# Town of Andes

Local Law \_\_\_ of 2018

“A LOCAL LAW relating to the establishment of landmarks and historic districts in the Town of Andes.”

# Section 1. Title.

This local law shall be known and may be cited as the Town of Andes Historic Preservation Law.

# Section 2. Purpose.

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 economic, cultural, educational, and general welfare of the public. Inasmuch as the identity of a people is founded on its past and inasmuch as Andes has many significant historic, architectural, and cultural resources, which constitute its heritage, this chapter is intended to:

1. Protect and enhance the landmarks and historic districts, which represent distinctive elements of the Town’s cultural, social, economic, political, historic, and architectural heritage.
2. Ensure the harmonious, orderly, and efficient growth and development of the Town, while safeguarding the Town’s historic, aesthetic, and cultural heritage as embodied and reflected in such landmarks and districts.
3. Protect and enhance the Town’s attractiveness to visitors and the support and stimulus to the economy thereby provided, and promote the use of historic districts and landmark sites for the education, pleasure, and welfare of the Town.

# Section 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.

# Section 4. Historic Preservation Commission.

There is hereby created a commission to be known as the Town of Andes Historic Preservation Commission (Commission).

1. Membership: The Commission shall consist of five members.
2. Appointments: Members of the Commission shall be appointed by the Town Board.

No member of town governing boards can serve as a Commission member.

1. Term of Office: The terms for all members of the Commission shall be staggered and fixed so that the term of one member shall expire at the end of the calendar year in which all such Commission members were initially appointed. The terms of the remaining members shall be so fixed that one term shall expire at the end of each calendar year thereafter. At the expiration of the term of each member first appointed, his or her successor shall be appointed for a term which shall be equal in years to the number of members of the Commission.
2. Qualifications:
   1. all members shall have a known interest in historic preservation and planning within the Town of Andes.
   2. 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,
   3. It is preferred that members have a background in history, the arts, architecture or a related field.
   4. In the event that the Town Board determines that any of the positions described in subsections (i), (ii), and (iii) cannot be filled by persons so qualified, the Town Board may fill any such position by appointing persons qualified under subsection (iv).
3. Vacancies: Vacancies occurring in the Commission other than by expiration of term of office shall be filled by appointment of the town supervisor. Any such appointment shall be for the unexpired portion of the term of the replaced member, and the appointment must be made in accordance with the criteria established above for original appointments.
4. Compensation: Members shall serve without compensation.

# Section 5. Organization.

1. Chairperson; designation and duties.
   1. The members of the Commission may designate the chairperson of the Commission by vote of an affirmative majority of the members of the Commission.
   2. The chairperson shall have the right to vote in all matters before the Commission.
   3. All meetings of the Commission shall be held at the call of the chairperson and at such other times as the Commission may determine by affirmative vote. Such chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.
2. Quorum: A simple majority of the Commission members shall constitute a quorum for the transaction of business. An affirmative majority vote of the full Commission is required to approve any resolution, motion or other matter before the Commission.

# Section 6. Records.

1. Records: The Commission shall be subject to the provisions of the Public Officers Law, including Article 7 related to the Open Meetings Law. The Commission records shall be readily available to the public. The vote or failure to vote of each Commission member shall be recorded. If any Commission member abstains from voting based on a conflict of interest or otherwise, the member must also state his or her reason(s) or ground(s) for doing so on the record.

# Section 7. Promulgation of Regulations; Meetings.

1. Regulations: The Commission may recommend to the Town Board regulations relating to any subject matter over which the Commission has jurisdiction under this local law. Any such recommendation may be adopted by local law of the Town Board.
2. By‐Laws; meetings: The Commission may approve by‐laws that are consistent with the regulations adopted by the Town Board. Such by‐laws shall provide for the time and place of holding regular meetings; and may provide for the calling of special meetings by the chairperson or by written request of at least two members of the Commission. All regular or special meetings of the Commission shall be consistent with the notice provisions of the New York Open Meetings Law and shall be open to the public.

# Section 8. Powers and Duties of the Historic Preservation Commission.

1. General and Advisory Powers. The Commission shall, from time to time:
   1. Review any local laws or regulations, including existing landmarks or historic preservation laws or regulations in the Town, and recommend to the Town Board any changes and amendments thereto;
   2. Recommend to the Town Board additional regulations to be adopted by local law that may be necessary for the Commission to conduct its business, consistent with the scope and intent of this local law;
   3. Recommend to the Town Board specific criteria for regulations to be adopted by local law that identify and catalogue significant historic landmarks, and from time to time advise it on suggested changes thereto;
   4. Recommend to the Town Board landmarks and historic districts to be adopted by local law, and from time to time changes thereto;
   5. Recommend to the Town Board proposals for the acquisition of preservation easements or other interests in real property;
2. Administrative Reviews. In accordance with the regulations adopted by the Town Board for landmarks and historic preservation purposes, the Commission shall:
3. Evaluate an application for a certificate of appropriateness; 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;
4. Evaluate an application for a certificate of economic hardship; approve, approve with modifications, or deny any such application;
5. Evaluate an application for a certificate of appropriateness for demolition, removal or relocation; approve, approve with modifications, or deny any such application;
6. Perform other functions that the Town Board may designate by local law.
7. The Commission may advise designation of a historic district under this historic preservation local law and that historic district is not to be construed as a zoning district under the Town local law. Nothing contained in this historic preservation local law shall be construed as authorizing the Commission 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 purpose.

# Section 9. Cooperation of Town Departments.

All Town departments shall, upon request of the Commission, assist and furnish available permits, plans, reports, maps and statistical and other information which the Commission may require for its work.

# Section 10. Criteria and Designation of Landmarks or Historic Districts.

The Historic Preservation Commission may recommend to the Town Board an individual property for designation as a landmark 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 locality, region, state, or nation; or
2. is identified with historic personages; or
3. embodies the distinguishing characteristics of an architectural style; or
4. is the work of a designer whose work has significantly influenced an age; or
5. because of unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.

The Historic Preservation Commission may recommend to the Town Board a group of properties for designation as an historic district if it:

1. contains properties which meet one or more of the criteria for designation as a landmark; and
2. by reason of possessing such qualities, it constitutes a distinct section of the Town.

The boundaries of each historic district actually designated by the Town Board henceforth shall be specified in detail and shall be filed, in writing, in the Town Clerk’s office for public inspection.

**Section X. Notice and Hearing Requirements for Proposed Designation.**

The procedure for identifying, considering, and designating a proposed property or group of properties as a landmark or historic district shall be as follows:

1. The Commission shall send a notice of proposed designation to the owner(s) of the property proposed for landmark or historic district designation. The notice shall identify the affected property by street address and tax map designation and shall include a location map (such as a copy of the tax map or its equivalent) sufficient to show the property included in the proposed designation as well as the properties immediately adjacent thereto and directly opposite therefrom, without regard to any intervening alleys, easements, highways, rights-of-way, roads, or streets.
2. The Commission shall discuss the designation proposal with the owner(s) of the subject property or properties prior to proceeding with the designation proposal.
3. A copy of the notice of proposed designation shall be given to the building inspector / code enforcement officer.
4. The Commission shall make a recommendation to the Town Board as to whether to recommend the subject property or properties for landmark or historic district designation.
5. The Commission shall schedule a public hearing to consider the designation recommendation. The public hearing:
6. shall be convened within 45 days from the Town Board’s receipt of the Commission’s recommendation report;
7. shall be noticed in the official newspaper of record for the Town not less than 10 days in advance of the public hearing; and
8. shall be noticed in writing and sent by certified mail to the owner of the subject property(ies). The latest tax assessment roll on file in the office of the Town Assessor shall be conclusive as to the name and mailing address of the owner(s) of the property.
9. Work Moratorium: Once the Commission has issued notice of a proposed designation it may recommend to the Town Board 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 Commission and until the Commission has made its decision on designation.
10. Within 62 days after the close of the public hearing, the Town Board shall adopt a resolution rendering its decision with respect to the Commission’s recommendation. The Town Board may either approve the recommendation (with or without modifications), reject the recommendation, or remand the matter to the Commission with instructions for further review and consideration.
11. The Commission shall forward notice of each property designated as an individual landmark and the boundaries of each designated historic district to the building inspector / code enforcement officer, the Town clerk, the County Planning Department, and the County Clerk for recordation.
12. Failure to Send Notice. Failure to send any notice by mail to any 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.
13. Amendment or Rescission. The Commission may amend or rescind any designation of an individual landmark or historic district in the same manner and using the same procedures as followed for designation.

# Section 11. Certificate of Appropriateness for Alteration, Demolition, or New Construction Affecting Individual Landmarks or Historic Districts.

1. The Town of Andes Historic Preservation Commission 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 property within a designated historic district without first obtaining a Certificate of Appropriateness that authorizes such work from the Commission.
2. All changes to Town–owned property affecting an individual landmark or within a historic district shall be subject to the provisions of this local law.
3. The building inspector / code enforcement officer shall receive and file all applications issued for any individual landmark, or landmarks or historic district to which this local law applies. The building inspector / code enforcement officer shall transmit a copy of any such application to the Commission.
4. The Commission may require that the application for certificate of appropriateness be supplemented by such additional information or materials as may be necessary for a complete review by the Commission. The Commission may impose such reasonable conditions or restrictions as it deems necessary or appropriate on a case‐by‐case basis to promote or achieve the purpose of this local law.

# Section 12. Criteria for Issuing a Certificate of Appropriateness.

1. Certificate of appropriateness; general criteria: The Commission 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 Commission's decision to approve, approve with modification(s) or deny an application for a certificate of appropriateness for an individual landmark will be guided by the Secretary of the Interior’s Standards for Rehabilitation and by the following principles:

The Commission's decision to approve, approve with modification(s) or deny an application for a certificate of appropriateness for an improvement to property located within a historic district shall be based on the following principles:

* 1. properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
  2. any alteration of existing properties shall be compatible with the surrounding historic district; and

1. new construction shall be compatible with the historic district in which it is located;
2. In applying the principle of compatibility set forth in paragraph (b) of this

Section, the Commission shall consider the following factors:

1. the general design and character of the proposed alteration or new construction relative to existing features of the property or improvement;
2. the scale and visual compatibility of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
3. texture and materials, and their relation to similar features of the property and other properties in the neighborhood;
4. visual compatibility with surrounding properties, including proportion of the property's facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties on streets, including setback; and
5. the importance of historic physical and visual features to the significance of the property.
6. In approving an application for a certificate of appropriateness, the Commission shall not review changes to exterior paint colors.

# Section 13. Certificate of Appropriateness Application Procedure.

1. 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 Town building inspector / code enforcement officer and an application for such certificate with the Commission.
2. The application for certificate of appropriateness shall contain:
   1. name, address, and telephone number of applicant;
   2. building permit application number as assigned by the building inspector / code enforcement officer
   3. location and photographs of property;
   4. elevation drawings of proposed changes, if requested;
   5. perspective drawings, including relationship to adjacent properties, if requested;
   6. samples of building materials to be used;
   7. Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property; and
   8. any other information which the Commission may deem necessary in order to visualize the proposed work.
3. Upon receipt of all the information required herein, the Commission shall deem the application complete and shall place the application on the agenda of the next meeting of the Commission.
4. Upon submission of a complete application, the Commission shall have the authority to, without public hearing and notice:
   1. determine whether the proposed work constitutes ordinary maintenance and repair for which a certificate of appropriateness is not required;
   2. approve work which is considered replacement‐in‐kind;
5. The certificate of appropriateness required by this local law shall be in addition to and not in lieu of any building permit or other land use approval that may be required by any other local law or regulation of the Town of Andes.

# Section 14. Certificate of Appropriateness Public Notice Requirements.

1. The Commission may hold a public hearing prior to rendering a decision on any application for a certificate of appropriateness. Notice of the public hearing shall be published in the official newspaper of record for the Town at least 10 calendar days in advance of the public hearing.
2. Within 62 days after the close of the public hearing, the Commission shall approve, approve with conditions or modifications, request additional information, or deny the certificate of appropriateness.
3. In the event, however, that the Commission shall make a finding of fact that the circumstances of a particular application require further time for additional study and information than can be obtained within the aforesaid 62‐day period after close of the public hearing, then the Commission shall have a period of up to one additional 62‐day period from the date of any such finding within which to act upon such an applications.
4. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by certified mail, and a copy shall be filed with the building inspector / code enforcement officer and Town clerk for public inspection, within ten days of the date of the decision. The Commission’s decision shall state the reasons for denying or modifying any application.
5. Certificates of appropriateness shall be valid for 12 months, after which the owner must reapply if the owner still wishes to undertake work on the property.

# Section 15. Alteration Hardship Process and Criteria.

1. After receiving written notification from the Commission 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 Commission makes a finding that a hardship exists.
2. In all cases other than a proposed demolition, removal or relocation, the applicant shall prove the existence of economic hardship by demonstrating to the Commission that:
   1. the applicant cannot realize a reasonable return if compliance with the Commission’s decision is required, provided, however, that the lack of reasonable return is proven by the applicant to be substantial as demonstrated by competent financial evidence;
   2. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
   3. that the requested relief, if granted, will not alter the essential character of the neighborhood; and
   4. that the alleged hardship has not been self‐created.
3. The Commission may 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.
4. The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
5. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by certified mail and a copy filed with the Town Clerk’s office for public inspection. The Commission’s decision shall state the reasons for granting or denying the hardship application. If the application is granted, the Commission shall approve only such work as is necessary to alleviate the hardship.

# Section 16. Demolition, Removal, or Relocation of Landmark Buildings.

1. 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 building inspector / code enforcement officer, upon due deliberation, has made an express written finding that the structure presents an imminent threat to the public health, safety and welfare.
2. Any person desiring to demolish a designated historic building shall first file an application for a historic building demolition permit with the building inspector / code enforcement officer and an application for such certificate with the Commission. An applicant must submit the following items:
3. Current level of economic return;
4. Amount paid for the property, date of purchase, party from whom purchased, and relationship between the owner of record, the applicant, and person from whom property was purchased;
5. Annual gross and net income from the property for the previous three years; itemized operating and maintenance expenses for the previous three years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;
6. Remaining balance on the mortgage or other financing secured by the property and annual debt‐service, if any, during the prior three years;
7. Real estate taxes for the previous four years and assessed value of the property according to the two most recent assessed valuations;
8. All appraisals obtained within the last two years by the owner or applicant in connection with the purchase, financing, or ownership of the property;
9. Form of ownership or operation of the property, whether sole proprietorship, for‐profit or not‐for‐profit corporation, limited partnership, joint venture, or other;
10. Any state or federal income tax returns relating to the property for the last two years;
11. Any listing of property for sale or rent, price asked, and offers received, if any, within the previous two years, including testimony and relevant documents regarding: (a) any real estate broker or firm engaged to sell or lease the property, (b) reasonableness of price or rent sought by the applicant, or (c) any advertisements placed for the sale or rent of the property;
12. Feasibility of alternative uses for the property that could earn a reasonable economic return;
13. 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;
14. Cost estimates for the proposed construction, alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the requirements for a certificate of appropriateness;
15. Estimated market value of the property: (a) in its current condition; (b) after completion of the proposed alteration or demolition; and (c) after renovation of the existing property for continued use;
16. 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;
17. Any evidence of self‐created hardship through deliberate neglect or inadequate maintenance of the property; and
18. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
19. The Commission shall hold a public hearing and shall take one of the following actions:
20. Approve the demolition permit in conformance with the provisions of Section 21 of this local law;
21. Approve the demolition hardship permit subject to a waiting period of up to one hundred twenty days to consider relocation/documentation;
22. Deny the permit.
23. During the continuance period, the Commission 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.

# Section 17. Demolition, Removal or Relocation Hardship Criteria

1. 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.
2. Certificate of Appropriateness for demolition. The applicant for a certificate of appropriateness for demolition must establish to the Commission's satisfaction, 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 Commission may consider whether the owner has created his own hardship through waste and neglect, thereby permitting the property to fall into a serious state of disrepair.
3. Before approving the removal, relocation or demolition of an individual landmark or structure within a historic district, the Commission may suspend the application for up to one hundred and eighty (180) days to allow the applicant to consult in good faith with the Commission, local preservation groups, and the public in a diligent effort to seek a less intrusive alternative to demolition.

# Section 18. Affirmative Maintenance and Repair Requirement

1. Ordinary maintenance; repair.
   1. Nothing in this local law 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 or outward appearance.
   2. The Commission may evaluate and decide, without public hearing, whether or not proposed work constitutes ordinary maintenance and repair or requires a certificate of appropriateness.
2. Maintenance shall be required, consistent with the Property Maintenance Code of New York State Uniform Fire Prevention and Building Code and all other applicable local regulations.
3. 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 so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Town of Andes Historic Preservation Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. Examples of such deterioration include:
   1. Deterioration of exterior walls or other vertical supports
   2. Deterioration of roofs or other horizontal members
   3. Deterioration of exterior chimneys
   4. Deterioration or crumbling of exterior stucco or mortar
   5. Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors
   6. Any fault or defect in the building or structure, interior or exterior, which renders it not properly watertight or otherwise compromises the life and character of the building or structure.
   7. Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for public safety

# Section 19. Enforcement and Violations; Penalties

1. All work performed pursuant to a certificate of appropriateness issued under this local law shall conform to the requirements expressly stated in the certificate or reasonably implied therefrom. It shall be the duty of the building inspector / code enforcement officer 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 Commission, the building inspector / code enforcement officer 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.
2. Any owner or person in charge of a property who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this local law in the absence of a certificate of appropriateness, a finding of economic hardship, or other approval by the Commission, may be required by the Town Board to restore the property and its site to its appearance prior to the violation.
3. If, in the judgment of the Commission, a violation of this local law 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 Commission shall notify the building inspector / code enforcement officer. If, upon investigation, the building inspector / code enforcement officer 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 building inspector / code enforcement officer shall order such remedies as are necessary and consistent with this local law and shall provide written notice thereof to the secretary of the Commission.
4. Penalties. A violation of this local law is deemed an offense punishable by a fine of up to $100 per day for each day that the violation continues, imprisonment for a period not to exceed six months, or both. In addition to any penalties imposed under this local law, continued violations of this local law shall be punishable in any other manner provided under other local regulations, and state and federal law.
5. The Commission shall notify the Town Board of an enforcement matter arising under this local law and shall refer it to the Town attorney. Action to enforce this local law shall be brought by the Town attorney or other attorney designated by the Town Board. Civil remedies authorized under Section 23 of this local law shall be in addition to and not in lieu of any criminal prosecution and penalty.

# Section 20. Appeals.

Any person aggrieved by a decision of the Commission relating to a certificate of economic hardship or a certificate of appropriateness may, within 15 days of the decision, file a written appeal to the Town Board for review of the decision. Appellate review shall be based on the same record that was before the Commission and using the same criteria in this local law.

# Section 21. Definitions

As used in this local law, the following words and phrases have the following meaning:

**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, other than demolition or preventative maintenance, that changes the exterior appearance of significant historical or architectural features, or the historic context of a designated landmark, including, but not limited to, exterior changes, additions, new construction, erection, reconstruction, or removal of the building or structure, or grading.

**Appropriate**: Especially suitable or compatible.

**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 Town.

**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 Town Board to enforce this local law, except where another official is expressly authorized.

**Certificate of Appropriateness:** An official form issued by the Commission stating that the proposed work on an designated historic landmark 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 Town’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 Commission 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.

**Commission:** The historic preservation commission established pursuant to section 4 of this article.

**Construction:** The act of constructing an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

**Demolish:** Any act or process that removes or destroys in whole or in part a building, structure, or resource.

**Demolition Permit:** A permit issued by the building official allowing the applicant to demolish a building or structure, after having received a certificate of demolition approval from the Commission.

**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 Article 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 resource, 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 resource.

**Governing board or municipal governing board:** The law making or legislative body of a city, town, village or county. In towns, the governing board is the town board; in villages, the village board of trustees; in cities, the common council or the city council; and, in counties, the county legislature or the board of supervisors.

**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 ‐ Local:** An area designated as a historic district by this historic preservation local law, and which contains within definable geographic boundaries a significant concentration, linkage or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. An historic district designated under this local law shall not to be construed as a zoning district of the Town and nothing contained herein shall be construed as authorizing the Commission 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 or object significant in American history, architecture, engineering, archeology or culture at the national, State, or local level.

**Historic Resource:** Any evaluated building, structure, object, or site that potentially meets the designation criteria outlined in Section 11.

**Historic Preservation Commission:** The Historic Preservation Commission appointed by the Andes Town Board.

**Historic Property:** A district, site, building, structure, or object significant in American history, architecture, engineering, archeology, or culture at the national, state, or local level.

**Historic Resources 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 a place, site, building, district or structure based upon its identification with historic persons or events in the Town of Andes.

**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.

**Interior Landmark:** Interior landmarks are noted for the portions of their interior that are open to the public.

**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 Town Board, pursuant to procedures described in Section 11 that is worthy of preservation, restoration or rehabilitation because of its historic or architectural significance.

**Landmark Alteration Permit:** A permit approving an alteration to or demolition of a landmark, or demolition of a historic resource listed in the heritage resource inventory pursuant to the provisions of this local law.

**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, districts, structures, objects and landmarks which are significant in American history, architecture, archaeology, 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:** Constructions 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 said property’s recorded deed.

**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.

**Preventative maintenance:** Any work to prevent deterioration or damage to the structural integrity or any exterior feature of a landmark or historic resource that does not involve a change in design, material or exterior appearance. Such work includes, but is not limited to, painting, roof repair, foundation or chimney work, or landscape maintenance.

**Property Type:** A grouping of individual properties based on a set of shared physical or associative characteristics.

**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.

**Repair**: Acts of ordinary maintenance that do not include a change in the design, material, form, or outer appearance of a resource, such as repainting. This includes methods of stabilizing and preventing further decay, and may incorporate replacement‐ in‐kind or refurbishment of materials on a building or structure.

**Restoration:** The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code‐required work to make properties functional is appropriate within a restoration project.

**Retain:** 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 Standards for the Treatment of Historic Properties may also be referred to in this local law 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 archaeological 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:** Any assemblage of materials forming a construction framed of component structural parts for occupancy or use, including buildings.

**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 or other action involving the expansion, modification, development or disposition of the physical plant or any site or building.

# Section 22. 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 Town Board 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.