

Adopted  
5/12/08

NEW YORK STATE DEPARTMENT OF STATE  
41 STATE STREET  
ALBANY, NY 12231

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

- County
- City of Roxbury, New York
- Town
- Village

Local Law No. 2 of the year 20 08

A local law relating to the establishment of landmarks or historic districts in the Town of Roxbury.  
*(Insert Title)*

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Be it enacted by the Town Board of the  
*(Name of Legislative Body)*

- County
- City of Roxbury, New York as follows:
- Town
- Village

See Attachment A.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 20 08 of the (County)(City)(Town)(Village) of Town of Roxbury, NY was duly passed by the Town Board of the Town of Roxbury, NY on May 12, 20 08, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_ *(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_. In accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local *(Elective Chief Executive Officer\*)* law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

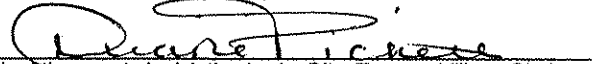
I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

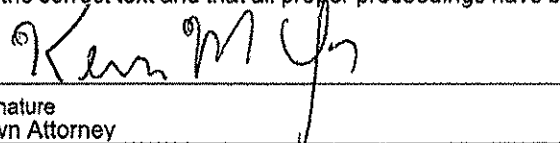
(Seal)

Date: 6/10/08

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF ALBANY

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature  
Town Attorney  
Title

County  
City of Roxbury, NY  
Town  
Village

Date: May 20, 2008

HISTORIC PRESERVATION LAW  
TOWN OF ROXBURY, NEW YORK

Local Law # 2 of 2008

A LOCAL LAW relating to the establishment of landmarks or historic districts in the Town of Roxbury.

**Section 1: 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 the Town of Roxbury has many significant historic, architectural and cultural resources, which constitute its heritage, this act is intended to:

- (A) protect and enhance the landmarks and historic districts, which represent distinctive elements of the Town of Roxbury's historic, architectural, and cultural heritage;
- (B) foster civic pride in the accomplishments of the past;
- (C) protect and enhance the Town of Roxbury's attractiveness to visitors and the support and stimulus to the economy thereby provided, and
- (D) insure the harmonious, orderly, and efficient growth and development of the Town of Roxbury.

**Section 2: Historic Preservation Commission**

There is hereby created commission to be known as the Roxbury Historic Preservation Commission.

(A) The Commission shall consist of seven (7) members to be appointed, to the extent available in the community, by the Town Board with one or more of the following backgrounds:

- (i) an architect or builder experienced in working with historic buildings;
- (ii) a person demonstrating significant interest in and commitment to the field of historic preservation and/or architectural development evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field;
- (iii) at least three shall be a resident or business owner within the historic district;

(B) Commission members shall serve for a term of four years, with the exception of

the initial term of one of the original members, which shall be one year, one, which shall be two years, and one, which shall be three years.

(C) The Chairman and Vice Chairman of the Commission shall be elected by and from among the members of the Commission.

(D) The responsibilities of the Commission shall include:

(i) Employment of staff and professional consultants, if authorized by the Town Board, as necessary to carry out the duties of the Commission;

ii) Promulgation of rules and regulations as necessary to carry out the duties of the Commission subject to Town Board approval;

(iii) Adoption of criteria for the identification of significant historic, architectural, and cultural landmarks and for the delineation of historic districts subject to Town Board approval;

(iv) Conduct of surveys of significant historic, architectural, and cultural landmarks and historic districts within Town of Roxbury;

(v) Designation of identified structures or resources as landmarks and historic districts subject to Town Board approval in accordance with Section 3 hereof;

(vi) Acceptance on behalf of the Town of Roxbury government with approval from the Town Board of the donation of facade easements and development rights and the making of recommendations to the Town government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this act;

(vii) Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs;

(viii) Making recommendations to Town of Roxbury government concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the Town;

(ix) Recommending acquisition of a landmark structure by the Town of Roxbury government where its preservation is essential to the purposes of this act and where private preservation is not feasible; and

(x) Approval or disapproval of applications for Certificates of Compatibility pursuant to Section 6 of this Act.

(xi) Making recommendations to the Town Board concerning a fee schedule for larger development projects falling into review within a proposed district.

(E) The Commission shall meet at least quarterly, but meetings may be held at any time on the written request of any two of the Commission members, or on the call of the Chairman, or upon direction from the Town Board or in order to meet the requirements of Section 6 of this document.

(F) A quorum for the transaction of business shall consist of 5 (five) of the Commission's members. A majority of the full membership is required to grant or deny a Certificate of Compatibility.

### **Section 3: Designation of Landmarks or Historic Districts**

(A) The proposed Historic District shall include all properties (contributing and non contributing) designated in the hamlet wide state and national register nomination of 2003. The Commission with Town Board approval may modify the proposed Historic District according to Paragraphs B and C following.

(B) Subject to Town Board approval, as specified in subparagraph (G), the Commission may designate an individual property as a landmark if the Commission determines after the hearing that the individual property meets one or more of the following characteristics:

- (i) 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
- (ii) Is identified with historic personages; or
- (iii) Embodies the distinguishing characteristics of an architectural style; or
- (iv) Is the work of a designer whose work has significantly influenced an age; or
- (v) Because of unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.

(C) Subject to Town Board approval, as specified in subparagraph (G), the Commission may designate a group of properties as a historic district if the Commission determines after the hearing that the group of properties meets the criteria below:

- (i) contains properties which meet one or more of the criteria for designation of a landmark; and
- (ii) by reason of possessing such qualities, it constitutes a distinct section of the Town of Roxbury.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the Town Clerk's Office for public inspection.

(D) Notice of a proposed designation shall be sent by registered mail to the owner of the property proposed for designation, describing the property and announcing a public hearing by the Commission to consider the designation. In addition, notice must also be published at

least once in a newspaper of general circulation at least ten days prior to the date of the public hearing.

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

(F) The Commission shall forward notice of each property designated as a landmark and the boundaries of each designated historic district to the office of the Delaware County Clerk for recordation.

(G) Within 30 days of forwarding notice to each property owner, the Commission shall forward to the Town Board its recommendation together with the record in support and in opposition to the determination. The Town Board may conduct a hearing prior to voting on the determination. The Town Board may approve, approve with modification and/or deny approval by resolution.

#### **Section 4: Certificate of Compatibility for Demolition or New Construction Affecting Landmarks or Historic Districts**

(A) No person shall carry out any demolition, new construction, or moving of a landmark structure, a historic district without first obtaining a Certificate of Compatibility from the Historic Preservation Commission.

(B) No commercial entity shall construct and install signage prior to obtaining a certificate of compatibility.

(C) No person or property owner shall install new fencing or construct and outbuilding within the site plane of the historic district prior to obtaining a certificate of compatibility.

#### **Section 5: Criteria for Approval of a Certificate of Compatibility**

(A) In consideration of a Certificate of Compatibility, the Historic Preservation Commission shall only consider exterior structures. Interior spaces shall only be considered when they are intended to be open to the public.

(B) The Commission's decision shall be based on the following principles:

(i) properties which contribute to the character of the historic district shall be retained;

(ii) new construction shall be compatible with the district in which it is located.

(C) In applying the principle of compatibility, the Commission shall consider the following factors:

(i) the general design, character and appropriateness to the new construction; the scale

of proposed new construction in relation to the property itself, surrounding properties, and the neighborhood;

(ii) texture and materials, and their relation to similar features of other properties in the neighborhood;

(iii) visual compatibility with surrounding properties, including proportion of the property's front 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

(iv) the importance of historic, architectural or other features to the significance of the property.

(v) signs pertaining to commercial properties and home businesses including size, lighting and other factors of significance to maintain compatibility with surrounding properties.

#### **Section 6: Certificate of Compatibility Application Procedure**

(A) Prior to the commencement of any work requiring a Certificate of Compatibility, the owner shall file an application for such a certificate with the Historic Preservation Commission. The application shall contain:

(i) name, address and telephone number of applicant;

(ii) location and photographs of property;

(iii) a written description of the proposed work

(iv) drawings, including plans, elevations, site plan (if requested by the Commission);

(v) perspective drawings, including relationship to adjacent properties (if requested by the Commission);

(vi) 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

(vii) any other information which the Commission may deem necessary in order to visualize the proposed work

(B) Within ten (10) days after receipt of an application, the Commission shall send the applicant notice whether the application is complete and, if not, a listing of the information necessary to make the application complete.

(C) No building permit shall be issued for such proposed work until a Certificate of Compatibility has first been issued by the Historic Preservation Commission. The Certificate of Compatibility required by this act shall be in addition to and not in lieu of any building permit



that may be required by any other ordinance of the Town of Roxbury. The Certificate of Compatibility should be considered a condition precedent to the issuance of a building permit. The determination of the Commission relating to a Certificate of Compatibility under subparagraph (D) herewith and the Town Board's review thereof (including a hardship application under Section 9) is a Type 2 action under SEQRA.

(D) Upon receipt of a complete application, the Commission shall send the applicant written notice by mail of a complete application with notice that a determination will be made within thirty (30) days from submittal of a complete application. The notice shall specify the next scheduled meeting of the Commission and invite the applicant to attend to discuss or present its application. The applicant may ask for a postponement to a later scheduled meeting if the applicant has a scheduling conflict. The Commission shall approve, deny or approve the permit with modifications within thirty (30) days from receipt of the completed application or from the scheduled or agreed upon meeting date whichever is later.

(E) If the commission fails to reach a decision within 30 days as in paragraph D, then a Certificate of Compatibility shall be issued immediately so that the Building Code process can continue in a timely fashion.

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

(G) Certificates of Compatibility shall be valid for thirty-six (36) months, after which the owner must reapply if he still wishes to undertake work on the property.

#### **Section 7: Hardship Criteria for Demolition**

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

- (i) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
- (ii) 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
- (iii) efforts to find a purchaser interested in acquiring the property and preserving it have failed.

#### ~~Section 8: Economic Hardship for New Construction~~

An applicant whose Certificate of Compatibility for a proposed construction project has been denied may apply for relief on the grounds of economic hardship. In order to prove the existence of hardship, the applicant shall establish that:

- (i) The recommendations of the commission causes a substantial (20% or more) increase in the costs of the construction project and the applicant's income level falls in the low to moderate income levels established by the Federal HUD program.

**Section 9: Hardship Application Procedure**

(A) After receiving written notification from the Commission of the denial of a certificate of compatibility, an applicant may commence the hardship process by submitting a written request to the Commission. The written request should be filed with the Town Clerk. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.

(B) 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.

(C) The applicant shall consult in good faith with the Commission in a diligent effort to seek an alternative that will result in preservation of the property.

(D) All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered 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. The Commission shall issue its decision within 30 days of the submission of the written request to the Town Clerk.

**Section 10: Enforcement**

All work performed pursuant to a Certificate of Compatibility issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the Building Code Enforcement Officer to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the Certificate of Compatibility, or upon notification of such fact by the Historic Preservation Commission, the Building 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.

**Section 11: Maintenance and Repair**

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair or alteration of any exterior architectural feature of a landmark or property within a historic district.

~~Section 12: Violations~~

Any person who demolishes or constructs in violation of this ordinance shall be required to restore the property and its site to its appearance prior to the violation. In addition, a \$25 per business day fine will be apply until such property is restored to its pre-demolition or pre-

construction condition. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

***Section 13: Appeals***

Any person aggrieved by a decision of the Historic Preservation Commission relating to hardship or a certificate of appropriateness may, within thirty (30) days of the decision, file a written application with the Town Board for review of the decision. Reviews shall be conducted based on the same record that was before the Commission and using the same criteria. The Town Board shall make a decision within 45 days of the submission of the appeal.

Some other resources

<http://www.nyhumanities.org/grants>

Major and Mini grant programs

<http://www.nysca.org/public/home.cfm>

Funding for larger arts organizations

<http://www.dos.state.ny.us>

Water Quality Planning and Implementation Grants

<http://nysparks.state.ny.us/grants>

Historic Preservation, Parks, Heritage Areas, Acquisition, Zoos, Botanical Gardens, Trail systems

<http://cwconline.org/forms.html>

Local Technical Assistance program, Education Programs, Storm water Programs

<http://www.rurdev.usda.gov/rd/nofas/index.html>

USDA Rural Development Programs

O'Conner Foundation 607.538.9248

Delaware County Only

Construction, planning, programs, residencies

<http://www.theoconnorfoundation.org/> office@theoconnorfoundation.org

<http://www.roxburyartsgroup.org>

Smaller arts projects

<http://www.nymainstreet.org>

Main Street Revitalization