DRAFT LOCAL LAW NO. ____ OF 2018

CITY COUNCIL
CITY OF BEACON

PROPOSED LOCAL LAW TO AMEND
CHAPTER 134 AND CHAPTER 223, SECTION 24.7 OF THE CODE OF THE

CITY OF BEACON

A LOCAL LAW to amend Chapter 134 and Chapter 223, Section 24.7 of the Code of the City of Beacon Historic Preservation.

BE IT ENACTED by the City Council of the City of Beacon as follows:

Section 1. Chapter 134 of the Code of the City of Beacon entitled "Historic Preservation" is hereby amended as follows:

§ 134-1. Purpose.

There exist within the City of Beacon landmarks, structures, buildings and districts of special historic significance which, by reason of their antiquity or uniqueness of architectural construction or design, are of particular significance to the heritage of the City, county, state or nation.

§ 134-2. Historic District.

A. A~~n~~ Historic District and Landmark Overlay Zone (HDLO) is hereby established for the purposes of encouraging the protection, enhancement, perpetuation and use of buildings and structures and appurtenant vistas having special historical or aesthetic value which represent or reflect elements of the City's cultural, social, economic, political and architectural history.

B. For the purposes of this chapter, the landmarks and the boundaries of such zone are established as shown on a map entitled "Historic District and Landmark Overlay

Map," which is hereby incorporated as a part of this chapter and is attached hereto as Exhibit A.

§ 134-3. Definitions.

Unless specifically defined below, words or phrases in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

ALTERATION

Any act or process that changes one or more of the exterior architectural features of a structure, including but not limited to the erection, construction, restoration, renovation, reconstruction, demolition, moving or removal of any structure.

CERTIFICATE OF APPROPRIATENESS

A certificate issued by the Planning Board indicating its approval of plans for alteration, construction, removal or demolition of a landmark or of a structure within an historic district.

CERTIFICATE OF ECONOMIC HARDSHIP

A certificate issued by the Zoning Board of Appeals authorizing an alteration, construction, removal or demolition even though a certificate of appropriateness has previously been denied.

CONSTRUCTION

The act of making an addition to an existing structure or the erection of a new principal or accessory structure on a lot or parcel.

DEMOLITION

Any act or process that destroys in part or in whole a landmark or a structure within an historic district.

EXTERIOR ARCHITECTURAL FEATURES

The design and general arrangement of the exterior of a structure open to view from a public way, public property or any part of any public building, including the kind and texture of building materials and number, proportion, type and spacing of windows, doors, walls, roofs, murals, projections and signs. This term shall also include all earthworks, sidewalks, driveways, fences, trees, landscaping and other features visible from a public way, public property or any part of any public building.

HISTORIC DISTRICT

An area designated as an "historic district" by action of the City Council in enacting this chapter and which contains within definable geographic boundaries one or more landmarks and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.

LANDMARK

A property or structure designated as a "landmark" by action of the City Council in enacting this chapter that is worthy of rehabilitation, restoration and preservation because of its historic and/or architectural significance to the City of Beacon.

OWNER OF RECORD

The person, corporation or other legal entity issued as owner of a parcel according to the records of the Dutchess County Clerk.

REPAIR

Any change that is not construction, removal or alteration.

STRUCTURE

Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing, buildings, fences, gazebos, walls, sidewalks, signs, billboards, backstops for tennis courts, radio and television antennae, including supporting towers, and swimming pools.

§ 134-4~~6~~.-Designation of landmarks or historic districts.

A. The City Council may act upon its own initiative or upon petition from the owner of a proposed landmark, site, structure or property, the Planning Board, or historic preservation committee, to consider designation of a historic district or historic landmark, site, structure or property. All designated historic districts and landmarks shall be included in the HDLO. ~~The City Council hereby designates the individual properties as landmarks as shown on the accompanying Historic District and Landmark Overlay Map because they~~:

B. The City Council shall, upon investigation as it deems necessary, make a determination as to whether a proposed district or landmark meets one or more of the following criteria:

    (1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the City, county, state or nation;

(2) ~~Are~~ Is identified with historic personages or with important events in national, state or local history;

(3) ~~Embody the distinguishing characteristics of an architectural style;~~ Embodies distinguishing characteristics of an architectural-type specimen, inherently valuable for a study of a period, style, method of construction or of indigenous materials or craftsmanship;

(4) ~~Are~~ Is the work of a designer whose work has significantly influenced an age; or

~~(5) Because of unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.~~

(5) Qualifies for inclusion on the State or National Registers of Historic Places.

~~B. The City Council hereby designates the group of properties shown on the attached map as a historic district because they:~~

~~(1) Contain properties which meet one or more of the criteria for designation of a landmark; and~~

~~(2) By reason of possessing such qualities, constitute a distinct section of the City~~.

B. Notice of a proposed designation shall be sent by certified mail or personal delivery ~~regular mail~~ to the owner of the property proposed for designation, describing the property proposed and announcing a public hearing by the City Council to consider the designation. Once the City Council has issued notice of a proposed designation, no building permits shall be issued by the Building Inspector until the Council has made its decision.

C. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the City of Beacon at least fourteen (14) calendar days prior to the date of such hearing.

D. The City Council shall hold a public hearing prior to designation of any landmark or historic district. The City Council, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The record may also contain reports, public comments or other evidence offered outside of the hearing.

E. In determining whether or not to designate a new historic landmark, the City Council shall consider the factors listed in § 134-6.B and any testimony or evidence presented during the public hearing.

F. The City Council shall make a decision within sixty (60) days of the conclusion of the hearing. If the City Council fails to act within sixty (60) days, or fails to extend the period in which to act, the designation shall be deemed to have been denied. A super majority vote of five (5) Council members is necessary to designate a new historic landmark if the property owner objects to such designation.

G. The City Council shall forward notice of each property designated as a landmark and the boundaries of each designated historic district to the property owner, the City Clerk, the Planning Board, the Zoning Board, and the offices of the Dutchess County Clerk for recordation.

H. A list of designated properties shall be maintained on file with the City Clerk and shown on the City of Beacon Zoning Map.

§ 134-5 ~~12~~. Uses permitted by special permit.

Section 223-24.7 of Chapter 223, Zoning, of the City Code, enumerates the uses which may be permitted by special permit, issued by the City Council, in the Historic District and Landmark Overlay Zone, and the process by which such uses may be permitted.

§ 134-6 ~~4~~ Certificate of appropriateness.

No person shall carry out any exterior alteration of a landmark or property within a~~n~~ historic district without first obtaining a certificate of appropriateness from the Planning Board or a certificate of economic hardship from the Zoning Board. No certificate of appropriateness is needed for changes to interior spaces, unless they are open to the public, to architectural features that are not visible from a public street or way, public property, or public building, or for the installation of a temporary sign as described in § 223-15F of the Zoning Ordinance of the City of Beacon if located in a nonresidential district. 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 district which does not involve a change in design, material or outward appearance.

§ 134-7 ~~5~~ Criteria for approval of a certificate of appropriateness or special permit in the HDLO.

A. Historic districts are living entities that have typically grown and accommodated change through multiple time periods. HDLO buildings are recognized as models for how to design high-quality, enduring structures that have gained in public appreciation over time, thereby serving as excellent examples for sustainable development. In reviewing an HDLO application and plans, the City Council or Planning Board shall give consideration to:

(1) The historic or architectural value or significance of the structure and its relation to the historic character of the surrounding area.

(2) The relationship of the exterior architectural features of such structure to the rest of the structure and to the surrounding area.

(3) The ~~general~~ compatibility of exterior design in terms of scale, arrangement, texture and materials proposed, roof and cornice forms, spacing and proportion of windows and doors, exterior architectural details, signs, and street-front fixtures.

B. In applying the principle of compatibility, the City Council or Planning Board shall ~~consider~~ use the following ~~factors~~ standards for new structures, additions, or alterations in the HDLO:

(1) The ~~general~~ design, character, and appropriateness to the property of the proposed alteration or new construction.

(a) Construction shall build on the historic context with applications required to demonstrate aspects of inspiration or similarities to adjacent HDLO structures or historic buildings in the surrounding area.

(b) Compatibility does not imply historic reproduction, but new architecture shall also not arbitrarily impose contrasting materials, scales, colors, or design features.

(c) The intent is to reinforce and extend the traditional patterns of the HDLO district, but new structures may still be distinguishable in up-to-date technologies and details, most evident in window construction and interiors.

(d) Exterior accessory elements, such as signs, lighting fixtures, and landscaping, shall emphasize continuity with adjacent HDLO properties and the historic characteristics of the sidewalk and streetscape.

(e) Parking shall be placed towards the rear of the property in an unobtrusive location with adequate screening from public views.

(2) The scale and height of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood.

(a) Any addition that is deemed necessary to an historic structure shall be placed toward the rear, or at least recessed, so that character-defining features are not damaged or obscured and so that the historic structure remains more prominent than the subsidiary addition.

(b) The height of any new building facades in the HDLO shall reflect the typical heights of adjacent historic structures.

(c) Larger buildings or additions shall incorporate significant breaks in the facades and rooflines, generally at intervals of no more than 35 feet.

(3) ~~Texture and materials~~ Architectural and site elements and their relation to similar features of other properties in the ~~neighborhood~~ HDLO.

(a) It is not appropriate to disrupt the relationship between an historic building and its front yard or landscape, including screening historic properties from traditional street views by high walls or hedges.

(b) Historic storefronts, porches, cornices, window and door surrounds, or similar architectural features shall not be enclosed, obscured, or removed so that the character of the structure is substantially changed.

(c) Deteriorated building features shall be repaired rather than being replaced and, if not repairable, shall be replicated in design, materials, and other historic qualities.

(d) New buildings in the HDLO shall have a top-floor cornice feature and first-floor architectural articulation, such as an architecturally emphasized entrance doorway or porch, to accent the central body of the building.

(e) Architectural features and windows shall be continued on all sides that are clearly visible from a street or public parking area, avoiding any blank walls, except in cases of existing walls or potential common property walls.

(f) New HDLO buildings shall have a front entrance door facing the primary street and connected to the sidewalk.

(g) Primary individual window proportions shall be greater in height than width, but the approving body may allow exceptions for storefront, transom, and specialty windows. Mirrored, reflective, or tinted glass and all-glass walls, except greenhouses, shall not be permitted. Any shutters shall match the size of the window opening and appear functional.

(h) Finish building materials should be wood, brick, traditional cement-based stucco, stone, smooth cast stone, smooth-finished fiber-cement siding, or other materials deemed acceptable by the approving body. Vinyl, aluminum or sheet metal siding or sheet trim, exposed concrete blocks or concrete walls, plywood or other similar prefabricated panels, unpainted or unstained lumber, synthetic rough-cut stone, synthetic brick, synthetic stucco, exterior insulation and finishing system (EIFS), direct-applied finish system (DAFS), and chain link, plastic, or vinyl fencing shall not be permitted.

(i) Materials and colors should complement historic buildings on the block. Fluorescent, neon, metallic, or other intentionally garish colors, as well as stripes, dots, or other incompatible patterns, shall be prohibited.

(j) Mechanical equipment and refuse containers shall be concealed from public view by approved architectural or landscaping elements and shall be located to the rear of the site. Window or projecting air conditioners shall not be permitted on the front façade of new buildings or additions.

§ 134-8 ~~7~~. Certificate of appropriateness application procedure.

A. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Planning Board. The application shall include:

(1) The name, address and telephone number of the applicant.

(2) ~~Sketches or other~~ Scaled drawings showing the proposed changes.

(3) Descriptions or samples of materials to be used.

(4) ~~(~~Where the proposal includes signs or lettering,~~)~~ a scaled drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, if any, and a plan showing the sign's location on the property.

(5) Any other information which the Planning Board may deem necessary in order to visualize the proposed work.

B. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Planning Board. The certificate of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the City of Beacon.

C. The applicant may consult with the Planning Board or its designated agent prior to submitting an application.

D. Where site plan review or subdivision approval is also required for the application, the certificate of appropriateness procedure shall be conducted simultaneously with such review by the Planning Board.

E. The Planning Board shall approve, deny or approve the permit with modifications within 45 days from receipt of the completed application. The Planning Board may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. Notice of the public hearing shall be provided by the applicant in the same manner as required in § 223-

61.2.B. Failure by the Planning Board to take action within the prescribed period of time shall constitute approval.

F. All decisions of the Planning Board shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's Office for public inspection. The Planning Board's decision shall state the reasons for denying or modifying any application.

§ 134-9 ~~8~~. Hardship criteria and application procedure.

A. An applicant whose certificate of appropriateness ~~for a proposed demolition~~ has been denied may apply ~~for relief~~ to the Zoning Board of Appeals for a certificate of economic hardship to obtain relief from the requirements of this chapter. Upon receipt of an application for relief, the Zoning Board shall, within 45 calendar days thereafter, hold a public hearing. Notice of the public hearing shall be provided by the applicant in the same manner as required in **§ 223-61.2.B**. ~~on the grounds of hardship. In order to prove the existence of hardship, the applicant must establish that:~~

B. At the public hearing, the Zoning Board may hear testimony and entertain the submission of written evidence from the applicant and/or the public.

C. To obtain a certificate of economic hardship, the applicant must prove the existence of economic hardship by establishing that:

(1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and

(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 return; and

(3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

~~B. The applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief to the Zoning Board of Appeals on the ground of hardship.~~

D. The Zoning Board shall take into consideration the economic feasibility of alternatives to removal, alteration or demolition of a landmark or portion thereof, and balance the interest of the public in preserving the historic landmark or building, or portion thereof, and the interest of the owner in removing, altering or demolishing the landmark or portion thereof.

E. ~~C.~~ The Zoning Board shall make a decision within 30 days of the conclusion of the hearing on the application. The Board's decision shall be in writing and shall state the reasons for granting or denying the hardship application. T~~he Zoning Board's review of said hardship application shall be in accordance with the procedures set forth in § 223-~~

~~55C of Chapter 223, Zoning~~. Failure by the Zoning Board of Appeals to take action within the prescribed period of time shall constitute approval of the application.

F. All decisions of the Zoning Board of Appeals shall be in writing. A copy shall be sent to the applicant, and a copy shall be filed with the City Clerk. The Board's decision shall state the reasons for approving or denying the application. If the Zoning Board of Appeals approves the application, the Board shall issue a certificate of economic hardship.

§ 134-10 ~~9~~. Enforcement.

All work performed pursuant to a certificate of appropriateness issued under this chapter shall conform to any requirements included therein. It shall be the duty of the Building Inspector to inspect periodically any such work to assure compliance. In the event that work is found that is not performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Planning Board, the Building Inspector shall issue a stop-work order, and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.

§ 134-11 ~~10~~. Penalties for offenses.

A. Failure to comply with any of the provisions of this local law shall be deemed a violation, and the violation is subject to the penalties provided in § 223-53 of Chapter 223, Zoning.

B. The City Council is also authorized to institute any and all actions required to enforce this chapter. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 134-12 ~~11~~. Fees.

A. Each application for a certificate of appropriateness shall be accompanied by a fee, in an amount set by the City Council, payable to the City Clerk.

B. The applicant may be charged a fee by the Planning Board for the actual cost of preparation and publication of each public notice of hearing on the application. Said fees shall also be fixed from time to time by resolution of the City Council.

§ 134-13. Assessment abatement.

Any person who is granted a certificate of appropriateness and performs the work detailed in the application submitted to the Planning Board will not be subject to an increase in assessment for the subject property as a result of the improvements made to the buildings and structures on said property. This clause does not apply to applicants who also receive a special permit as set forth in § 223-18 of Chapter 223, Zoning.

~~§ 134-14. Additional areas.~~

In accordance with § 134-6, the following landmarks, properties and/or historic districts are added:

A. Properties added 5-17-1999 by L.L. No. 1999:

Parcel I.D.	**Location**	**Owner Name**
6054-13-126252	250 Howland Avenue	University Settlement Camp Society of New York
6054-17-047180	300 Howland Avenue	Craig House
6054-17-025161	310 Howland Avenue	Stephen Fleming and Donna Landstreet
6054-17-075135	330 Howland Avenue	Scenic Hudson
A portion of 6054-14-259407 as shown on map[1]	150 Howland Avenue	Beacon Hills Development Corporation

B. The following landmarks and districts are hereby added to the Historic District and Landmark Overlay Zone. The attached map, entitled Proposed Additions to Historic District and Landmark Overlay Zone, and dated May 12, 2006, shows the respective location of each of the following:

(1) Gateway to Mt. Beacon Park (Mount Beacon Incline Property; on National Register).

(2) Peter Dubois House, 36 Slocum Road; on National Register.

(3) Old Matteawan State Hospital buildings and grounds.

(4) Fountain Square (East Main Street), including Leonard Street (Alice Judson House, Dr. Jennings/Leonard House, Catholic Church).

(5) Byrnesville Cemetery, South Avenue (purported burial ground of Roger Brett).

(6) H. W. Sargent's "Wodenethe": two gatehouses, South Avenue and Wodenethe Drive.

(7) Methodist Cemetery, North Walnut Street.

(8) Old stone houses (2), Overlook Avenue near Stone Street (houses date back to late 18th Century).

(9) Old Tioronda Hat Shop and Madam Brett Park (site of original Brett mill), South Avenue, dates to 1879.

~~(10) Peter Schenck House, adjoining Tallix property, Blackburn Avenue - Schenck Estate.~~

~~(11) Russell Avenue, from First Street to Union Street, cluster of historic homes; 1st Highland Hospital; Mayor Russell's House; Ticehurst Home dates to 1840s (excluding 40 Russell Avenue).~~

~~(12) Calvert Vaux House, South Avenue.~~

~~(13) Chrystie House, South Avenue.~~

~~(14) 1 East Main.~~

~~(15) 10 East Main~~

~~(16) South Street (excluding 32 South Street).~~

~~(17) North Street (excluding 19 North Street).~~

~~(18) St. Joachim's Church and Old Cemetery.~~

~~(19) St. John's Church.~~

~~(20) AME Zion Church, Academy Street.~~

~~(21) Springfield Baptist Church, Mattie Cooper Street Square.~~

~~(22) Fairview Cemetery. Washington Avenue.~~

~~(23) Northwest corner of Teller and Rombout Avenues, 2nd Empire brick home.~~

~~C. Property added May 17, 2010, by L.L. No. 5 of 2010:~~

~~**Parcel I.D.**~~	~~**Location**~~	~~**Owner Name**~~
~~130200-6054-21-065896~~	~~211 Fishkill Avenue~~	~~Beacon School District~~

SECTION 2. Chapter 223, Section 24.7, Subsection D of the Code of the City of Beacon is hereby amended as follows

§ 223-24.7 Uses permitted by special permit in the Historic District and Landmark Overlay Zone

…

D. Findings

(1) The City Council must make the following findings before special permit approval is granted:

(a) Any exterior restoration shall maintain the architectural and historic integrity of the structure. Any new construction shall be compatible with neighboring structures.

(b) The proposed use is compatible with the neighborhood, and activities permitted within the structure can be adequately buffered from any surrounding residential homes.

(c) The resulting traffic generation will not overburden existing roads, and adequate parking can be provided without unduly destroying the landscape or the setting of the structure.

(d) The proposed use is appropriate to the structure, will aid in the preservation of the structure and will not result in undue alterations or enlargement of the structure.

(2) These standards shall be in addition to the general special permit standards set forth in **§ 223-18** ~~of this chapter~~ and the standards set forth in **§.134-7**.

Section 3. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 134 and Chapter 223 of the City of Beacon are otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 4. Numbering for Codification

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the City of Beacon; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 5. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is

hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 6. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.