

Chapter 178. HISTORIC PRESERVATION

[HISTORY: Adopted by the City Council of the City of Auburn 3-28-1991 by L.L. No. 2-1991 as Ch. 31 of the 1991 Code. Amendments noted where applicable. Amended by the City Council of the City of Auburn (April 6, 2017) by Local Law No. #1 - 2017 as Chapter 178 of the 2016 Code.]

GENERAL REFERENCES

Historic Sites Commission — See Ch. 11, Art. IV.

Building construction and fire prevention — See Ch. 125.

Flood damage prevention — See Ch. 169.

Planning and subdivision — See Ch. 225.

Tax exemption for historic properties — See Ch. 265, Art. VIII.

Zoning — See Ch. 305.

§ 178-1 Purpose.

A. The historic preservation regulations as established in this chapter are designed to protect the many structures and landscape features having a special character or historic interest to the City of Auburn, the State of New York or the nation. The City Council finds that there exist within the City of Auburn places, sites, structures and buildings of historic or architectural significance, antiquity, uniqueness of exterior design or construction, which should be conserved, protected and preserved to maintain the architectural character of the City, to contribute to the aesthetic value of the City and to promote the general good, welfare, health and safety of the City and its residents.

B. The purpose of this chapter is to promote the general welfare by providing for the identification, protection, enhancement, perpetuation, and use of buildings, structures, signs, features, appropriate improvements, sites, and areas within the City of Auburn that reflect special elements of the City's historical, architectural, cultural, economic or aesthetic heritage for the following reasons:

- (1) To foster public knowledge, understanding, and appreciation in the beauty and character of the City of Auburn and in the accomplishments of its past;
- (2) To ensure the harmonious, orderly, and efficient growth and development of the City;
- (3) To enhance the visual character of the City by encouraging new design and construction that complements the City's historic buildings;
- (4) To protect and promote the economic benefits of historic preservation to the City, its inhabitants and visitors;
- (5) Encourage private efforts and stewardship in support of such purposes; and
- (6) To identify as early as possible and resolve conflicts between the preservation of historic landmarks/ districts and alternative land uses; and
- (7) To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

§ 178-2 Definitions.

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

ACQUISITION

The act or process of acquiring fee title or other interest in real property, including acquisition of development rights or remainder interest.

ADDITION

Any act or process that changes one or more of the exterior architectural features of a building or structure by adding to, joining with or increasing the size or capacity of the building or structure.

ALTERATION

Any act or process that changes one or more of the exterior architectural features of an improvement or landscape feature, including but not limited to the erection, construction, reconstruction, or removal of any improvement or landscape feature.

APPROPRIATE

Especially suitable or compatible in the circumstances.

ARCHITECTURAL SIGNIFICANCE

The quality of a building or structure based on its date of erection, style and scarcity of same, quality of design, present condition and appearance or other characteristics that embody the distinctive characteristics of a type, period or method of construction.

BUILDING

Any construction created to shelter any form of human use, such as a house, garage or barn, and which is permanently affixed to the land. Building may also refer to a historically related complex, such as a house and a barn.

BUILDING OFFICIAL

The person, or his or her designee, authorized to grant permits for construction, alteration, and demolition pursuant to the codes adopted by the City.

BUILDING INSPECTOR

The person, or his or her designee, authorized and certified to enforce the New York State Fire Prevention and Building Code. The person, or his or her designee, who is also authorized by the City Council to enforce this local law, except where another official is expressly authorized.

BOARD

The Historic Resources Review Board provided for by § 178-4.

CERTIFICATE OF APPROPRIATENESS

An official form issued by the City Historic Resources Review Board stating that the proposed work on a designated historic resource is compatible with the historic character of the property and thus in accordance with the provisions of this local law and therefore: (1) the proposed work may be completed as specified in the certificate; and (2) the City's departments may issue any permits needed to do the work specified in the certificate.

CERTIFICATE OF ECONOMIC HARDSHIP

An official form issued by the City Historic Resources Review Board when the denial of a certificate of appropriateness has deprived, or will deprive, the owner of the property of all reasonable use of, or economic return on, the property.

CHANGE

Any alteration, demolition, removal or construction involving any property subject to the provisions of this local law.

CHARACTER

Defined by form, proportion, structure, plan, style or material. General character refers to ideas of design and construction such as basic plan or form. Specific character refers to precise ways of combining particular kinds of materials.

COMPATIBLE

In harmony with location, context, setting, and historic character.

CONSTRUCTION

The act of adding to an existing structure or erecting a new principal accessory structure on any real property.

DEMOLISH/DEMOLITION

Any act or process that destroys in part or in whole any exterior improvement or landscape feature of a historic landmark or historic property within a historic district or any designated public interior.

DEMOLITION BY NEGLECT

A situation in which a property owner, or others having legal possession, custody or control of the property, intentionally allows the condition of a property located within a Historic District or a designated local landmark to suffer such deterioration, potentially beyond the point of repair as to threaten the structural integrity of the structure or significant architectural detail.

DEMOLITION PERMIT

A permit issued by the building official allowing the applicant to demolish a building or structure, after having received a certificate of appropriateness approval from the board.

EVALUATION

The process by which the significance and integrity of a building, structure, object, or site is judged by an individual who meets the professional qualification standards published by the National Park Service at 36 CFR Part 61 as determined by the State Historic Preservation Office, using the designation criteria outlined in Section 11 of this local law.

EXTERIOR ARCHITECTURAL FEATURES

The architectural style, design, general arrangement and components of all of the outer surfaces of any building or structure.

FEATURE

Elements embodying the historical significance or architectural style, design, general arrangement and components of all of the exterior surfaces of any landmark or historic property, including, but not limited to, the type of building materials, and type and style of windows, doors, or other elements related to such landmark or historic property.

GOVERNING BOARD or MUNICIPAL GOVERNING BOARD

The law making or legislative body of the City consisting of the City Council.

HISTORIC CONTEXT

A unit created for planning purposes that groups information about historic properties based on a shared theme, specific time period and geographical area.

HISTORIC DISTRICT

An area designated as a historic district by this ordinance which contains within definable geographic boundaries a significant concentration, linkage or continuity of sites, buildings, structures, objects or landscape features united historically or aesthetically by plan or physical development. A designated historic district shall not be construed as a zoning district of the City, and nothing contained herein shall be construed as authorizing the board to adopt a law, by-law, or regulation that regulates or limit the height and bulk of buildings, regulates and determine the area of yards, courts and other open spaces, regulates density of population or regulates or restricts the locations of trades and industries or creates zoning districts for any such purpose.

HISTORIC FABRIC

Original or old building materials (masonry, wood, metals, marble) or construction.

HISTORIC INTEGRITY

The retention of sufficient aspects of location, design, setting, workmanship, materials, feeling or association for a property to convey its historic significance.

HISTORIC LANDMARK

A building, district, site, structure, object or landscape feature significant in American history, cultural, architectural, engineering, or archeology at the City, the state or the national level.

HISTORIC PROPERTY

A district, site, building, structure, object or landscape feature significant in American history, cultural, architectural, engineering, or archeology at the City, the state or the national level.

HISTORIC RESOURCE SURVEY

a) the process of systematically identifying, researching, photographing, and documenting historic resources within a defined geographic area, and b) the resulting list of evaluated properties that may be consulted for future designation. For the purpose of this local law, all surveys shall be conducted in accordance with the Secretary of the Interior's Standards and Guidelines for Identification and Evaluation, as may be amended.

HISTORIC SIGNIFICANCE

The quality of place, site, building, district, or structure based upon its identification with historic persons or events in the City of Auburn.

INTEGRITY

The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

INVENTORY

A list of historic properties determined to meet specified criteria of significance.

LANDMARK

Any building, structure or site that has been designated as a “landmark” by the City Council, pursuant to procedures described in Section 178-8 that is worthy of preservation, restoration or rehabilitation because of its historic or architectural significance.

LANDSCAPE FEATURE

Any natural topographic feature or man-made landscape element.

LISTING

The formal entry or registration of a property.

MAINTAIN

To keep in an existing state of preservation or repair.

MINOR WORK

Any change, modification, restoration, rehabilitation, or renovation of the features of an historic resource that does not materially change the historic characteristics of the property.

MOVE

Any relocation of a building or structure on its site or to another site.

NATIONAL REGISTER CRITERIA

The established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

NATIONAL REGISTER OF HISTORIC PLACES

The official inventory of the nation’s historic properties, districts, sites, structures, objects and landmarks which are significant in American history, architecture, archeology, and culture, maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966 (16 USC. 470 et seq., 36 CFR Sections 60, 63, as may be amended).

NON-CONTRIBUTING

A feature, addition or building, structure, object or site which does not add to the sense of historical authenticity or evolution of an historic resource or landmark or where the location, design, setting, materials, workmanship, history, and/or association of the feature, addition or building, structure, object or site has been so altered or deteriorated that the overall integrity of that historic resource or landmark has been irretrievably lost.

OBJECT

Things that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be moveable by nature or design, an object is associated with a specific setting or environment. Examples include boundary markers, mileposts, fountains, monuments, and sculpture. This term may include landscape features.

OWNER

Those individuals, partnerships, corporations, or public agencies holding fee simple title to property, as shown on the records of the Tax Map of the City of Auburn.

PERIOD OF SIGNIFICANCE

The length of time when a property was associated with important events, activities, or persons, or attained characteristics which qualify it for landmark status. Period of significance usually begins with a date when significant activities or events began giving the property its historic significance; this is often a date of construction.

PRESERVATION

The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

REHABILITATION

The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features of the property which convey its historical, architectural and cultural values.

RETAIN

To keep secure and intact. The act of keeping an element, detail or structure and continuing the same level of repair to aid in the preservation of elements, sites, and structures.

REVERSIBLE

An addition which is made without damage to the project's original condition.

SCENIC LANDMARK

Scenic landmarks encompass structures that are not buildings, such as bridges, piers, parks, cemeteries, sidewalks, clocks, and trees.

SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES

Principles developed by the National Park Service (36 CFR 68.3, as may be amended) to help protect historic properties by promoting consistent preservation practices and providing guidance to historic building owners and building managers, preservation consultants, architects, contractors, and project reviewers on how to approach the treatment of historic properties. The Secretary of the Interior's Standards for the Treatment of Historic Properties may also be referred to in this Chapter as "Secretary of the Interior's Standards."

SIGNIFICANT

Having particularly important associations with the contexts of architecture, history and culture.

SITE

The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing buildings, structures or other objects. Examples of a site are a battlefield, designed landscape, trail, or camp site.

STABILIZATION

The act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

STRUCTURE

Buildings whose functional constructions are made usually for the purposes other than creating human shelter. Examples include: bandstands, gazebos, lighthouse, silos, and windmills.

STYLE

A type of architecture distinguished by special characteristics of structure or ornament and often related in time; also a general quality of distinctive character.

UNDERTAKING

Any project, activity or program involving the expansion, modification, development or disposition of any historic property.

§ 178-3 Enabling Authority.

Pursuant to Article 5, § 96-a; Article 5-G, Article 5-J and Article 5-K, § 119-dd of the General Municipal Law; Article 14 of the Parks, Recreation and Historic Preservation Law; and §10 of the Municipal Home Rule Law; it is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts are necessary to promote the cultural, economic and general welfare of the public.

§ 178-4 Historic Resources Review Board.

There is hereby created a board to be known as the City of Auburn Historic Resources Review Board.

A. Membership. The board shall consist of seven members.

B. Appointment. Members of the Board shall be appointed by the Mayor, subject to approval of the City Council. No person appointed to the commission can also serve as a member of the City Council establishing the Board.

C. Terms of office. The terms for all members of the Board shall be staggered and fixed. The Board members shall serve for a term of three years, with the exception that of the initial term of five Board members, three shall be for one year and two shall be for two years.

D. Vacancies. Vacancies occurring in the Board other than by expiration of term of office shall be filled by appointment by the Mayor, subject to the approval of City Council, but such appointment shall be only for the unexpired portion of the term of the member replaced.

E. Reappointment. Members may serve for more than one term, and each member shall serve until the appointment of a successor.

F. Qualifications. To the extent possible, Board members shall be required to have the following expertise:

- (1) At least one shall be a historian;
- (2) At least one shall be a state-licensed real estate professional;
- (3) At least one shall have demonstrated significant interest in and commitment to the field of preservation planning as evidenced either by involvement in a local or regional historic

preservation group, employment or volunteer activity in the field of preservation planning, or other serious interest in the field; and,

- (4) All members shall have a known interest in historic preservation planning within the City of Auburn.
- (5) In the event that the Mayor, subject to the approval of City Council, determines that any of the of the positions described in subsections (1), (2) and (3) cannot be filled by persons so qualified, the Mayor, subject to the approval of City Council, may fill any such position by appointing persons qualified under subsection, (4).

G. Compensation. Members shall serve without compensation.

I. Board Training.

- (1) Each member of the Board is encouraged to complete, at a minimum, two hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of two hours in any one year may be carried over by the member in succeeding years in order to meet this requirement. Such training may include, but not limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or private firm. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.
- (2) No decision of a Board shall be voided or declared invalid because of a failure to comply with subsection (I): Board Training.

§ 178-5 Board Organization.

A. Chairperson. The Chairperson of the Board shall be designated by the Mayor. In the absence of the Mayor's designation, the Chairperson of the Board shall be designated by vote of an affirmative majority of the members of the Board. The Chairperson shall have the right to vote in all matters before the Board.

B. Chairperson Duties. All meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine by affirmative vote. In his or her absence, an acting Chairperson may perform the duties of the Chairperson.

C. Secretary. The City of Auburn Office of Planning and Economic Development shall provide a secretary to the Board. At the time of service, the secretary shall not also serve as a member of the Board. The secretary shall keep a record of all proceedings, certificates of appropriateness, actions of the Board, as well as attendance of Board members.

D. Quorum. A majority of the Board shall constitute a quorum for the transaction of business.

§ 178-6 Regulations and Meetings.

A. Regulations. The Board may recommend to the City Council regulations relating to any subject matter over which the Board has jurisdiction under this Chapter of City Code. Any such recommendation may be adopted by the City Council.

B. Meetings. The Board shall adopt rules for the transaction of its business, which shall provide for the time and place of holding regular meetings. Regular meetings shall be scheduled at least once each month. The

Board's rules shall provide for the calling of special meetings by the Chairperson or by the majority of the Board. All regular or special meetings of the Board shall be consistent with the notice provisions of the New York Open Meetings Law and shall be open to the public.

§ 178-7 Powers and Duties.

A. General and Advisory Powers. The Board shall, from time to time:

- (1) Review any local laws or regulations, including existing local landmarks or historic preservation laws or regulations in the City and recommend to the City Council any changes and amendments thereto;
- (2) Recommend to the City Council additional regulations to be adopted pursuant to §178 that may be necessary for the Board to conduct its business, consistent with the scope and intent of this ordinance;
- (3) Recommend to the City Council the adoption of criteria for the identification of significant historic, architectural, cultural, and scenic landmarks and for the delineation of historic districts.
- (4) Conducting of surveys of significant historic, architectural, and cultural landmarks and historic districts within the City.
- (5) Recommending designation by City Council of identified structures or landscape resources as landmarks and historic districts.
- (6) Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.
- (7) Conduct investigations, prepare maps, brochures and descriptive material, reports and recommendations in connection with the Board's advisory authority related to the planning, development and administration of the City's landmarks preservation policies, regulations and ordinance as needed.
- (8) Reporting on matters referred to it by the City Council. The City Council may by resolution provide for the referral to the Board for a report on any matter or class of matters that impact the municipality's landmarks preservation local law, policies, regulations or administrative processes before final action is taken thereon by the City Council or other office of the City having final authority over said matter. The City Council may further stipulate that final action thereon shall not be taken until the Board has submitted its report thereon, or has had reasonable time, to be fixed by the City Council in said resolution, to submit the report.
- (9) Recommending acquisition of an historic landmark or an improvement or landscape feature within a historic district by the City government where its preservation is essential to the purpose of this chapter and where private preservation is not feasible.

B. Administrative Reviews. In accordance with the regulations adopted by the City Council for landmarks and historic preservation purposes, the Board shall:

- (1) Evaluate an application for Certificate of Appropriateness (COA); approve, approve with modifications, or deny any proposal for exterior changes to a designated individual landmark or property within a designated historic district resulting from any such application;
- (2) Evaluate an application for a Certificate of Economic Hardship; approve, approve with modifications, or deny any such application;
- (3) Evaluate an application for a Certificate of Appropriateness for demolition, removal or relocation; approve, approve with modifications, or deny any such application;
- (4) Staff has the authority to review and approve applications for Certificate of Appropriateness for ordinary maintenance and repair of historic resources, properties or landmarks; approve, approve with modifications, or deny any such applications;
- (5) Perform other functions that the City Council may designate by local law.

C. The Board may designate or advise designation of a historic district as per this §178 of City Code and that historic district(s) are not to be construed as a zoning district under the City local law. Nothing contained in this §178 of City Code shall be construed as authorizing the Board to adopt a law, by-law or regulation that regulates or limits the height and bulk of buildings, regulates and determines the area of yards, courts and other open spaces, regulates density of population or regulates or restricts the locations of trades and industries or creates zoning districts for any such purposes.

§ 178-8 Criteria for Designation of Landmarks and Historic Districts.

The Board shall delineate landmarks or historic districts and recommend them to the City Council for designation under local law.

A. Local Landmark. The Board may delineate an individual property as a landmark if it:

- (1) Exemplifies or possesses special character, or historic or aesthetic interest of value as part of the political, economic, or social development, heritage or cultural characteristics of the City, the state or the nation;
- (2) Is identified with persons or events significant in the City, state or national history;
- (3) Embodies those distinguishing characteristics of a type, period or method of construction or design style, or is a valuable example of the use of indigenous materials or craftsmanship; or is representative of the work of a designer, architect or builder;
- (4) Representing an established and familiar visual feature of the community by virtue of its unique location or singular physical characteristics, represents an established or familiar scenic landscape feature of the City, state or nation; or
- (5) Has yielded or may be likely to yield information important in prehistory or history.

B. Historic District. The Board may delineate a group of properties within the City as an historic district if a majority of the properties therein:

- (1) That contains properties which meet one or more of the criteria for designation as a landmark 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; and
- (2) That constitutes a unique section of the City by reason of possessing those qualities that would satisfy such criteria.

C. Scenic Landmarks. The Board may delineate a landscape feature or group of features as scenic landmarks if such scenic landmark has special historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the City, state or nation and:

- (1) The designation must be accompanied by such historical and architectural information as is required by the Board to make a recommendation concerning the application to City Council;
- (2) The boundaries of landmarks and historic districts shall be specified by and reference by existing tax map identification numbers maintained by the Cayuga County Office of Real Property Services.

D. Ordinarily, properties that have achieved significance within the past fifty (50) years are not considered eligible for designation under this preservation local law adopted by the City Council. However, such properties may qualify if they are:

- (1) Integral parts of historic districts that meet the criteria for designation; or
- (2) If they are properties of exceptional importance.

§ 178-9 Notice and Hearing Requirements for Proposed Designations

The Board shall designate individual landmarks or historic districts in the following manner:

A. Initiation of Proposed Designation. Designation of an individual historic landmark or district may be proposed by the Board, by the owner of the property, or by any resident of the City of Auburn.

B. Application for Designation. Individuals and organizations interested in voluntarily having a property considered for local landmark and/ or district designation must own the property that is at least 50 years old and complete the Board's designation application.

B. Public Hearing; general notice.

- (1) Within 60 days after receipt of an application for historic landmark and/ or district delineation, the Board shall schedule a public hearing. Public notice of any such hearing shall be given by publication in a newspaper of general circulation within the City at least 15 days prior to the public hearing date.

- (2) The Board, property 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 resource, individual, landmark or historic district.

C. Notice of Public Hearing; multiple properties proposed for designation

- (1) Districts. Notice of public hearing for a proposed designation involving multiple properties shall be sent to individual property owners within the area of the proposed historic district at least 15 days prior to the date of the public hearing. Such notice shall include a description of the properties proposed for designation and state the time and place where any public hearing to consider such designation will be held by the Board.
- (2) The district notice provisions are in addition to the general notice requirements under (B) of this section.

D. Work Moratorium. Once the Board has issued notice of a proposed designation it may recommend to the City Council that a moratorium be put in place, prohibiting any work relating to the individual landmark or district proposed for designation as long as the proposed designation is under active consideration by the Board and until the Board has made its decision on designation.

E. Board Record. The Board shall compile a public record in support of its delineation of a resource, landmark or historic district. In addition to testimony or documentary evidence received at any public hearings, the record may also contain reports, public comments, expert testimony, or other evidence offered outside of the hearing, but submitted for the Board's consideration by the date of the public hearing. As a minimum, the record of the delineation shall contain the application, Board and/ or staff reports, any comments made on the application at the public hearing, and the Board's recommendation to the City Council to approve, approve with modifications, or deny the application requesting designation.

F. City Council Decision. Within 62 days after the close of the public hearing, the City Council shall by resolution undertake a designation in whole or in part, or shall disapprove in entirety, setting forth in written meeting minutes the reasons for the decision. Notice of the City Council decision shall be sent by the Board to the applicants and owners of a designated property or in the case of an approved historic district, notice shall be sent to the applicants and owners of all properties within the approved district.

G. The Board may agree with the applicant in writing to extend the time period within which a recommendation will be made.

H. The Board shall forward notice of each property designated as an individual landmark and/ or the boundaries of each designated historic district to the City Offices of Codes, Planning and Clerk and Cayuga County Offices of Real Property Services and Clerk.

I. Failure to Send Notice. Failure to send any notice to property owners where the address of such owner is not a matter of property tax records shall not invalidate any proceedings in connection with the proposed designation.

J. Amendment or Rescission. The Board may amend or rescind any designation of an individual landmark or historic district in the same manner and procedure as followed for designation.

§ 178-10 Designation of historic landmarks and districts.

In accordance with the designation criteria set forth in § 178-8, the following properties are hereby designated:

A. Historic local landmarks.

- (1) Willard Mansion, Case Research Lab and Carriage House (Cayuga Museum Property), Tax Parcel ID#115.67-1-49.1, 203 Genesee Street.
- (2) Willard Memorial Chapel and Welch Memorial Building, Tax Parcel ID#116.37-1-13.2, 17 Nelson Street.
- (3) Case Memorial Library (Seymour), Tax Parcel ID#115.60-1-34.1, 176 Genesee Street.
- (4) Harriet Tubman Home for the Aged, Tax Parcel ID#123.38-1-2, 180 South Street.
- (5) Judge Charles C. Dwight Residence, Tax Parcel ID#116.21-1-40, 149 North Street. [Added 4-27-2000 by Ord. No. 8-2000]
- (6) Auburn Schine Theater, Tax Parcel ID#116.45-2-73, 16 South Street. [Added 12-7-2000 by Ord. No. 18-2000]
- (7) Dr. Allen and Edith Dulles Residence, Tax Parcel ID#116.61-1-22, 67 South Street [Added 5-12-2016 by Ord. No. 6-2016]

B. Local Historic district(s). Grover Street Local Historic District, including all properties on Grover Street between South Street and Osborne Street.

C. National Register Historic District(s). South Street Historic District, including all designated properties on South Street between Metcalf Drive/ Clymer Street and Lincoln Street including select properties on Grover Street, Swift Street, Fitch Ave, MacDougall Street, Hamilton Street, Elizabeth Street, and Williams Street.

§ 178-11 Certificate of Appropriateness.

A. Certificate of appropriateness required. The City of Auburn Historic Resources Review Board is responsible for the approval or disapproval of proposals for exterior changes to a historic property designated under this local law. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or move of a designated historic landmark or resource or landscape feature within a designated historic district without first obtaining a certificate of appropriateness from the Board.

B. Application for certificate of appropriateness.

Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Board. No building permit/sign permit shall be issued for any proposed work until a certificate of appropriateness has been issued by the Board.

C. Criteria for Issuing a Certificate of Appropriateness.

- (1) General Criteria. The Board shall approve the issuance of a certificate of appropriateness only if it determines that the proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the individual landmark or if the proposed work is within a historic district, proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance of the property itself, the district or neighboring properties in such district.

- (2) In making this determination, the Board's decision to approve, approve with modification(s) or deny an application for a certificate of appropriateness in an historic landmark or district, the Board shall be guided by the Secretary of the Interior's Standards and Guidelines for Rehabilitation.
- (3) In applying the principles set forth in paragraph (ii) of this Section, the Board shall consider the following factors:
 - (a) the general design and character of the proposed alteration or new construction relative to existing features of the property or resource;
 - (b) the scale and visual compatibility of the 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 property and other properties in the neighborhood;
 - (d) visual compatibility with surrounding properties, including proportion of the property's façade, proportion and arrangement of windows and other openings within the façade, roof shape, and the rhythm of spacing of properties on streets, including setbacks; and
 - (e) the importance of historic physical and visual features to the significance of the property.

D. In approving an application for a certificate of appropriateness, the Board shall find that the building or structure for which the permit was requested, if erected or altered in accordance with the submitted plan or with stated modifications, would be consistent the spirit and intent of this local law, would not be visually offensive or inappropriate by reason of poor quality of exterior design, monotonous similarity or visual discord in relation to the sites or surroundings, would not mar the appearance of the area, would not impair the use, enjoyment and desirability or reduce the values of properties in the area, would not be detrimental to the character of the neighborhood, would not prevent an appropriate development and utilization of the site or of adjacent lands and would not adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the community.

E. Where the Board grants a certificate of appropriateness under circumstances where the permitted activity is likely to uncover or affect archaeological resources, the Board shall require reasonable efforts to protect and preserve such resources. Where such protection and preservation is not feasible, the Board shall nonetheless impose appropriate and reasonable conditions to insure that the archaeological resource is made accessible for a reasonable period to qualified persons.

F. In approving an application for certificate of appropriateness, the Board shall not review changes to exterior paint colors.

G. Interior space. The Board shall not consider changes to interior spaces unless they are open to the public or affect the exterior appearance.

§ 178-12 Certificate of Appropriateness Application Procedures.

A. Prior to the commencement of any work requiring a certificate of appropriateness, the property owner shall file an application for a building permit with the City Code Enforcement Office and an application for such certificate with the Board.

B. The application for certificate of appropriateness shall require, at a minimum, the following:

- (1) Property owner contact information and address;

- (2) Existing condition photographs of property and/ or project area;
- (3) Architectural elevation drawings of proposed changes (if applicable); and
- (4) List and/ or sample of all building materials to be used including proposed color scheme.

C. Upon receipt of all the information required herein and additional information as required by the application for certificate of appropriateness, the Board shall deem the application complete and shall place the application on the agenda of the next regularly scheduled Board meeting.

D. Upon submission of a complete application, the Board shall have the authority to, without public comment:

- (1) determine whether the proposed work constitutes ordinary maintenance and repair and authorize Board staff to issue a certificate of appropriateness;
- (2) determine whether the proposed work is considered replacement in-kind and authorize Board staff to issue a certificate of appropriateness;
- (3) determine work of any other type that has been previously determined by the Board to be appropriate for delegation to staff.

E. Board staff will report to the Board on a monthly basis on all activities for which applications were submitted and decisions made without any public comment.

§ 178-13 Certificate of Appropriateness Public Notice Requirements & Approval.

(A) Public Comment. The Board shall hold an opportunity for public comment prior to rendering a decision on any application for a certificate of appropriateness. The property owner and any interested party may present testimony or documentary evidence regarding the proposal at the Board meeting, which will become a part of the record. The record may also contain staff reports, public comments, and other evidence offered outside of the board meeting, but presented by the board meeting date.

(B) In the event, however that the Board shall make a finding of fact that the circumstances of a particular application require further time for additional study and information, then the Board shall have a period of up to an additional 62-day period from the date of any such finding within which to act upon such an application.

(C) Decisions. All Board decisions shall be in writing. A certificate of appropriateness shall be effective to authorize the commencement of work in accordance with the application, plans, specifications, etc. upon which it is based for a period of six months after the date of its issuance. In issuing such certificate the Board may prescribe the conditions that it deems to be necessary to carry out the intent and purpose of this chapter. A certificate issued pursuant to this section shall relate solely to proposed plans accompanying the application or otherwise submitted to the Board for official consideration prior to issuance of said certificate. It shall be unlawful to deviate from the plans, including any modifications required as a condition of the issuance of such certificate, unless and until an amended certificate shall be applied for and issued. It shall also be unlawful to commence work upon a certificate that has expired. A certificate of appropriateness may be renewed for a second 6 month period, but not valid after a period of 1 year. Notwithstanding the foregoing, the Board shall not issue any such certificate unless and until it has been advised by the Building Inspector that there is no impediment to the issuance of any building, sign, or other permit as may be required by applicable state or local law, ordinance or regulation for said work.

(D) Delay of demolition; time limit; procedure. With respect to an application for demolition of an historic landmark or an improvement or landscape feature located in an historic district, the Board shall have the right to issue a delayed certificate of appropriateness. Such certificate shall not permit the demolition for a period of up to 10 months from the date of application therefor, during which time the Board and the applicant shall undertake serious and continuing discussion for the purpose of finding a method to save such property. At the end of such delay, the Board will reconsider whether to grant or deny the certificate of appropriateness.

(E) Denial or delay of certificate; appeal to City Council. If the Board determines that a certificate of appropriateness should not be issued, or that a delayed certificate or a certificate contingent upon specific structural performance should be issued, the Board shall notify the applicant in writing of such determination. Such notice shall advise the applicant of his or her right to appeal such determination to the City Council in accordance with § 178-18.

(F) Building permits not to be granted without certificate. Unless the action of the Board is reversed by the City Council or a court of competent jurisdiction, the Building Inspector shall refuse to grant a building permit, sign, demolition permit or other permit for any historic landmark or district where a certificate of appropriateness has been denied or has expired due to the applicant's failure to commence work as described in Subsection (C).

(G) Effect of failure to act on application. Notwithstanding the foregoing, if the Board fails to issue a certificate of appropriateness or notify the applicant of its determination not to issue a certificate within 45 days after application therefor is filed, or within such additional time period as the Board and the applicant may agree, such application shall be deemed approved.

§ 178-14 Demolition, Removal, or Relocation of Landmark and Historic District Buildings.

A. Demolition of an individual landmark or of a structure located in and contributing to the significance of a historic district shall be allowed only in case of economic hardship, unless the City Code Enforcement Office, upon due deliberation has made an express written finding that the structure presents an imminent threat to the public health, safety and welfare.

B. Any person desiring to demolish a designated historic building shall first file an application for a building permit with the City Code Enforcement Office and an application for certificate of appropriateness with the Board. An application must submit, at a minimum, the following:

- (1) Report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings on the property and their suitability for rehabilitation;
- (2) Expert testimony or opinion on the feasibility of rehabilitation or reuse of the existing structure by an architect, developer, real estate consultant, appraiser, and/or other real estate professional experienced in historic properties and rehabilitation;
- (3) Existing condition photos of the property and/ or resource;
- (4) Documentation of architectural floor plans of proposed building, structure or feature to be demolished.

C. Demolition by Neglect. No owner or person with an interest in real property designated as a 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 board,

produce a detrimental effect upon the character of the historic district as a whole, neighborhood streetscape, or the life and character of the property itself. It is a violation of the City's Ordinance to not remedy a condition of neglect within the period of time set by a final administrative determination, as described in Sections (16 &17) of this Ordinance.

Examples of such deterioration include, but are not limited to:

- (1) Deterioration of exterior walls or other vertical supports that causes leaning, sagging, splitting, listing, or buckling;
- (2) Deterioration of roofs or other horizontal members that causes leaning, sagging, splitting, listing or buckling;
- (3) Deterioration of exterior chimneys that causes crumbling of exterior plasters or mortars;
- (4) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors;
- (5) Signs of rot or decay, such as holes, or any deterioration that creates a hazardous condition; and
- (6) A lack of maintenance of the surrounding environment, such as fences, retaining walls, carriage houses and other outbuildings and landscape features; and
- (7) Deterioration of exterior features so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

D. Demolition of any such building may be approved only in connection with approval of a replacement project.

E. The Board shall hold a public hearing and shall take one of the following actions:

- (1) Approve the demolition in conformance with the provisions of this Section;
- (2) Approve the demolition subject to a waiting period of up to one hundred twenty (120) days to consider relocation and/ or hardship documentation as per Section 15;
- (3) Deny the application.

F. During the continuance period, the Board may investigate relocation of the building (on site) or modification of the building for future uses in a way which preserves the architectural and historical integrity of the building.

§ 178-15. Demolition, Removal or Relocation Hardship Criteria.

A. Certificate of appropriateness for demolition, removal or relocation. An applicant whose certificate of appropriateness for a proposed demolition, removal or relocation of a landmark, resource or property has been denied may apply for relief on the ground of economic hardship. In order to prove the existence of economic hardship sufficient to justify demolition, removal, or relocation, the applicant shall establish that the denial of a certificate of appropriateness will prevent the property owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.

B. Certificate of appropriateness for demolition. The applicant for a certificate of appropriateness for demolition must establish to the Board, an imminent plan of reuse or redevelopment of the affected property. The applicant for an income-producing property shall establish 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.
- (4) In deciding upon such application for removal, relocation or demolition, the Board may consider whether the owner has intentionally allowed a historic property to suffer severe deterioration, potentially beyond the point of repair thereby creating a situation of self-hardship.

C. Submissions. Any property owner or person desiring to demolish a designated historic building and seeing a certificate of appropriateness for demolition, removal or relocation of an income producing property and claiming economic hardship must submit the following for Board review:

- (1) Current level of economic return;
- (2) Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition, or removal; after any changes recommended by the Board; and, in the case of a proposed demolition, after renovation of the existing property for continued use.
- (3) 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 of rehabilitation or reuse of the existing structure on the property.
- (4) Amount paid for the property, the date of purchase, and the party from whom purchased, 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.
- (5) 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 deduction and annual cash flow before and after debt service, if any, during the same period.
- (6) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years.
- (7) All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property.
- (8) Any listing of the property for sale or rent, price asked, and offers received, if any, within the previous two years.
- (9) Assessed value of the property according to the two most recent assessments.
- (10) Real estate taxes for the previous two years.
- (11) Form of ownership or operation of the property, whether sole proprietorship, for profit or not-for-profit corporation, limited partnership, joint venture, or other.
- (12) Any other information, including the income tax bracket of the owner, applicant, or principal investors in the property, considered necessary by the Board to a determination as to whether the property does yield or may yield a reasonable return to the owners.

D. Proof required. In order to prove the existence of economic hardship, the applicant must establish that unless the proposed work is accomplished, the property will be incapable of earning a reasonable return or of being put to reasonable use. In the case of a proposal to remove or demolish a landmark or structure within an historic district, the applicant must additionally prove that:

- (1) The property cannot be adapted for any other use, whether by the current owner or a purchaser, which would result in reasonable return.
- (2) Reasonable efforts to find a purchaser interested in acquiring the property for rehabilitation and preservation have been made and failed.

E. Determination by Board. If hardship is not proven, the Board shall deny the application and notify the applicant by mail of the final denial. If the Board finds that the economic hardship has been proven, relief shall be provided in one of the following ways:

- (1) The Board may relax the strict application of the criteria in § 178-7 sufficiently to relieve the hardship. In this case, the Board shall issue a certificate of appropriateness, with conditions, as necessary.
- (2) The Board may investigate plans and make recommendations to the City Council for City actions which, if taken, will allow for a reasonable use of or reasonable return from the subject property or will otherwise preserve the property without hardship to the owner.

(F) If neither Subsection E (1) or (2) resolves the issue, the Board may issue a certificate of economic hardship allowing the work to proceed as proposed.

§ 178-16 Maintenance and Repair Requirement.

A. Ordinary maintenance; repair. Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a historic landmark or property within a historic district that does not involve a change in design, building materials, color or outward appearance. The Board may evaluate and decide, without public hearing, whether or not proposed work constitutes ordinary maintenance and repair or requires a certificate of appropriateness.

B. No owner or person with an interest in real property designated as an individual landmark or included with an historic district shall permit the property to fall into a serious state of disrepair. Maintenance shall be required, consistent with the Property Maintenance Code of New York State Uniform Fire Prevention and Building Code and all other application local regulations.

C. Every property owner or person responsible of an improvement on a landmark site or in a historic district shall keep in good repair:

- (1) All of the exterior portions of such improvements and
- (2) All interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to deteriorated, decay or become damaged or otherwise to fall into a serious state of disrepair. Examples of deterioration or disrepair would include:
 - (a) Deterioration of exterior plaster or mortar walls or facades;
 - (b) Deteriorated or inadequate foundation;

- (c) Defective or deteriorated flooring or floor supports or any structural floor members of insufficient size to carry imposed loads with safety;
- (d) Deteriorated walls or other vertical structural supports that split, lean, list or buckle due to defective materials or deterioration;
- (e) Deterioration of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration or are of insufficient size to carry imposed loads;
- (f) Ineffective or inadequate waterproofing of exterior walls, exterior chimneys, roofs, foundations or floors, including windows or doors, which may cause or tend to cause deterioration, decay or damage;
- (g) Defective or insufficient weather protection for roofs, foundation or exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering, which may cause or tend to cause deterioration, decay or damage;
- (h) Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with safety;
- (i) Any fault or defect in the building or structure which renders it not properly watertight or otherwise compromises the life and character of the building or structure.

D. Interiors. Every property owner or person responsible of an improvement to an interior landmark shall keep in good repair:

- (1) All portions of such interior landmark and
- (2) All other portions of the improvement, which, if not so maintained, may cause or tend to cause the interior landmark contained in such improvement to deteriorate, decay or become damaged or otherwise to fall into a serious state of disrepair.

E. Every owner or person in charge of a scenic landmark shall keep in good repair all portions thereof.

§ 178-17 Enforcement and Violations; Penalties.

A. All work performed pursuant to a certificate of appropriateness issued under this Chapter shall conform to the requirements expressly stated in the certificate or reasonably implied therefrom. It shall be the duty of the building inspector to periodically inspect any such work to assure compliance with the certificate and all applicable law. In the event any requirement included in the certificate of appropriateness has not been met, or upon notification of that fact by the historic resources review 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.

B. Any property owner or person responsible of a property who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this Chapter in the absence of a certificate of appropriateness, a finding of economic hardship, or other approval by the Board, may be required by the City Council to restore the property and its site to its appearance prior to the violation.

C. If, in the judgment of the Board, a violation of this Chapter exists that will result in a detrimental effect upon the life and character of a designated historic resource, landmark, property or on the character of a historic district as a whole, the Board shall notify the City Code Enforcement Office. If upon investigation, the City Code Enforcement Office finds non-compliance with the requirements of the Property Maintenance Code of the New York State Fire Prevention and Building Code, or any other applicable law or regulation, the

City Code Enforcement Office shall order such remedies as are necessary and consistent with this Chapter and shall provide written notice thereof to the secretary of the Board.

D. Penalties. A violation of this Chapter is deemed an offense punishable by a fine(s) as outlined in the City's Fee Schedule. In addition to any penalties imposed under this Chapter, continued violations of this Chapter shall be punishable in any other manner provided under other local regulations, and state and federal law.

E. The Board shall notify the City Council of an enforcement matter arising under this Chapter and shall refer it to the City Corporation Counsel. Action to enforce this Chapter shall be brought by the City Corporation Counsel or other attorney designated by the City Council. Civil remedies authorized under Section 17 of this Chapter shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 178-18 Appeals.

Any person aggrieved by a ruling or determination of the Board may appeal to the City Council, which may reverse or affirm the action of the Board or remand to the Board with instructions. In ruling upon an appeal, the Council must consider the same evidence and be guided by the same criteria as used by the Board in rendering its decision. A decision to reverse the Board's action will require the affirmative vote of a majority of the City Council members.

§ 178-19 Severability.

If any section, subsection, subdivision, paragraph, clause or phrase in this local law, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this local law, or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of this local law, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases may be declared invalid or unconstitutional.