

## PART II – GENERAL LEGISLATION

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### Chapter 110 – Historic Preservation – Reserved

[This law has not yet been adopted. It is inserted here to allow for its review by the Board of Trustees and its possible enactment, as well as integration into this part of the Code as Ch. 110]

#### Article I      Historic Preservation Overlay Districts      Sections 110-1 – 110-15

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#### Article I      Historic Preservation Overlay Districts

**Section 110-1 – In General** – The Village of Marcellus has adopted \_\_\_\_\_ Historic Preservation Overlay Districts, *as listed in Appendix J*. The purpose of these districts is "... to preserve the historical and architectural character of certain sites, structures or districts within the Village of Marcellus; to prevent the impairment of or injury to their historical, architectural and cultural value to the community; and to these ends to provide that a reasonable degree of control may be exercised over alterations (to such sites, structures or districts) and over the alteration, architectural design and construction of structures erected or to be erected on any such sites or districts." The Village of Marcellus Zoning Ordinance establishes the Village of Marcellus Historic Preservation Board as the monitoring agency for proposed changes to structures within historic districts or to designated landmark structures. The means to review the proposed changes or modifications is established as specific criteria for issuance of a Certificate of Appropriateness (see Appendix J). These standards are intended to further the goals and purposes of the historic districts.

**Section 110-2 – Authorization** – In accordance with \_\_\_\_\_ of the General Municipal Law of the State of New York entitled "Protection of Historical places, buildings and works of art," the Board of Trustees of the Village of Marcellus has authority to provide by regulations, special conditions and restrictions for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, works of art and other objects having special character or special historical or other aesthetic interest or value. Pursuant to that authority, the Village Board has prepared and adopted this article, setting forth standards to be followed in historic preservation. The Village of Marcellus Historic Preservation Board is authorized to designate Village of Marcellus Landmarks upon consent of the owner or upon the Board's initiative recommend to the Village Board that a site be designated a landmark. It may also recommend to the Village Board that certain areas of the Village be designated as Historic Preservation Districts, and is authorized to grant Certificates of Appropriateness for proposed changes to Village of Marcellus Landmarks and properties within Historic Preservation Districts, and for proposed new construction in Historic Preservation Districts and on Landmark Sites.

#### **Section 110-3 – Purpose**

- a. The purpose of these Historic Preservation regulations is to:

- 1) Preserve the historical and architectural character of certain sites, structures or districts (hereinafter collectively referred to as "property (ies)") within the Village of Marcellus.
- 2) Prevent the impairment of or injury to their historical, architectural and cultural value to the community.
- 3) Provide that a reasonable degree of control may be exercised over alterations to such "property (ies)" and over the alteration, architectural design and construction of structures erected or to be erected on any such sites or in such districts.
- 4) Foster civic pride in the accomplishments of the past.
- 5) Protect and enhance Marcellus's attractiveness to visitors.
- 6) Support and stimulate the economic activities provided by tourism.
- 7) Stabilize and improve property values.
- 8) Ensure the harmonious, orderly, and efficient growth and development of the Village.

b. Historic Preservation (HP) regulations are not intended to be substituted for other zoning regulations, but are to be superimposed on the primary zoning regulations and represent an additional level of review and regulation related specifically to the preservation of Village of Marcellus Landmarks, Landmark Sites and all properties within a Historic Preservation District.

**Section 110-4 – The Village of Marcellus Historic Preservation Board**

- a. Membership shall consist of five (5) members to be appointed, to the extent available in the community, by the Village Board of Trustees as follows:
  - 1) At least one shall be an architect experienced in working with historic buildings.
  - 2) At least one shall be an historian.
  - 3) At least one shall be a resident in an historic preservation district, or an owner of an historic property.
  - 4) All members shall have a known interest in historic preservation and architecture development within the Village of Marcellus.
- b. Board members shall serve for a term of five (5) years. Members shall serve terms with staggered expiration dates. The Village Board of Trustees shall appoint the chairman of the board for a twelve-month period, effective January 1<sup>st</sup> each year.
- c. The powers of the Board shall include:
  - 1) Making recommendations to the Village Board for the employment of staff and professional consultants as necessary to carry out the duties of the board,
  - 2) Promulgating rules and regulations as necessary for the conduct of its business,
  - 3) Designating structures, property (ies) or resources as landmarks with the consent of the property owner.

- 4) Making recommendations to the Village Board for the designation of structures as landmark in cases where the owner(s) object to designation and the designation of boundaries of historic preservation districts,
- 5) Determining applications for Certificates of Appropriateness and hardship relief,
- 6) Providing a source of advice to the Village Board, property owners and to other government, agencies concerning historic preservation issues.

d. A quorum for the transaction of business shall consist of three (3) members. Less than a majority of the fully authorized membership may not transact any business. Board members are expected to attend all scheduled meetings unless excused by the chair.

#### **Section 110-5 –Criteria and Procedures for Designation of Landmarks**

- a. The Historic Preservation Board may, with the consent of the property owner, after a public hearing, designate an individual property as a landmark if it possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic, or social history of the locality, town, state or nation, or if it is identified with historic persons or events, or if it embodies the distinguishing characteristics of an architectural style, or is the work of a designer whose work has significantly influenced an age, or because of unique location or physical characteristics, represents an established and familiar visual feature of the neighborhood. In making its determination the Board may also consider staff reports, public comments and other evidence obtained outside of the public hearing in addition to all evidence presented at the public hearing.
- b. The Village Board, without the consent of the property owner, after public hearing, and after considering any recommendation from the Historic Preservation Board may designate an individual property as a landmark in accordance with the same criteria in Section 5-a. In making its determination the Board may also consider staff reports, public comments and other evidence obtained outside of the public hearing in addition to all evidence presented at the public hearing.

#### **Section 110-6 – Criteria and Procedures for Designation of Historic Preservation Districts**

- a. The Village Board may designate a group of properties, as an historic preservation district if, after a public hearing, it determines that it contains properties, which meet one or more of the above criteria for designation as a landmark, and by reason of possessing such qualities, constitutes a distinct section of the Village.
- b. Determining whether certain properties should be designated as an Historic Preservation District shall be made using the same criteria and review as for landmark designation, and in addition, considering the collective merits of all structures within a district's boundaries and their interrelationship.
- c. Before making a determination, the Village Board must consider any recommendation from the Historic Preservation Board regarding such designation. In making its determination the Board may also consider staff reports, public comments

and other evidence obtained outside of the public hearing in addition to all evidence presented at the public hearing. Once the Village Board has issued notice of a public hearing of a proposed designation, no building permits shall be issued until the designation decision has been made.

d. The Village of Marcellus shall forward notice of each property designated as a landmark to the owner(s). The Village of Marcellus shall record the boundaries of each designated landmark or historic preservation district in the Onondaga County Clerk's Office. Notice shall also be kept in the Village Clerk's Office for public inspection.

### **Section 110-7 – Regulations**

a. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an historic preservation district that does not involve a change in design, material or outward appearance. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or moving of a landmark or property within an historic preservation district, nor shall any person make any material change in the appearance of such property, its windows and shutters, exterior light fixtures, signs, sidewalk fences, steps, paving, changes in grade, or other exterior elements which affect the appearance and cohesiveness of the landmark or historic preservation district, without first obtaining a Certificate of Appropriateness from the Historic Preservation Board.

b. Prior to the commencement of any work requiring a Certificate of Appropriateness, the owner shall file an application with the Historic Preservation Board. The application shall contain the name, address and telephone number of the applicant, photographs of the property, scale plan views and elevation drawings of proposed changes, including relationship to adjacent properties, samples of color or materials to be used, and an other information which the Board may need in order to visualize the proposed work.

c. No building permit shall be issued for the proposed work until a Certificate of Appropriateness has first been issued. The Board shall approve, approve with conditions or deny the application within 60 days from receipt of the complete application. All decisions of the Board shall be in writing and shall state the reasons for its determination. A copy shall be sent to the applicant and a copy shall be filed with the Village Clerk's office for public inspection. Certificates of Appropriateness shall be valid for 12 months, after which time, the owner must reapply unless the subject matter of the Certificate of Appropriateness has been completed within said 12 months.

d. After the Historic Preservation Board grants a Certificate of Appropriateness, the Village Clerk shall issue said Certificate of Appropriateness to the applicant(s) pursuant to this Section.

### **Section 110-8 – Criteria for Issuance of a Certificate of Appropriateness**

- a. In making a decision on a Certificate of Appropriateness, the Historic Preservation Board shall not consider changes to interior spaces, unless evidence of such change appears on the exterior. The Board's decision shall be based on the following elements:
- 1) Any alteration of existing properties shall be compatible with their historic character, as well as with the surrounding properties,
  - 2) Properties, which contribute to the character of the historic preservation district, shall be retained with their historic features altered as little as possible,
  - 3) New construction shall be compatible with other properties in the district, in which it is located,
  - 4) Consideration shall be given to approved municipal plans affecting the "property (ies)",
- b. In applying the principle of compatibility, the Board shall consider the following factors:
- 1) The general design, character and appropriateness to the property of
  - 2) The proposed alteration or new construction.
  - 3) The scale and size of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood.
  - 4) The texture, materials, and color and their relation to similar features of other properties in the neighborhood.
  - 5) The visual compatibility with surrounding properties, including the proportion of the property's front facade, proportion and arrangement of shutters, windows and other openings within the facade, roof shape, and the rhythm of the spacing of other properties on the streets, including setback.
  - 6) The importance of historic, architectural, or other features to the significance of the property.

### **Section 110-9 – Controls on Marcellus Landmarks and Structures Within Historic Districts**

- a. Any owner of a Village of Marcellus Landmark who desires to repair the exterior of an existing building or structure has the right to repair with the identical materials, finishes, and paint colors as were in place at the time of designation may do so without a Certificate of Appropriateness. The Historic Preservation Board shall have no control over interior changes in any building or structure as long as no evidence of such changes appears on the exterior.
- b. Any owners desiring to make alterations to a structure shall design such alterations only in a manner compatible with the exterior style of the structure, the design, scale, detail, trim, manner and materials of construction.
- c. Any owners who desire to demolish a structure shall obtain a Certificate of Appropriateness from the Historic Preservation Board. After granting of such a Certificate, a period of one hundred twenty (120) days must elapse before a demolition permit can be issued. During this period, the Historic Preservation Board may require an appraisal to determine fair market value of the property proposed to be demolished if

in its view such appraisal is necessary to grant or deny a Certificate of Appropriateness. In addition, anyone who desires to save the structure by suitable means may also have this time to determine a fair price by appraisal and to locate a purchaser who will agree not to raze the structure.

d. New structures in Preservation Districts and on Landmark Sites shall harmonize with the general character of the structures in the district or with the landmark. However, new structures shall not be required to comply with any particular style or architectural period unless required by an approved Village Board plan.

### **Section 110-10 – Hardship Criteria and Procedures for Relief**

a. An applicant whose application for a Certificate of Appropriateness has been denied may apply to the Historic Preservation Board for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:

- 1) The property is incapable of earning a reasonable economic return, regardless of whether that return represents the most profitable return possible,
- 2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable economic return,
- 3) Diligent, good faith efforts to find a purchaser interested in acquiring the property and preserving it have failed,
- 4) In the case of religious/not-for-profit organizations, the preservation of a structure interferes with the owners' religious or charitable purposes.

b. The Historic Preservation Board shall hold a public hearing on the hardship application. The applicant shall consult in good faith with the Board, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. All hardship decisions of the Board shall be issued in writing.

### **Section 110-11 – Permits Allowing Commercial Uses**

a. The Village Board may, in any district of the Village, grant a permit allowing a commercial use or uses in a Village of Marcellus Landmark provided that:

- 1) The Planning Board, after site plan review, has made a recommendation to the Village Board on the matter, following a public hearing.
- 2) The Historic Preservation Board has made a recommendation to the Village Board.
- 3) The Village Board, after a public hearing, finds that:
  - a) The proposed use is not detrimental to adjacent property,
  - b) The proposed use does not interfere with the lawful enjoyment of adjacent property,
  - c) The proposed use does not diminish the historical character of the structure,
- 4) In granting the permit, the Village Board may impose reasonable conditions.

- b. The Village Board shall record the permit in the Miscellaneous Records of the County Clerk's Office and the applicant shall pay the appropriate recording fee.
- c. A permit granted pursuant to this section shall be issued by the Village Clerk upon payment of a fee as required by resolution from time to time by the Village Board.
- d. Cessation or termination of the use for a period of one (1) year or more shall render the permit null and void.

#### **Section 110-12 – Administration**

- a. Boundaries of all Preservation Districts, and the location of Village of Marcellus Landmarks shall be noted on an overlay to the Official Zoning Map.
- b. An inventory of Village of Marcellus Landmarks and Districts shall be maintained by the Village Clerk.
- c. Any person aggrieved by a determination of the Historic Preservation Board in designating a property as a Village of Marcellus Landmark or in denying an application for a Certificate of Appropriateness, including those based on hardship may take an appeal there from to the Zoning Board of Appeals.
- d. All work performed pursuant to a Certificate of Appropriateness shall conform to any requirements included therein in addition to all other requirements of the law. The code enforcement officer shall inspect such work to assure compliance. If work does not conform to the Certificate of Appropriateness, and all other requirements of the law, the code enforcement officer shall issue a stop work order and all work shall immediately cease.
- e. Failure to comply with any of the provisions of this ordinance shall be deemed a violation. The penalties for such violation are set forth in *Article XX* of the Zoning Code, Chapter 250.
- f. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an historic preservation overlay district, which does not involve a change in design, material or outward appearance.
- g. No owner or person with an interest in real property designated as a landmark or included within an historic preservation 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 produce a detrimental effect upon the character of the designated landmark or the historic preservation 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, which could lead to the claim that demolition, is necessary for the public safety.

h. Any person, who demolishes, alters, constructs or permits a designated property or a property proposed for designation to fall into a serious state of disrepair in violation of this chapter shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the Village Attorney upon authorization by the Village Board. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty. Pursuant to Part II, Ch 182, "Property Maintenance," and Ch 47, "Unsafe Buildings," of the Code of the Village of Marcellus, the Village is authorized to repair properties that have been allowed to fall into a state of disrepair and recover the cost of said repairs from the property owner(s).

**Sections 110-13 – 110-15 - Reserved**