

Chapter 64

HISTORIC DISTRICT

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[HISTORY: Adopted by the Mayor and Board of Trustees of the Village of Cold Spring 7-13-76 as L.L. No. 1-1976. [Amended 2-18-97 by L.L. 1-1997; 12-5-00 by L.L. 2000-11; 9-12-06 by L.L. 2006-01; 11-13-07 by L.L. 2007-02]

GENERAL REFERENCES

Subdivision of Land - See Ch. 111.
Zoning - See Ch. 134.

- § 64-1. Purpose and public policy.

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

B. Public policy. The Mayor and Board of Trustees of the Village of Cold Spring hereby declare as a matter of public policy that the protection, enhancement, perpetuation, preservation and use of improvements of historic, aesthetic and architectural value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people of the Village of Cold Spring. It is therefore the public policy of this chapter to:

- (1) Protect, enhance, perpetuate and preserve historic resources located within the District.
- (2) Safeguard the Village of Cold Spring's historic aesthetic, architectural and cultural heritage as reflected in the improvements located within the District.
- (3) Improve and enhance property values within the District.
- (4) Foster civic pride in the beauty and architectural achievements of the past.
- (5) Protect and enhance the attractiveness of the Village of Cold Spring to residents, visitors and business interests.

- (6) Strengthen the economy of the Village of Cold Spring; and
- (7) Promote the use of the District for the education, pleasure and welfare of the people of the Village of Cold Spring.

§ 64-2. Usage and definitions.

A. Usage. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular. The word "building" includes the word "structure"; the word "shall" is intended to be mandatory; the word "person" includes a firm, association, partnership or corporation. "Alteration" means:

- (1) Any change, construction, reconstruction, repair, covering over or demolition of exterior architectural features of any existing improvement; or
- (2) Construction or placement of any new improvement on property, located within the District and visible from any public way.
[Amended 9-12-06 by L.L. 2006-01]
- (3) "Alternation" shall not include routine maintenance and repair to an improvement located within the District required by normal wear and tear unless such maintenance results in a change in the architectural appearance of the property. Any "alteration" of the interior of any improvement which does not affect the exterior architectural features of any improvement subject to this chapter shall not be deemed an "alteration".

B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

CERTIFICATE - The "Certificate of Economic Hardship" or the "Certificate of Appropriateness" required under §§ 64-6 and 64-7 of this chapter as a condition precedent to any alteration relating to any improvement in property located within the District.

DISTRICT - The Architectural and Historic District of the Village of Cold Spring, New York.

EXTERIOR ARCHITECTURAL FEATURES - The architectural style, general design and general arrangement of the exterior of any improvement, including but not limited to the kind and texture of the building material and the type and style of the doors, windows, light fixtures, steps, entryways, vents and other

architectural openings, grillwork, canopies, signs and other appurtenant fixtures, but shall not include the kind and color of paint on any improvement.

IMPROVEMENT - Any building or fixture located within the District or subject to the provisions of this chapter, including but not limited to houses, stores, warehouses, churches, schools, barns, fences, outhouses, pumps, gravestones, light fixtures, outdoor signs and other outdoor advertising fixtures.

PUBLIC WAY- any street, road, path or navigable water freely available for use by the public. [Added 9-12-06 by L.L. 2006-01]

REVIEW BOARD - The Architectural and Historic District Review Board.

§ 64-3. District boundaries.

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

§ 64-4. Architectural and Historic District Review Board.

- A. To effect the purposes declared in this chapter, there is hereby created a board to be known as the "Architectural and Historic District Review Board." The Review Board shall have such powers and duties as shall be prescribed by this chapter and any other law, rule or regulation relating to the protection and preservation of historic resources in the District.
- B. The Review Board shall consist of five (5) members, all of whom shall be residents of the Village of Cold Spring and three (3) of whom shall be residents of the District. All of the members shall have demonstrated interest, competence or knowledge of preservation of the District. All of the members of the Review Board shall serve without compensation.
- C. The original members of the Review Board shall be appointed by the Mayor and Board of Trustees as follows: One (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years and one (1) for five (5) years. The members of the Review Board thereafter shall be appointed by the Mayor and Board of Trustees for five-year terms. The term of each member first taking office shall commence on the date of his appointment. Each member shall serve until the appointment and qualification of his successor.

- D. In the event a vacancy occurs during the term of a member of the Review Board, the Mayor shall make an interim appointment to complete the unexpired term of such member.
- E. The Mayor and Board of Trustees shall designate one (1) of the members of the Review Board to be Chairperson, and in the absence of such a designation, the Review Board shall select a Chairperson from amongst its members.
- F. The Review Board shall be required to hold at least one (1) regular meeting each month and forward the minutes of such meeting to the Village Clerk prior to the second next regular meeting.
- G. The Review Board shall:
- (1) Have authority to promulgate rules and regulations as may be necessary for the conduct of its business, including development of required forms and maintenance of necessary records;
 - (2) Retain or employ professional consultants or other personnel as may be necessary to assist it in carrying out its duties, except that if a charge is to be incurred for such use, approval shall first be obtained from the Mayor and Board of Trustees;
 - (3) Conduct surveys of historic resources and recommend to the Mayor and Board of Trustees the designation of landmarks and modifications to the District as set forth in Section 64-4 below;
 - (4) Review proposed alterations to designated properties, promulgate and make available to the public, standards for such review; and approve or deny certificates pursuant to Sections 64-5 and 64-6 of this law; and
 - (5) Recommend to the Mayor and Board of Trustees any changes to the Village Code when the Review Board deems it appropriate to accomplish the public policy as stated in Section 64-1.
- H. **[Added 11-13-07 by L.L. 2007-02]** In the case of a request for a certificate of appropriateness for signage, the Review Board shall convene and process the application on an expedited basis in accordance with the terms and provisions of Section 64-7. Notice of a Review Board meeting regarding a request for a certificate of appropriateness for signage shall be given by posting notice of the date and time of the meeting at Village Hall at least twenty-four hours in advance.

§ 64-5. Regulation of Alterations within District.

A. It shall be unlawful for any owner or person occupying property located within the District to make, permit or maintain any alteration to any improvement located within the District unless the Review Board has previously issued a Certificate of Economic Hardship or a Certificate of Appropriateness.

B. No application shall be approved and no permit shall be granted by the Building Inspector, Planning Board, Zoning Board of Appeals or Mayor and Board of Trustees regarding the alteration of any improvement located within the District unless a Certificate of Appropriateness or Economic Hardship has been obtained from the Review Board. When such an application is received by the Building Inspector, Planning Board, Zoning Board of Appeals or Mayor and Board of Trustees, a copy shall be sent to the Review Board accompanied by a request for a Certificate of Appropriateness or Economic Hardship in relation to the work specified in the application.

C. **[Added 11-13-07 by L.L. 2007-02]**

- (i.) A certificate of appropriateness or certificate of economic hardship shall not be required for non-illuminated, signs of four (4) square feet or less, provided that the total amount of signage on the subject property does not exceed nine (9) square feet; and
- (ii.) A certificate of appropriateness or certificate of economic hardship shall not be required for a sign that is to be displayed no more than sixty (60) days within a calendar year.

D. **[Added 11-13-07 by L.L. 2007-02]** All requests for a certificate of appropriateness for signage shall be submitted to the Village Clerk. Applicants must submit six (6) copies of such applications and supporting materials. Such applications shall include photographs, drawings or other descriptive materials depicting the subject property as well as the proposed signage, identifying the size and dimensions of the proposed signage, the materials out of which it is to be constructed and its proposed location on the subject property.

§ 64-6. Designation of Landmark or Modification to the Historic District.

A. Any person or group may request designation of a landmark or modification to the District by submitting a written application for such designation to the Review Board. The application shall be accompanied by such information as deemed necessary by the Review Board, including, but not limited to descriptive information in narrative and photographic form, maps and legal descriptions of the property involved, and documentation of the property's historic, architectural, and cultural significance. The Review Board may also initiate such designation on its own motion.

- B. When the Review Board has sufficient information to consider designation, it shall fix a time and place for a public hearing thereon. Notice of the public hearing shall be sent by registered mail to the owner of each property proposed for designation at least ten days prior to the scheduled hearing. Where the proposed designation involves so many owners that individuals' notice is infeasible, notice may instead be published at least twice in a newspaper of general circulation at least ten days prior to the date of the public hearing.
- C. Once the Review Board has issued notice that property is under consideration for designation, no permit may be issued for that property except in accordance with an approved certificate issued by the Review Board, unless and until the proposed designation is disapproved by the Mayor and Board of Trustees.
- D. The Review Board shall conduct a public hearing on the proposed designation, at which the Review Board, owners and any interested parties may present testimony or document any evidence which will become part of a record regarding the historic, architectural or cultural importance of the improvement. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.

- E. Within fifteen (15) days following the hearing, the Review Board shall issue a report to the Mayor and Board of Trustees with a copy to the Planning Board for their review and comment. This report shall contain the application, the record of the public hearing and all relevant documentation, along with its recommendation as to approval or disapproval of the application. The recommendation may limit itself to the property proposed in the application or may include modifications hereto.
- F. Within forty-five days (45) of receiving the Review Board's report, the Mayor and Board of Trustees shall decide upon designation of the proposed landmark or modification to the District. The Mayor and Board of Trustees shall base their decision upon the recommendation and record presented by the Review Board and comment and recommendation of the Planning Board, but may solicit additional advice through consultation with property owners, other Village officials, or invited experts. The Mayor and Board of Trustees may hold a public hearing, after due notice, but no public hearing shall be required if all affected property owners have had an opportunity to comment.
- G. A property may be designated a landmark or may be added to the District if it:
- 1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the community, region, state or nation; or
 - 2) Is identified with one or more historic personages who significantly contributed to the development of the development of the community, region, state or nation; or
 - 3) Embodies the distinguishing characteristics of one or more architectural styles, construction methods or historic periods; or
 - 4) Is the work of a designer whose work has significantly influenced an age; or
 - 5) Because of a unique location of singular physical characteristics, represents an established and familiar visual feature of the community; or;
 - 6) Is a distinctive and significant entity whose component parts may lack individual distinction.

- H. Upon designation of a landmark or modification to the District, the Village Clerk, shall notify the property owners and affected Village officials and shall record the new designation on the official Village Map.
- I. Designation of landmarks and modification to the Historic District may be amended in the same manner in which they were created. It is not the intent to reduce the size of the existing District but to enlarge and enhance it.
- J. The Architectural and Historic District of the Village of Cold Spring, established by Local Law 1 of 1976, is hereby confirmed to meet the criteria set forth above and designated as a Historic District under this law.

§ 64-7. Determination of Request for Certificate of Appropriateness.

- A. Upon the filing of an application for a certificate of appropriateness as required by §64-5, the Review Board shall determine whether the proposed alteration of any improvement is appropriate for the purpose for which the District was established, based on the following standards:
 - (1) Insofar as possible, the proposed alteration shall retain exterior architectural features of the designated property which contribute to its historic character as seen from the street.
 - (2) Alteration of designated property shall be compatible with its historic character, and with exterior features of neighboring properties. In applying the principle of compatibility, the Review Board shall consider the following factors:
 - (a) The general design, character and appropriateness to the property of the proposed alteration or new construction;
 - (b) The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
 - (c) Texture and materials, and their relation to similar features of the properties in the neighborhood;
 - (d) Visual compatibility with surrounding properties, including proportion of the property's front façade, proportion and arrangement of windows and other openings within the façade and roof shape; and
 - (e) The importance of architectural or other features to the historic significance of the property.
- B. The application shall be accompanied by the filing fee required by § 64-13, to be paid by applicant, except that no fee shall be charged on an application for a certificate of appropriateness for non-commercial signage. **[Amended 11-13-07 by L.L. 2007-02]**
- C. In applying the standards to improvements on the National Register, the Review Board shall be guided by the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Properties.

- D. If the Review Board deems it necessary, a public hearing shall be held not more than thirty (30) days from the regularly scheduled meeting date following the submission of the application. The Review Board shall make its final determination within fifteen (15) days of the date the public hearing was held. In any case, the Review Board shall act on the application within said forty-five (45) days of the first formal review by the Review Board.
[Amended 11-13-07 by L.L. 2007-02]
- E. **[Added 11-13-07 by L.L. 2007-02]** In the case of a request for a certificate of appropriateness for signage:
- (i.) The Review Board shall render a decision within three (3) business days after receipt of a complete application;
 - (ii.) In the event that the Review Board fails to render a decision within three (3) business days after receipt of a complete application, the applicant may legally erect or alter the signage at issue without prior issuance of a certificate of appropriateness, but subject to grant of such other land use approvals, if any, as may be required;
 - (iii.) Failure of the Review Board to render a decision on a request for a certificate of appropriateness for signage within three (3) business days shall not be deemed an approval or grant of a certificate of appropriateness. Rather, failure to render a decision within three (3) business days shall merely relieve the applicant of the obligation to obtain a certificate of appropriateness prior to erection or alteration of the signage at issue. It shall still be incumbent upon the applicant to obtain a certificate of appropriateness in order to maintain the new or altered signage after it is erected;
 - (iv.) In the event that the Review Board fails to render a decision within three (3) business days of receipt of such application, then the Review Board shall nevertheless continue processing the application in accordance with the provisions of this Section to determine whether a certificate of appropriateness should be issued permitting the applicant to continue to maintain the signage at issue on the property after it is erected.
 - (v.) In the event that the Review Board denies a certificate of appropriateness to maintain the signage at issue or

conditions grant of such approval upon changes or alterations to the signs, such decision of the Review Board shall include a provision setting a reasonable time in which the signage at issue must be removed or altered in accordance with the Review Board's decision;

(vi.) The terms and provisions of a decision of the Review Board under Code §64-7(E)(vi) shall be enforceable under Code §64-12 and failure to comply with the terms thereof shall be punishable as an offense under Code §64-12.

(vii.) A person aggrieved by a decision of the Review Board may apply to the New York State Supreme Court for review by a proceeding under Article seventy-eight of the Civil Practice Law and Rules, and commencement of such a proceeding shall automatically stay all proceedings to enforce the decision appealed from, but such stay shall not continue through any appeals.

§ 64-8. Economic Hardship Relief.

A. An applicant whose Certificate of Appropriateness has been denied may apply for relief on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish that:

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

In the case of a proposed demolition or relocation, the applicant must also establish that.

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) Reasonable efforts to find a purchaser interested in acquiring the property and preserving it have failed.

B. After receiving written notification of the denial of a Certificate of Appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Review Board makes a finding that a hardship exists.

- C. The Review Board shall hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views.
- D. The applicant shall consult in good faith with the Review Board, the New York State Historic Preservation Office, preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- E. The Review Board shall require that the applicant make submissions concerning any or all of the following information before it makes a determination on hardship:
 - 1) Estimate of the cost of the proposed construction, alteration, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendation of the Review Board for changes necessary for the issuance of a Certificate of Appropriateness;
 - 2) A report from a licensed engineer or architect, with demonstrated qualifications and experience in rehabilitation, as to the structural soundness of any structures on the property and their suitability for rehabilitation;
 - 3) Estimated market value by a licensed assessor of the property in its current condition; after completion of the proposed construction, alteration, demolition, or removal; after any changes recommended by the Review Board; and, in the case of a proposed demolition, after renovation of the existing property for continued use;
 - 4) In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation, as to the economic feasibility or rehabilitation or reuse of the existing structure on the property;
 - 5) Amount paid for the property, deed, the date of purchase, and the party from whom purchase and including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer;
 - 6) If the property is income-producing, the annual gross income from the property for the previous two years; itemized operating and maintenance expenses for the previous two years; and depreciation and

annual cash flow before and after debt service, if any during the same period;

- 7) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years;
- 8) All appraisals obtained within the previous two years by the owner or applicant in connection with purchase, financing, or ownership of the property;
- 9) Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two years;
- 10) Assessed value of the property according to the two most recent assessments;
- 11) Real estate taxes for the previous two years;
- 12) Form of ownership or operation of the property, whether sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture, or other; and
- 13) Any other information deemed necessary by the Review Board to make a determination of economic hardship.

- F. Upon a finding by the Review Board that without the issuance of a certificate of Appropriateness all reasonable use of, or return from, a designated property will be denied a property owner, then the Review Board may delay the issuance of a Certificate of Appropriateness for a period not to exceed one year. During this period of delay, the Review Board shall investigate and make recommendations to the Mayor and Board of Trustees and other municipal agencies to allow for a reasonable use of, or return from the property, or to otherwise preserve the property. Such recommendations may include, but not be limited to: a relaxation from the provisions of this ordinance, a reduction in real property taxes, financial assistance, and/or changes in zoning regulations. If by the end of the one year period, the Review Board has found that without the issuance of a Certificate of Appropriateness, the property cannot be put to a reasonable use or the owner cannot obtain a reasonable economic return there from, then the Review Board shall issue a Certificate of Economic Hardship approving the proposed work.
- G. All decisions of the Review Board on hardship application shall be in writing. A copy shall be sent to the applicant by registered mail with a return receipt required and a copy filed with the Village Clerk for public inspection. The Review Board's decision shall state the reasons for granting or denying the Certificate of Hardship.

§ 64-9. Remediating Dangerous Conditions.

Nothing contained in this chapter shall be construed to make it unlawful for any person without prior issuance of a Certificate of Appropriateness to comply with the order or direction of the Fire Department, any court or the Mayor and Board of Trustees where the alteration, demolition, relocation or removal of an improvement in the District is ordered or directed for the purpose of immediately remediating conditions determined to be a danger to life, health or property.

§ 64-10. Extension of time.

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

§ 64-11. Determinations of Review Board.

- A. Any determination of the Review Board granting or denying a Certificate of Economic Hardship or a Certificate of Appropriateness shall set forth the reasons for such determination.
- B. The Review Board shall give notice of any determination to the applicant and such notice shall also be sent to the Building Inspector, Board of

Trustees, the Mayor, the Planning Board and the Zoning Board of Appeals.

- C. Any determination by the Review Board may prescribe conditions under which the alteration or demolition of any structure within the District may be done in order to effectuate the purpose of this chapter, and any determination may include the recommendations of the Review Board.
- D. **[Added 12-5-00 by L.L. 2000-11]** After receiving a Certificate of Appropriateness or Certificate of Hardship for a proposed alteration, new construction or other change to the District governed by this Chapter the applicant shall:
 - 1) Apply for and receive within two (2) years of the date of the Certificate, a Building Permit for the change if required by Village Ordinances or New York State regulations.
 - 2) Complete the proposed change to the District within one (1) year of the date of the issuance of Building Permit or if no Building Permit is required, one (1) year from date of issuance.

If the applicant fails to accomplish either of the above, the Certificate issued shall be considered null and void and the applicant shall be required to resubmit the proposed change to the District for review.

§ 64-12. Penalties for offenses.

- A. Any person, firm or corporation, including any owner, lessee, contractor or agent, who or which violates or causes to violate any provision of this chapter shall be guilty of an offense against this chapter. Therefore shall be subject to a penalty of twenty dollars (\$20) for each day the offense exists and shall be liable to restoring the improvement to its condition prior to the violation. Restoration shall be to the satisfaction of the Review Board.
- B. In addition, any said violator of this chapter may be deemed to be a disorderly person, subject to prosecution in accordance with the terms, provisions and penalties of the Penal Law of the State of New York applicable to disorderly conduct.
- C. The Mayor and Board of Trustees may also enforce this chapter by injunction.
- D. This chapter shall be enforced by the Building Inspector. No Building Permit shall be issued until all applicable provisions of this chapter have been observed. Any alteration to any improvement in the District which has not been reviewed by the Review Board or does not comply with the

Certificate of Appropriateness or Economic Hardship shall be issued a notice to remedy violation and the Building Inspector shall notify the Village Attorney for possible imposition of penalties as stated in this Section.

§ 64-13. Fees.

Any and all fees called for, required or hereafter required under this chapter or for the administration hereof, may be established or amended by resolution of the Mayor and Board of Trustees provided, however, that the fees charged shall be based upon the sum reasonably necessary to cover the costs of processing and enforcing certificates of appropriateness and/or certificates of economic hardship. **[Amended 11-13-07 by L.L. 2007-02]**

§ 64-14. Conflicting Provisions.

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