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Village of Tivoli

Local Law No. \_\_\_\_ of the year 2010

A Local Law amending Chapter 231 of the Code of the Village of Tivoli entitled ZONING to Create the Historic and Pine Street Overlay Districts, Modify the Schedule of Area and Bulk Regulations, Amend the Criteria for Demolition Permits, and Make Other Associated Changes.

Be it enacted by the Board of Trustees of the Village of Tivoli as follows:

SECTION 1. LEGISLATIVE INTENT

This Local Law amends Chapter 231 of the Code to revise the provisions for demolition, revise the Schedule of Area and Bulk Regulations, create two new overlay Zoning Districts (the Pine Street Overlay District and the Historic Overlay District), and amend the Village Zoning Map, in addition to other incidental changes necessitated by these amendments. The Pine Street Overlay District would allow residential uses on the ground floor of buildings, and would permit multifamily and row or town house dwellings, subject to consistency with the Village of Tivoli Pattern Book. The Historic Overlay District would provide dimensional and design standards for new construction in the historic core of the Village. The amendments to the demolition provisions are intended to encourage the preservation of important structures and the architectural continuity of designated historic districts and resources.

The proposed amendments are consistent with the recommendations of the Village's adopted *Comprehensive Plan*. The amendments are designed to protect the health, safety and welfare of Village residents and to bring the Village's Zoning Law into conformance with the *Greenway Connections: Greenway Compact Program and Guides for Dutchess County Communities* pursuant to Chapter 28-3 of the Village Code.

SECTION 2. APPLICATION

This Local Law shall apply within the Village of Tivoli.

### SECTION 3. SEVERABILITY

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

### SECTION 4. AMENDMENTS TO ARTICLE II OF THE ZONING LAW ENTITLED "TERMINOLOGY"

***§ 4-1. The definitions of "Coverage" and "Floor Area Ratio (FAR)" in § 231-4 are hereby amended by deleting them in their entirety.***

***§ 4-2. The definition of "Building" in § 231-4 is hereby amended to read as follows:***

BUILDING – A structure wholly or partially enclosed with exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals, property or business activity. The definition of "building" shall include all attached enclosed bays, garages, and projections.

***§ 4-3. Section 231-4 of the Code is hereby amended by the addition of the following new definitions:***

BUILDING FOOTPRINT – The horizontal area of the ground floor of a building as measured from the exterior faces of exterior walls, and including all attached enclosed structures including but not limited to garages, bays, and projections.

BUILDING SIZE – The sum of the horizontal area of all floors of a building, including basements but excluding cellars, as measured from the exterior faces of exterior walls, and including all attached enclosed or partially enclosed structures including but not limited to garages, bays, and projections.

BUILDING WIDTH – A building's widest expanse, as measured parallel to the street between exterior faces of exterior walls. For the purpose of measuring building width, "building" shall include all attached enclosed structures, including but not limited to garages, bays, and projections.

COVERAGE, BUILDING – That percentage of the lot covered by the composite area of all principal and accessory buildings.

COVERAGE, LOT – Building Coverage and all other impervious surfaces, including roads, parking lots and parking areas, driveways, walkways, patios, decks, terraces, pools, sports courts, tennis courts, and other impervious areas.

***§ 4-4. Section 231-4 of the Code is hereby amended by deleting the definition of "Yard, Front" and substituting in lieu thereof the following new definition:***



within New York State's Coastal Zone boundaries and is subject to the Village's adopted Local Waterfront Revitalization Program. All of these recognitions of Tivoli's historic and scenic significance support the creation of an overlay district to ensure that when existing development is proposed for expansion or modification, or new development is proposed, the historic and scenic qualities of the area are maintained and enhanced. While Tivoli has some limited potential for growth, its historic character must always be preserved and protected.

The Historic Overlay (H-O) Zoning District, as delineated on the Village Zoning Map set forth in § 231-6 of this chapter, is an historic area that has developed with unique characteristics, which have created a special identity for the Village. The H-O Zoning District requirements specified in this section are intended to implement the recommendations of the Village's adopted *Comprehensive Plan* to protect and maintain the traditional scale and architectural look of this historic area as new residential and commercial structures are built and old ones are expanded.

- B. Objectives. All proposed development and redevelopment within the boundaries of the H-O District shall be consistent with the objective to protect and enhance Tivoli's architecture and pattern of design by:
  - (1) Locating buildings and parking in conformance with a traditional streetscape that gives priority to people over cars.
  - (2) Designing building roofs, windows, doors, porches and other architectural features to be sympathetic with the vernacular architecture.
  - (3) Limiting the square footage of new dwellings and the expansion of existing ones to prevent oversized, out-of-character homes in order to maintain the most desirable characteristics of the Village and prevent alteration of the historic character of Tivoli.
  - (4) Prevent the construction of a large building built to replace a portion, or all of a demolished one, which may be out of scale with surrounding buildings.
- C. Regulatory Effect on Land Uses. Within the H-O District, all of the underlying land use district regulations remain in effect, except as they are specifically modified by this section.
- D. Site Plan Approval Requirement. Within the H-O District, Site Plan approval shall be required for all uses, alterations, modifications, and other development of land and structures, including exterior alterations to existing structures.
- E. Site Plan Approval Exemptions. Notwithstanding the above, Site Plan approval shall not be required for:

- (1) Agricultural uses to the extent otherwise permitted in the underlying district, except for agricultural structures with a footprint exceeding 10,000 square feet; and
  - (2) Conversions from a single-family dwelling to a two-family or multi-family dwelling, or to establish an accessory dwelling unit, provided that the conversion or accessory dwelling unit does involve an exterior alteration, unless Site Plan approval is otherwise required by the Code.
- F. Submission Requirements. A concept plan showing the proposed location of building(s) and a graphic depicting how the buildings will appear from the street shall be submitted to the Planning Board. The Planning Board shall determine, based on the concept plan, whether additional site plan materials shall be required, including architectural renderings, and whether a public hearing shall be required, if not otherwise required by this chapter. The Planning Board may also refer an application under this section to the New York State Historic Preservation Office for their opinion as to the historic significance of the structure and recommendations on appropriate restrictions on construction or alteration. If the Planning Board in its discretion refers the application to the State Historic Preservation Office, it should consider the State Historic Preservation Office's comments in its review of the application, but shall not be bound by such comments unless other federal, state or local law so requires. If no response is received within 30 days of such referral, the Planning Board may proceed in the absence of such response.
- G. Bulk Regulations. Bulk regulations in the H-O District are designed to maintain the integrity of the District. Existing patterns of development shall govern future permitted development patterns in order to enhance the character of the Village, to maintain harmony and compatibility with the nationally significant historic importance of the Village, and to protect the Village's unique environmental resources. The following bulk requirements of the H-O District shall apply in addition to the regulations of the underlying Zoning District:
- (1) The maximum building size of a one-family dwelling and a two-family dwelling, including an attached garage, shall be no more than 2,600 square feet.
  - (2) The maximum building footprint of a one-family dwelling and a two-family dwelling, including an attached garage, shall be no more than 1,750 square feet.
  - (3) The maximum building size of an accessory building shall be no more than 1,300 square feet.
  - (4) The maximum building footprint of an accessory building shall be no more than 750 square feet.
  - (5) All accessory buildings in the aggregate shall have a maximum building size of no more than 2,600 square feet.

- (6) Not more than 3 accessory buildings shall be permitted on an individual lot.
- H. Design Standards. New construction and alterations shall harmonize with the scale and character of neighboring buildings and the H-O District setting in accordance with the following:
- (1) Setbacks of principal buildings from the street shall be consistent with the prevailing setbacks on adjoining properties.
  - (2) The front building line of principal buildings shall be built parallel to the street.
  - (3) No parking shall be permitted in a front yard.
  - (4) If a garage is provided, it shall preferably be a detached building located to the rear of the principal structure. Whether detached or attached, the garage shall be located at least 20 feet back from the front building line of the principal building.
  - (5) Building design:
    - (a) The applicant shall demonstrate to the satisfaction of the Planning Board that the proposed project is consistent with the Village of Tivoli Pattern Book. In the H-O District terms used throughout the Village of Tivoli Pattern Book that imply guidelines or recommendations shall be interpreted to mean required standards. For instance, the word "should" shall be interpreted to mean "shall;" the words "recommended" and "encouraged" shall be interpreted to mean "required."
      - (i) The Planning Board may waive any requirement of the Tivoli Pattern Book upon written request from an applicant. When determining whether to grant a requested waiver, the Planning Board shall consider the existing natural and constructed features of the site and the impact of the waiver on the historic character of the neighborhood and the H-O District.
    - (b) Subdivision plats for new lots within the H-O District shall contain the following notation: This subdivision contains lots which are located in the Historic Overlay District. Alterations, modifications and other development of land and structures are subject to the requirements of the Historic Overlay District and to the design requirements of the Village of Tivoli Pattern Book. All such development shall be reviewed by the Planning Board in accordance with Section 231-22.2 of the Code.
    - (c) Any conditions of approval imposed by the Planning Board to ensure compliance with the Tivoli Pattern Book may be incorporated into a deed restriction and/or a plat or site plan notation, to the extent required by the Planning Board.

- (d) In cases where Planning Board approval of building design is not required, applicants are strongly encouraged to consult the Village of Tivoli Pattern Book for appropriate architectural design.
- (6) Existing large trees and other features, such as stone walls and proposed future streets, shall be incorporated into the proposed site design to the maximum extent practicable. During construction, trees and site features to be retained shall be protected by temporary fencing, and the soil within the root zone of trees to be saved shall not be disturbed or contaminated.
- (7) Guidelines for Additions to Existing Structures: Compatible additions that do not compromise the character of the historic building or destroy significant architectural features are appropriate within the H-O District. While additions may reflect the point in time of their construction, they should respect the architectural character and fabric of the historic building and its surroundings as follows:
  - (a) The material, style, and detail of design of additions should be compatible with the original structure.
  - (b) Additions should be located, designed and constructed so that the character-defining features of the structure are not obscured, destroyed, damaged or radically changed.
  - (c) The size and scale of additions should be limited so that the integrity of the original structure is not compromised.
  - (d) Changes in height that alter the character and scale of the existing building to accommodate an addition are not appropriate.
  - (e) Site disturbance for construction of additions should be minimized to reduce the possibility of destroying site features and/or existing trees.
  - (f) Stone walls, natural rock formations or other cultural features should be retained and incorporated into proposed site plans to the greatest extent practicable.

**§ 6-4. *The following new § 231-22.3 is inserted into the Code to read as follows:***

**§ 231-22.3. Pine Street Overlay District (PS-O).**

- A. Boundaries. The Zoning District Map set forth in § 231-6 of this chapter delineates the boundaries of the Pine Street Overlay (PS-O) District.
- B. Regulatory Effect on Land Uses. Within the PS-O District, all of the underlying land use district regulations remain in effect, except as specifically modified by this section.

- C. Groundfloor dwelling units. Within the PS-O District, dwelling units occupying the groundfloor area of a building are a permitted use.
- D. Multifamily and row or town house dwellings. Within the PS-O District, multifamily and row or town house dwellings shall be permitted subject to site plan approval from the Planning Board and the following additional requirements:
- (1) Density. The number of dwelling units shall not exceed 20 per gross acre.
  - (2) Area and bulk requirements:
    - (a) The minimum lot area per development shall be  $\frac{1}{4}$  acre.
    - (b) The minimum lot width at front building line shall be 60 feet.
    - (c) The minimum front yard setback shall be 6 feet and the maximum front yard setback shall be 18 feet.
    - (d) The minimum side yard setback shall be the same as in the GB District.
    - (e) The minimum rear yard setback shall be 35 feet.
    - (f) Maximum building coverage shall be 60 percent.
    - (g) Maximum lot coverage shall be 90 percent.
    - (h) Maximum building height shall be 35 feet.
    - (i) Minimum dwelling unit size shall be 500 square feet of usable interior floor area.
  - (3) Parking:
    - (a) A minimum of  $1\frac{1}{2}$  off-street parking spaces shall be provided for each dwelling unit.
    - (b) All parking shall be provided in paved, off-street parking areas to the rear of the dwellings. Surface parking only shall be permitted (no garages).
    - (c) In the case of a corner lot where off-street parking areas are located adjacent to a road, the off-street parking areas shall be screened from view from the adjoining road by a wall, fence or landscaping as determined by the Planning Board. Such screening shall be a minimum of  $3\frac{1}{2}$  feet in height and shall have openings no larger than is necessary to allow automobile and pedestrian access.
  - (4) Building design. The applicant shall demonstrate to the satisfaction of the Planning Board that the proposed project is consistent with the Village of Tivoli

Pattern Book. In the PS-O District terms used throughout the Village of Tivoli Pattern Book that imply guidelines or recommendations shall be interpreted to mean required standards. For instance, the word “should” shall be interpreted to mean “shall;” the words “recommended” and “encouraged” shall be interpreted to mean “required.”

(a) The Planning Board may waive any requirement of the Tivoli Pattern Book upon written request from an applicant. When determining whether to grant a requested waiver, the Planning Board shall consider the existing natural and constructed features of the site and the impact of the waiver on the character of the neighborhood and the PS-O District.

(5) Landscaped area. At least 5 percent of the gross area of the site shall be landscaped in accordance with plans approved by the Planning Board. The plans shall detail the type, number, size, caliper, and location of each new plant species. All plantings shall be natural and shall be maintained in a vigorous growing condition throughout the duration of the use, and plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.

(6) Water and sewerage facilities. Same as for multifamily dwellings in § 231-38(C) of this chapter.

***§ 6-5. Section 231-26 of the Code is hereby amended by deleting it in its entirety and substituting in lieu thereof with the following new § 231-26:***

§ 231-26. Demolition. A demolition permit must be obtained for all demolition within the Village in accordance with Chapter 33 of the Building Code of New York State, incorporated into the Village Code pursuant to Chapter 98.

- A. No person shall remove or demolish any structure determined to be a contributing resource in the Hudson River National Historic Landmark District, located in the Historic Overlay District, or listed on the State or National Registers of Historic Places, without first obtaining a certificate of removal or demolition or a certificate of hardship from the Planning Board.
- B. No removal permit or demolition permit shall be issued by the Code Enforcement Officer or other duly authorized official for any structure for which a certificate of removal or demolition or certificate of hardship is required pursuant to subsection A above unless such a certificate has been obtained from the Planning Board.
- C. Nothing herein shall be construed to prevent the demolition of any structure which has been determined by the Code Enforcement Officer, Building Inspector or other appropriate Village authorities as being imminently dangerous to persons or property as described in Section 102-7 of the Village Code.

***§ 6-6. The following new § 231-26.1 is inserted into the Code to read as follows:***

§ 231-26.1. Certificate of Removal or Demolition.

A. Application for Certificate of Removal or Demolition. The application shall contain:

- (1) Name, address and telephone number of owner and applicant, if different.
- (2) Location, tax map number(s), and photographs of property and a brief description of the structure proposed to be removed or demolished, including approximate date of construction, name of architect if known, historic and/or architectural significance and a description of the setting, including related grounds, accessory buildings and structures and property boundaries.
- (3) Past 10 years' chronology of the use, occupancy and ownership of the property.
- (4) Any other information specific to the removal or demolition required by the Planning Board to make a determination on the application for a certificate of removal or demolition, including data to demonstrate compliance with the criteria for approval set forth in section 231-26.1(B) below.

B. Criteria for Approval of a Certificate of Removal or Demolition.

- (1) In reviewing an application for a certificate of removal or demolition, the Planning Board shall consider whether:
  - (a) The structure is of such architectural or historic significance that its removal or demolition would be to the detriment of the public interest;
  - (b) Retention of the structure in its current form and/or at its present location is important to the Village's history or character;
  - (c) The structure is of such old and unusual or common design, texture and material that it could not be reproduced or be reproduced only with great difficulty;
  - (d) Retention of the structure would help preserve and protect a historic plan or area of historic interest in the Village;
  - (e) Retention of the structure will promote the general welfare by maintaining real estate values and encourage interest in American history and architecture;
  - (f) Whether throughout the review process the applicant has consulted cooperatively with the Planning Board, local preservation groups and other identified interested parties in a diligent effort to seek an alternative that will result in preservation of the historic structure.
- (2) In order to approve the application for a certificate of removal or demolition, the Planning Board shall find that the removal or demolition will not result in a

significant avoidable diminution of the historic character of the neighborhood and that one or more of the following additional criteria have been met:

- (a) The structure or portion of the structure is in such condition that it is not feasible to preserve or restore.
  - (b) In the case of removal or demolition of a portion of a building, the historic characteristics of the remaining portion of the building will remain intact.
  - (c) After considering the interests of the public and the owner, the benefits of demolition outweigh any reasonable interest in preserving the building.
- (3) The Planning Board shall hold a public hearing within 62 calendar days after the receipt of a complete application. Notice of the public hearing shall be mailed to all property owners within 200 feet of property for which the certificate of removal or demolition is requested and published at least once in the Village's official newspaper at least 10 calendar days prior to the public hearing.
  - (4) The Planning Board shall render its written decision and findings within 62 days after the conclusion of the public hearing. The Board's decision shall be filed with the Village Clerk and Code Enforcement Officer and mailed to the owner and applicant within 7 days. If the Planning Board denies approval of the application for a certificate of removal or demolition, the applicant may apply for relief, in accordance with the procedures set forth in Section 231-26.2, on the grounds that the determination results in an economic hardship.
  - (5) A certificate of removal or demolition shall be valid for 1 year.

**§ 6-7. The following new § 231-26.2 is inserted into the Code to read as follows:**

§ 231-26.2. Certificate of Hardship.

- A. An applicant whose certificate of removal or demolition has been denied may apply for relief on the grounds of hardship. Upon receipt of an application for relief on such form as the Planning Board may prescribe, the Planning Board shall, within 31 days of receipt of a complete application, hold a public hearing and give notice in the same manner as 231-26.1(B)(3) above.
- B. In order to prove the existence of hardship, the applicant shall establish that:
  - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
  - (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.

- C. The Planning Board shall take into consideration the economic feasibility of alternatives to removal or demolition and balance the interest of the public in preserving the historic building or portion thereof and the interest of the owner in removing or demolishing it.
- D. The Planning Board shall render its written decision and findings within 31 days of the conclusion of the public hearing. The Board's decision shall be filed with the Village Clerk and Code Enforcement Officer and mailed to the owner and applicant within 7 days.
- E. In the case of an approval of a certificate of hardship, the Planning Board is empowered to impose reasonable conditions upon the applicant to ensure that the activity is conducted consistent with the spirit and intent of this section, including providing for recordation of the historic building through photographs.

SECTION 7. AMENDMENTS TO ARTICLE V OF THE ZONING LAW ENTITLED "SUPPLEMENTARY REGULATIONS"

***§ 7-1. Section 231-39A(9) of the Code is hereby amended by deleting it in its entirety and substituting in lieu thereof the following new § 231-39A(9):***

In the General Business District and the Pine Street Overlay District, where sufficient public, off-street parking is available, the Planning Board may waive the off-street parking requirements and condition approval on payment of an off-street parking fee to be used by the Village for maintenance and creation of public parking, to the extent that such fee has been set by the Village Board.

SECTION 8. AMENDMENTS TO ARTICLE VI OF THE ZONING LAW ENTITLED "NONCONFORMING USES"

***§ 8-1. Section 231-51B(3) of the Code is hereby amended by deleting it in its entirety.***

SECTION 9. AMENDMENTS TO ARTICLE IX OF THE ZONING LAW ENTITLED "SITE PLAN APPROVAL"

***§ 9-1. Section 231-61A of the Code is hereby amended by deleting it in its entirety and substituting in lieu thereof the following new § 231-61A:***

- A. The Planning Board is authorized to review and approve, approve with modifications or disapprove site plans. Site plan approval by the Planning Board is required for all uses permitted in the General Business District (GB), the Residential Business District (RB), and the Historic Overlay District (H-O), except where otherwise noted, and for all special permit uses in all districts.

**§ 9-2. Section 231-65B(7) of the Code is hereby amended by deleting the first sentence and substituting in lieu thereof the following new sentence:**

In connection with the review of any site plan application for a nonresidential use abutting or directly across a street from a residence district, a buffer strip of landscaping shall be required along all such property lines.

**§ 9-3. Section 231-65C(3) of the Code is hereby amended by deleting it in its entirety and substituting in lieu thereof the following new § 231-61C(3):**

No new tree, as measured from its center, shall be located within 10 feet from a fire hydrant or light standard or within five feet of a public sidewalk or vehicular accessway unless planted in a tree lawn between the sidewalk and the street curb or pavement edge.

## SECTION 10. AMENDMENTS TO THE SCHEDULE OF PERMITTED USES

**§ 10-1. The existing Schedule of Permitted Uses for the GB District is hereby amended by deleting “Dwelling units secondary to business use and not occupying any groundfloor area” as a Special Permitted Use, and by including “Dwelling units not occupying any groundfloor area” as a Principal Use.**

**§ 10-2. The existing Schedule of Permitted Uses for the RB District is hereby amended by deleting “Dwelling unit secondary to a nonresidential use and not occupying any ground floor area” as a Principal Use and substituting in lieu thereof “Dwelling units not occupying any ground floor area” as a Principal Use.**

## SECTION 11. AMENDMENTS TO THE SCHEDULE OF BULK REGULATIONS

The existing Schedule of Bulk Regulations is hereby deleted in its entirety and replaced with the District Schedule of Area and Bulk Regulations attached hereto as Attachment A.

## SECTION 12. AMENDMENTS TO THE VILLAGE OF TIVOLI ZONING MAP

The Zoning District Map prepared by the Dutchess County Department of Planning and Development dated July 12, 2010, attached hereto as Attachment B, is hereby adopted and declared to be the Zoning District Map of the Village of Tivoli, and an appurtenant part of the Zoning Code of the Village.

## SECTION 13. EFFECTIVE DATE

This local law shall take effect immediately after it is filed with the Secretary of State as provided in section twenty-seven of the Municipal Home Rule Law.