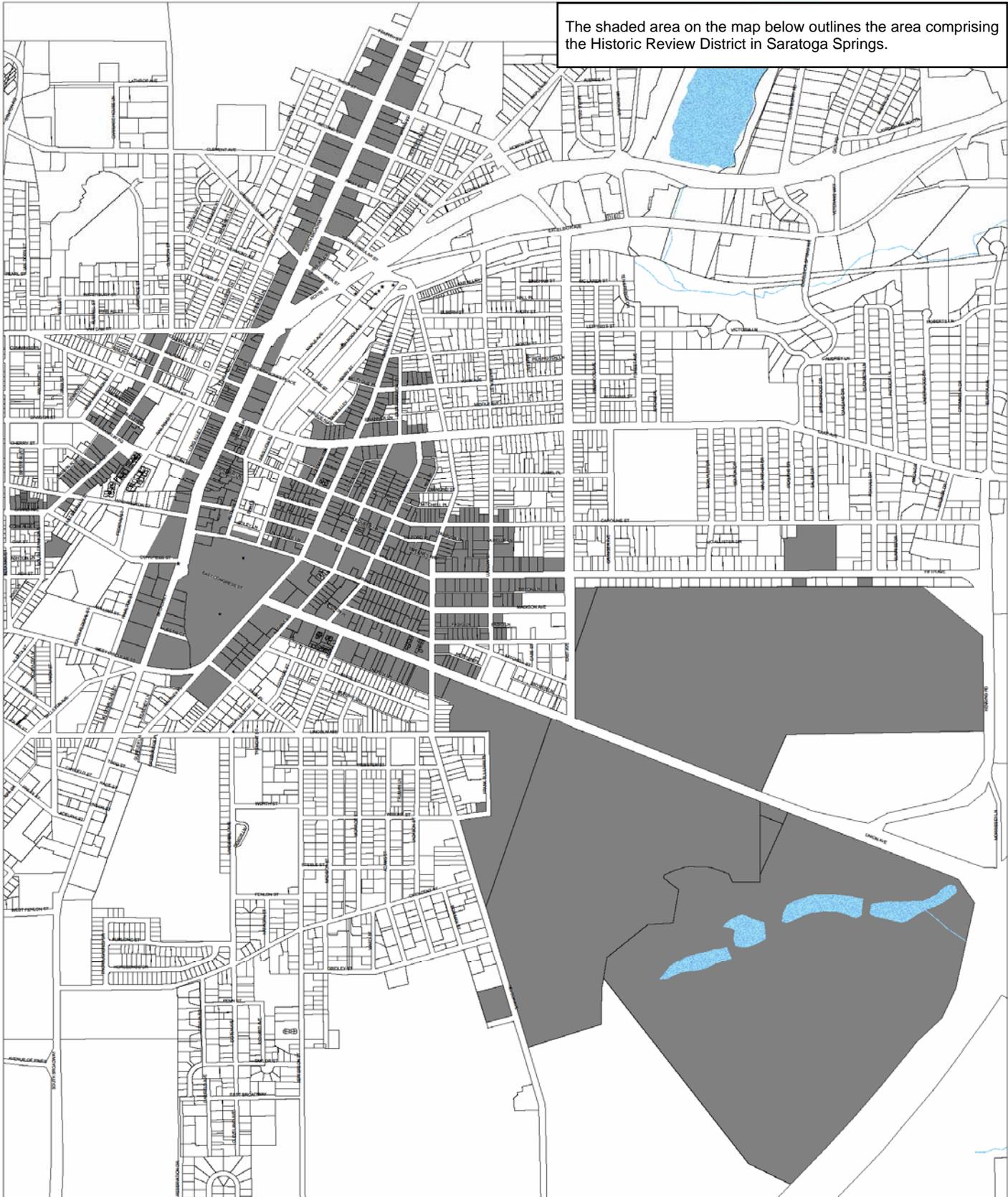
Street; thence easterly to a point 72 feet (plus or minus) east of the eastern line of the unnamed alley between Marion Place and Nelson Avenue; thence northerly 80 feet (plus or minus); thence westerly to eastern line of unnamed alley between Marion Place and Nelson Avenue; thence northerly along eastern line of alley and continuing straight northerly to the northern line of Lake Avenue; thence westerly to a point 215 feet (plus or minus) from the eastern line of East Harrison Street; thence northerly 100 feet (plus or minus); thence westerly along a line 100 feet (plus or minus) from the northern line of Lake Avenue to the western line of East Harrison Street; thence northerly to the northern line of Spruce Alley; thence westerly 169 feet (plus or minus); thence northerly along the eastern side of the unnamed private drive and extending to a point 90 feet (plus or minus) from the southern line of York Avenue and 120 feet (plus or minus) from the westerly line of East Harrison Street; thence easterly to a point 42 feet (plus or minus) from the eastern line of East Harrison Street; thence northerly to the northern line of York Avenue; thence easterly to the western line of Nelson Avenue; thence northerly 138 feet (plus or minus); thence westerly to a point on the western line of East Harrison Street 152 feet (plus or minus) northerly from the northern line of York Avenue; thence northerly to the southern line of North Street; thence westerly to the westerly line of Circular Street; thence northerly to a point 100 feet (plus or minus) south of the southerly line of the unnamed alley between the head of Henry Street and Circular Street; thence westerly to the eastern line of Henry Street; thence southerly along a line 150 feet (plus or minus) west of the western line of Circular Street to a point 100 feet (plus or minus) north of the northern line of the unnamed alley; thence westerly to the eastern line of Henry Street; thence southerly along the eastern line of Henry Street to the southerly line of the unnamed alley; thence easterly to the western line of Bank Alley; thence southerly along the western line of Bank Alley to the southern line of Spruce Alley; thence westerly to the eastern line of Henry Street; thence southerly along the eastern line of Henry Street 50 feet (plus or minus); thence southeasterly 40 feet (plus or minus); thence southerly 153 feet (plus or minus) to the northern line of Lake Avenue; thence southerly across Lake Avenue to a point 100 feet (plus or minus) east of the eastern line of Henry Street on the southern line of Lake Avenue; thence southerly to a point 135 feet (plus or minus) east of the eastern line of Henry Street on the southern line of Short Alley; thence southerly to the southern line of Caroline Street; thence westerly to the eastern line of Henry Street; thence southerly along the eastern line of Henry Street to the southern line of the alley between Phila Street and Spring Street; thence easterly 98 feet (plus or minus); thence southerly to a point 100 feet north of the northern line of Spring Street; thence westerly along this line 100 feet north of the north line of Spring Street to a point in the easterly line of Putnam Street; thence northerly along the easterly line of Putnam Street and the easterly line of Maple Avenue to Grove Street; thence westerly along the northerly line of Grove Street to a point 100 feet easterly of the east line of Broadway; thence northerly parallel with and 100 feet easterly of the east line of Broadway or the rear lot line of the property facing Broadway, whichever is greater, to a point in the outside corporation line; thence westerly along the corporation line to the center of North Broadway; thence westerly along the northerly line of Fourth Street to the point or place of beginning.

2. Commencing at a point at the southwest corner of the intersection of Van Dam Street and Clinton Street, running westerly 286 feet (plus or minus) along the southern line of Van Dam Street; thence southerly 84 feet (plus or minus) to the northern line of Walton Street; thence across Walton Street to its southern line; thence easterly to a point 100 feet (plus or minus) westerly from the western line of Clinton Street; thence southerly 160 feet (plus or minus) to the southern line of Railroad Alley; thence 24 feet (plus or minus) easterly along the southern line of Railroad Alley; thence southerly 137 feet (plus or minus) to the northern line of Church Street; thence across Church Street to a point on the southern line of Church Street 106 feet (plus or minus) westerly from the western line of Clinton Street; thence 100 feet (plus or minus) southerly; thence 36 feet (plus or minus) westerly; thence 35 feet (plus or minus) southerly; thence 15 feet (plus or minus) westerly; thence 45 feet (plus or minus) southerly to the unnamed public alley between West Harrison Street and Clinton Street; thence southerly along the eastern line of the alley to the northern line of Thomas Street; thence across Thomas Street to a point on the southern line of Thomas Street 100 feet (plus or minus) westerly from the western line of Clinton Street; thence southerly 215 feet (plus or minus) to a point 115 feet (plus or minus) from the northern line of Division Street and 100 feet (plus or minus) from the western line of Clinton Street; thence westerly to a point on the eastern line of West Harrison Street 115 feet (plus or minus) northerly from the northern line of Division Street; thence southerly along the eastern line of West Harrison Street to the southern line of Division Street; thence easterly to the eastern line of Marvin Alley; thence southerly along the eastern line of Marvin Alley to a point 332 feet (plus or minus) south of the southern line of Cherry Street; thence easterly 150 feet (plus or minus) to the western line of Franklin Street; thence south to the southern line of Washington Street; thence westerly 145 feet (plus or minus) along the southern line of Washington Street; thence southerly 86 feet (plus or minus); thence westerly 37 feet (plus or minus); thence northerly 14 feet (plus or minus); thence westerly 49 feet (plus or minus); thence northerly 24 feet (plus or minus); thence westerly 99 feet (plus or minus); thence northerly 79 feet (plus or minus) to a point on the southern line of Washington Street 335 feet (plus or minus) from the western line of Franklin Street; thence westerly 102 feet (plus or minus) along the southern line of Washington Street; thence southerly 62 feet (plus or minus); thence westerly 50 feet (plus or minus); thence southerly 8 feet (plus or minus); thence westerly 56 feet (plus or minus) to a point on the eastern line of Beekman Street 150 feet (plus or minus); from the northern line of Grand Avenue; thence southerly to the northern line of Cobb Alley; thence easterly along the northern line of Cobb Alley to the eastern line of South Franklin Street; thence northerly along the eastern line of South Franklin Street and the eastern line of Franklin Street to a point 60 feet (plus or minus) northerly of the northern line of Congress Street; thence easterly 100 feet (plus or minus); thence northerly 161 feet (plus or minus) to a point on the south line of Washington Street 68 feet (plus or minus) from the eastern line of Franklin Street; thence across Washington Street to a point on the northern line of Washington Street 141 feet (plus or minus) from the eastern line of Franklin Street; thence northerly 46 feet (plus or minus); thence easterly 15 feet (plus or minus); thence northerly 142 feet (plus or minus); thence, easterly 45 feet (plus or minus); thence northerly 159 feet (plus or minus); thence westerly 20 feet (plus or minus); thence northerly 50 feet (plus or minus); thence easterly 100 feet (plus or minus); thence

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northerly 205 feet (plus or minus) to a point on the southern line of Division Street 159 feet (plus or minus) easterly from the eastern line of Franklin Street; thence across Division Street to a point on the north line of Division Street 200 feet (plus or minus) easterly from the eastern line of Clinton Street; thence northerly 220 feet (plus or minus); thence westerly 67 feet (plus or minus); thence northerly 290 feet (plus or minus); thence westerly 150 feet (plus or minus) to a point on the eastern line of Clinton Street 120 feet (plus or minus) southerly from the southern line of Church Street; thence northerly along the easterly line of Clinton Street to the northerly line of Church Street; thence easterly along the northern line of Church Street 100 feet (plus or minus); thence northerly 490 feet (plus or minus) to a point on the southern line of Exchange Alley 100 feet (plus or minus) easterly of the eastern line of Clinton Street; thence westerly along the southern line of Exchange Alley to the western line of Clinton Street; thence northerly to the southern line of Van Dam Street or place of beginning.

C. Map of Historic District Areas



## **7.5 ARCHITECTURAL REVIEW**

### **7.5.1 INTENT**

The City finds that appropriate architectural design and the consistent quality of building exteriors directly contribute to the positive value of real property, the enhancement of community character, and the health, safety and general welfare of the City's residents. Therefore, the intent of this Article is to provide architectural standards for the construction, maintenance and enhancement of structures within designated areas of the City as identified in Section 7.5.12.

### **7.5.2 DELEGATION TO DESIGN REVIEW COMMISSION**

The Design Review Commission is hereby charged with the responsibilities of administering and carrying out the intent, process and actions established in this Article and Article 7.4 "Historic Review".

### **7.5.3 ACTIONS SUBJECT TO REVIEW**

The following actions shall be subject to architectural review by the Commission when occurring within designated areas of the City as identified in this Article:

- A. Construction, renovation, alteration or exterior change to a structure that requires the issuance of a building or demolition permit.
- B. Installation of an awning, sign or sign structure that requires a building or sign permit, or such modification with respect to size, materials, illumination, method of attachment and color.
- C. Change of the exterior color of any structure within a non-residential Zoning District.
- D. Installation of telecommunications facilities per Article 6.3.2.

### **7.5.4 ACTIONS EXEMPT FROM REVIEW**

The following actions are exempt from architectural review:

1. Ordinary maintenance or repair of any exterior feature that does not involve a change in design, material, or outer appearance.
2. Any action having received historic review approval.

### **7.5.5 DESIGN CONSIDERATIONS**

For actions subject to review, the Commission shall evaluate whether the proposed alteration or construction is compatible with the subject structure, site and neighboring properties in the architectural review district with regard to:

#### **A. Height**

The Commission shall consider whether the height of the proposed structure is compatible with the historic form and context of the site and neighboring properties and with any specific zoning district intent.

B. Scale

The Commission shall consider whether the scale of the proposed structure is compatible with the relationship of the building and its architectural elements to neighboring structures and community character.

C. Mass and Open Space

The Commission shall consider whether the relationship of the dimension and mass of a building to the open space between it and adjoining buildings is compatible with the character of the neighboring area and with any specific zoning district intent.

D. Proportion

The Commission shall consider whether the proposed structure and its architectural elements, including front façades, windows, doors and bays, are consistent with the dominant proportion of neighboring structures and site.

E. Directional Expression

The Commission shall consider whether the directional expression of a building and its architectural elements are compatible with the dominant horizontal or vertical expression of the neighboring buildings.

F. Architectural Rhythm

The Commission shall consider whether the architectural, rhythmic pattern resulting from repeated elements such as window and door openings, columns, arches, and other facade elements is consistent within the subject structure and consistent with neighboring structures.

G. Front Setback

The front yard setback for the building line of all new construction shall be compatible with neighboring buildings and any specific zoning district intent.

H. New Construction and Additions

New construction and additions should be undertaken such that their removal will not impair the original historic form and integrity of the structure and site.

I. Treatment of Major Building Elements

1. Doors. Existing historic doors and door openings shall be retained and rehabilitated whenever possible. Restoration of historic openings is encouraged where previously altered. Where doorways must be altered to meet current building code and safety requirements, doors and entrance ways shall be designed to respect the exterior architectural character of the building.
2. Windows. Existing historic windows and window openings shall be retained and rehabilitated whenever possible. Restoration of historic openings is encouraged where previously altered.
3. Roofs. Features that give a roof its essential historic and architectural character shall be retained and rehabilitated whenever possible. Roof designs for new

structures shall be compatible with neighboring buildings. Exterior mechanical equipment shall be minimized and screened from view.

**J. Materials**

Materials used in new construction shall be compatible with those traditionally used in the neighboring area. Contemporary materials are acceptable provided that the overall texture, color and details of the building are compatible with neighboring buildings.

**K. Colors**

Colors used in new construction shall be compatible with neighboring buildings. Architectural features of historic buildings shall be restored with colors and finishes appropriate to the nature of the materials and to the historic character of the building. Where historically documented colors are not used, colors shall be appropriate to the building's predominant architectural style(s).

**7.5.6 DEMOLITION**

The Commission shall determine whether the proposed structure has architectural or historic significance. "Significance" includes having particular important associations within the context of the architecture, history or culture of Saratoga Springs or region and may include listing as "contributing" on the State and National Registers of Historic Places.

**A. Structures with no architectural or historic significance**

The Commission may approve an application for demolition if it finds that the demolition is consistent with the intent and objectives of this Article and that the structure proposed to be demolished has no historic or architectural significance.

**B. Structures with architectural or historic significance**

For the proposed demolition of a structure with architectural or historical significance, the applicant must demonstrate "good cause" as to why such structure cannot be preserved.

1. The applicant shall document "good faith" efforts in seeking an alternative that will result in the preservation of the structure including consultation with the Commission and the Saratoga Springs Preservation Foundation. The relocation of structures may be permitted as an alternative to demolition;
2. The applicant shall document efforts to find a purchaser interested in acquiring and preserving the structure;
3. The applicant shall demonstrate that the structure cannot be adapted for any other permitted use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
4. The applicant shall submit evidence that the property is not capable of earning a reasonable return regardless of whether that return represents the most profitable return possible. "Dollars and cents proof" shall be required to demonstrate such hardship.
5. Application for demolition of a structure with historic or architectural significance shall include acceptable post-demolition plans of the site. Such plans shall

include an acceptable timetable and guarantees which may include performance bonds/letters of credit for demolition and completion of the project. The Commission may condition the issuance of a demolition approval on the applicant's receipt of all other necessary approvals and permits for the post-demolition plan.

6. The Commission shall schedule a public hearing on an application for demolition of a structure with historic or architectural significance and shall provide notice as follows.

a. Public Hearing Notice

The Commission shall advertise the hearing in a Saratoga Springs newspaper of general circulation at least five days prior to the date thereof. The applicant shall be responsible for payment for this notice. Prior to the hearing, the applicant shall be responsible for filing with the Commission an affidavit from the newspaper confirming such publication and payment.

b. Property owner notification

- i. The applicant shall obtain from the City the names and addresses of property owners within a 250 feet geographic radius from the applicant's subject property.
- ii. The applicant shall receive from the Commission a property owner notification notice and shall send only this notice to the identified property owners by first class mail. This notice shall be postmarked no less than 7 but no more than 20 calendar days prior to the scheduled hearing.
- iii. Prior to the public hearing, the applicant shall submit to the Commission confirmation of the property owner notification by obtaining a "certificate of mailing" provided by the U.S. Postal Service.
- iv. Failure to provide notice in exact conformance with these provisions shall not invalidate a Commission determination provided the Commission finds that substantial compliance has occurred.

C. Determination of Jeopardy to Health, Safety and Welfare of Community  
In cases where an applicant has sought demolition approval on the basis that a structure represents an imminent danger to the health, safety and welfare of the community, the Commission shall refer the application to the Building Inspector for review and report pursuant to City Code Section 118 Unsafe Structures. The Building Inspector's report shall be advisory to the Commission. The Commission shall review the Building Inspector's report and make a determination that the structure can or cannot reasonably be repaired in such a way as to remove the imminent danger.

D. Court action

The Commission shall have no authority to act otherwise in cases where an appropriate legal action or procedure has resulted in a judgment or order by a Court of competent

jurisdiction that a structure endangers the health, safety and welfare of the public and shall be demolished.

**7.5.7 ARCHITECTURAL REVIEW APPLICATION**

A. It shall be the duty of the Zoning Officer to refer to the Commission all actions identified in this Article that require architectural review approval.

B. The Commission shall not accept any application for review that includes a parcel for which there is an outstanding, unresolved written violation from the Zoning Officer that is not the subject of the application.

C. An eligible applicant for architectural review approval must be the owner, lessee or purchaser under contract for the involved parcel. A lessee and purchaser under contract must have the permission of the current property owners to submit an application for architectural review approval.

D. The City shall collect a fee for all applications to the Commission as established by the City Council.

**7.5.8 ADVISORY OPINION**

The Commission may request an advisory opinion of the Planning Board or any administrative department or agency in its evaluation of an application for architectural review.

**7.5.9 ARCHITECTURAL REVIEW DECISIONS**

A. In rendering its decision on any application, the Commission shall comply with all applicable provisions of the State Environmental Quality Review Act (SEQRA) under Article 8 of the Environmental Conservation Law and its implementing regulations.

B. Within 62 days of the determination by the Commission that the application is complete, or the close of the public hearing, a written decision will be issued. This time frame may be extended by mutual consent of the applicant and the Commission.

C. Four affirmative votes are required to pass a motion regarding an application before the Commission. If four affirmative votes cannot be attained on a motion within this 62-day period, unless extended by mutual consent of the applicant and the Commission, the application shall be denied by default.

D. The Commission may issue any of the following decisions:

1. Approve as submitted
2. Approve with conditions

The Commission may impose appropriate conditions in connection with its approval including those related to:

- Nature and quality of building materials
- Manner of construction
- Design and other building elements

3. Preliminary approval  
Prior to the granting of final approval by the Commission, an applicant may seek “preliminary approval” for the general “mass and scale” of a proposed structure. This preliminary approval is subject to a SEQRA determination and constitutes approval of the footprint and proportions of the proposed structure, including any proposed rooftop structures, and its compatibility with the surrounding neighborhood. Such preliminary approval does not constitute approval of elevations and other façade and roofline details. Unless so noted within the preliminary approval, an applicant must obtain final approval by the Commission prior to issuance of a building permit.
  4. Disapprove  
The Commission may disapprove an application provided the Commission finds that such construction, alteration or demolition would be in opposition to the intent and objectives of this Article, and that this finding is not based on personal preference as to taste or choice of architectural style.
- E. Every Commission decision shall be signed and dated by the Chairperson and shall document the circumstances of the case and the findings on which the decision is based.
- F. Every Commission decision shall be filed in the Office of the City Clerk within five business days thereof and a copy provided to the applicant and to the Building Department.
- G. Administrative Approval  
The Chairperson shall have the authority to approve minor modifications to existing Commission approvals if the Chairperson deems the changes are not material, substantial or substantive in nature and are not contrary to the intent of the original decision. The Chairperson shall issue all administrative approvals in writing and report them to the Commission.
- H. Building Permits, Inspections and Certificates of Occupancy
1. Upon receipt of Architectural Review approval and confirmation of compliance with any required conditions, the Building Department may issue building, sign or demolition permits associated with the Architectural Review application. No building, sign or demolition permit shall be issued in the event of Architectural Review disapproval.
  2. For actions subject to Architectural Review but not requiring a building, sign or demolition permit, the Building Department shall perform inspections as may be necessary to confirm compliance with Commission approval and any required conditions.
  3. Upon confirmation of the completion of an approved action requiring Architectural Review, and any required conditions, the Building Department may issue a certificate of occupancy.

**7.5.10 Expiration**

Unless otherwise specified or extended by the Commission, Commission approvals shall expire 18 months following the filing date of such decision if the applicant has not complied with any required conditions and started actual construction, or otherwise implemented this approval. Actual construction is defined as the fastening or placing of construction materials in a permanent manner, the excavation of a basement, or the demolition or removal of any existing structure if no new construction is approved.

**7.5.11 Extensions**

The Commission may grant up to two 18 month extensions for architectural review approval provided that the application for extension was properly submitted prior to the expiration date of either the original architectural review approval or the first extension. When requesting an extension, it shall be the applicant’s responsibility to demonstrate that there have been no significant changes to the site or neighborhood, and that the circumstances and findings of fact by which the original architectural review approval was granted have not significantly changed.

**7.5.12 ARCHITECTURAL REVIEW DISTRICTS**

- A. The following areas shall be designated architectural review districts:
  1. Beginning at the intersection of the center line of Broadway (or NYS Route 9) and Circular Street and extending to the rear lot line of the property facing Broadway on both east and west sides or 100 feet in depth, whichever is greater, and extending southward along Broadway to the City line.
  2. Beginning at the intersection of the center line of Union Avenue (or NYS Route 9P) and Ludlow Street and extending to the rear lot line of the property facing Union Avenue on the north side or 100 feet in depth, whichever is greater, and extending eastward to the intersection of the center line of Union Avenue and the easterly line of Interstate 87; thence extending to the rear lot line of the property facing Union Avenue on both the north and south sides or 100 feet in depth, whichever is greater, and extending easterly and southeasterly along Union Avenue to the City Line.
  3. Beginning at the intersection of the center line of Lake Avenue (or NYS Route 29) and Broadway and extending to the rear lot line of the property facing Lake Avenue on both the north and south sides or 100 feet in depth, whichever is greater, and extending eastward along Lake Avenue to the City line.
  4. Beginning at the intersection of the center line of Route 50 and Broadway (or New York State Route 9) and extending to the rear lot line of the property facing Route 50 on both the north and south sides or 100 feet in depth, whichever is greater, and extending eastward to the City line.

5. Beginning at the intersection of the center line of Marion Avenue (or NYS Route 9) and Route 50 and extending to the rear lot line of the property facing Marion Avenue on both east and west sides or 100 feet in depth, whichever is greater, and extending northward along Marion Avenue to the City line.
6. Beginning at the intersection of the center line of Van Dam Street and Broadway and extending to the rear lot line of the property facing Van Dam Street on both the north and south sides or 100 feet in depth, whichever is greater, and extending westward along Van Dam Street to the intersection of the center line of Church Street (or NYS Route 9N) and Van Dam Street.
7. Beginning at the intersection of the center line of Church Street (or NYS Route 9N) and Broadway and extending to the rear lot line of the property facing Church Street on both the north and south sides or 100 feet in depth, whichever is greater, and extending westward along Church Street to the City line.
8. Beginning at the intersection of the center line of Washington Street (or NYS Route 29) and Broadway and extending to the rear lot line of the property facing Washington Street on both the north and south sides or 100 feet in depth, whichever is greater, and extending westward along Washington Street to the City line.
9. Beginning at the intersection of the center line of Ballston Avenue (or NYS Route 50) and Broadway and extending to the rear lot line of the property facing Ballston Avenue on both the east and west sides or 100 feet in depth, whichever is greater, and extending southerly or southwesterly along Ballston Avenue to the City line.
10. Beginning at the intersection of the center line of West Avenue and Church Street (or NYS Route 9N) and extending to the rear lot line of the property facing West Avenue on both the east and west sides or 100 feet in depth, whichever is greater, and extending southward along West Avenue to the intersection of the center line of Ballston Avenue (or NYS Route 50) and West Avenue.
11. All properties within the Transect Districts (T-4, T-5, and T-6), UR-4A District, and Neighborhood Complementary Use Districts (NCUD-1, NCUD-2, and NCUD-3).

B. Map of Architectural Review Area

A reference map displaying the Architectural Review areas may be found in the City Office of Planning and Economic Development and at [www.saratoga-springs.org](http://www.saratoga-springs.org).