

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 Town Village
(Select one.)

of SALEM

FILED
STATE RECORDS
NOV 17 2021

DEPARTMENT OF STATE

Local Law No. 1 of the year 2021

A local law A local law to promote the general welfare by providing for the identification, protection,
(Insert Title)
enhancement, perpetuation and use of buildings, structures, signs, features, improvements
sites and areas within t the Town that reflect special elements of the Town's historical,
architectural, cultural economic of aesthetic heritage.

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

County City Town Village
(Select one.)

of Salem as follows:

See Attached.

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

**TOWN OF SALEM
LOCAL LAW NUMBER 1 OF 2021
HISTORIC PRESERVATION LAW
FOR THE TOWN OF SALEM, NEW YORK**

Section 1: Purpose

The Town Board of the Town of Salem (the "Board") recognizes that there exist within the Town unique historical, cultural, architectural, and archeological resources. It is a matter of Town public policy to preserve, enhance, and perpetuate these resources in order to promote and protect the prosperity, education, and general welfare of residents, businesses, and visitors.

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

- A. To protect, enhance, and perpetuate resources that contribute to the Town's historical, cultural, social, economic, political, archeological, and architectural identity.
- B. To foster public knowledge, understanding, and appreciation in the beauty and character of the Town and in the accomplishments of its past;
- C. To ensure the harmonious, orderly, and efficient growth and development of the Town;
- D. To foster civic pride through the conservation of downtown and the neighborhoods;
- E. To stabilize the economy of the Town through the continued use, preservation, and revitalization of its resources;
- F. To promote the use of these resources for the education, pleasure, and welfare of the people of the Town;
- G. To protect and enhance the Town's attractions for visitors and support and stimulate the businesses thereby provided;
- H. *To provide a review process for the preservation and appropriate development of the Town's resources;*
- I. To promote and encourage continued private ownership and stewardship of historic structures or recommend the acquisition of landmark structures by the Town of Salem;
- J. To recommend the donation of facade easements and development rights on property to the Town;
- K. To identify as early as possible and resolve conflicts between the preservation of historic landmarks/districts and alternative land uses; and
- L. To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

Section 2: 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 3: Town of Salem Historic Preservation Commission

There is hereby created the Town of Salem Historic Preservation Commission.

- A. **Membership:** The Commission shall consist of five members. All members of the Commission are appointed by the Town Board and shall serve at its will and pleasure.
- B. **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.
- C. **Qualifications:** To the extent possible:
 - i. At least two members are resident property owners of the Salem Historic District;
 - ii. At least one member is an architect;
 - iii. At least one member is a historian; and.
 - iv. At least one shall be a state-licensed real estate professional.
 - v. In the event that the Town Board determines that any of the positions described in subsections (ii), (iii), and (iv) cannot be filled by persons so qualified, the Town Board may fill any such position by appointing persons qualified under subsections, (i) or at their discretion.
- D. **Vacancies:** Vacancies occurring in the commission other than by expiration of term of office shall be filled by appointment by 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.
- E. **Compensation:** Members shall serve without compensation.
- F. **Training and attendance requirements:**
 - i. Each member of the commission shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet this requirement. Such training shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county agency, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to, electronic media, video, distance learning and traditional classroom training.

- ii. To be eligible for reappointment to the commission, a member shall have completed the training approved by the Town Board.
- iii. The training may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest to do so.
- iv. No decision of a commission shall be voided or declared invalid because of a failure to comply with this subdivision.

Section 4: Powers and Duties of the Town of Salem Historic Preservation Commission

- A. **Establishment of Landmarks and Districts.** The Commission shall have the responsibility of making recommendations to Board for designation of individual landmarks and local historic districts within the Town. Official designation of a town landmark or historic district shall be the sole responsibility of the Town Board.
- B. **General and Advisory Powers.** The commission shall, from time to time:
 - i. 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.
 - ii. 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.
- C. **Administrative Reviews.** In accordance with the regulations adopted by the Town Board for landmarks and historic preservation purposes, the commission shall:
 - i. 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.
 - ii. Evaluate an application for a certificate of economic hardship; approve, approve with modifications, or deny any such application.
 - iii. Evaluate an application for a certificate of appropriateness for demolition, removal or relocation; approve, approve with modifications, or deny any such application.
 - iv. Evaluate, without public hearing, an application for ordinary maintenance and repair of historic resources, properties or landmarks; approve, approve with modifications, or deny any such applications.
 - v. Perform other functions that the Town Board may designate by local law.
- D. The Commission shall conduct a continuing study and survey of historic resources within the Town of Salem. This shall be done in cooperation with the Town of Salem Historian, who serves as keeper of the surveys.
- E. The Commission is authorized, solely in performance of its official duties and only at reasonable times, and with permission of the property owner, to enter upon private land for the examination or survey thereof. No member or agent of the Commission shall enter private dwellings or structures without the consent of the owner or occupant thereof.
- F. The Commission shall recommend that the Town Board accept donation of façade easements and development rights, and can also recommend to the Town Board the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this act;

- G. The Commission shall recommend acquisition of a landmark structure by the Town Board when its preservation is essential to the purposes of this ordinance and where private preservation is not feasible.
- H. The Commission shall undertake ongoing surveys of the Town's historic resources, consisting of an inventory of properties, following the format of the State Historic Preservation Office, within the Town of Salem. The location of individual resources or the boundaries of historic districts must be specified in detail and a copy shall be filed with the Town Clerk for public inspection.

Section 5: Rules of Procedure for the Town of Salem Historic Preservation Commission

To fulfill the purposes of this ordinance;

- A. 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.
- B. Chairperson; designation and duties.
 - i. The Town Board may designate the chairperson of the commission. In the absence of the Town Board's designation, the chairperson of the commission shall be designated by vote of an affirmative majority of the members of the commission.
 - ii. The chairperson shall have the right to vote in all matters before the commission.
 - iii. 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.
- C. Secretary: The Town Board shall appoint a secretary to serve as secretary to the commission. At the time of service, the secretary shall also serve as member of the commission. The secretary shall keep a record of all resolutions proceedings, and actions of the commission, as well as attendance of commission members.
- D. The Commission shall meet at least once a month unless by majority vote the commission members cancel a meeting. The Chair may call a special meeting to consider an urgent matter.
- E. 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.
- F. All such material shall be a matter of public record and be filed with the Town Clerk. The Commission shall periodically provide the State Historic Preservation Officer with a report of its activities.

Section 6: Designation of Historic Districts or Landmarks

- A. The Commission may recommend for designation an individual property as a landmark to the Board if the landmark:
- 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 persons or events significant in local, state, or national history; 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; or
 - vi. Has yielded or be likely to yield information important in prehistory or history.
- B. The Commission may recommend for designation a group of properties as a historic district if it:
- i. Contains properties which meet one or more of the criteria for designation of a landmark and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district; and
 - ii. By reason of possessing such qualities, it constitutes a distinct section of the Town.
- C. Interior Landmark: The commission may recommend the interior of a property as an interior landmark if such interior has special historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the Town, state or nation and:
- i. It is customarily open or accessible to the public; or
 - ii. It is an interior into which the public is customarily invited.
- D. Scenic Landmark: The commission may recommend a landscape feature or group of features. Recommendations for designation must be accompanied by such historical and architectural information as is required by the commission to make an informed recommendation concerning the application, together with any fee set by the Town Board.
- E. The boundaries of each landmark, interior landmark, scenic landmark or historic district shall be specified in detail with reference to the tax map identification number and shall be filed, in writing, in the Town Clerk's office and there made available for review by the public.
- F. Ordinarily, properties that have achieved significance within the past fifty (50) years are not considered eligible for designation under this landmarks preservation local law or local law adopted by the Town Board. However, such properties will qualify if they are:
- i. Integral parts of historic districts that meet the criteria for designation; or
 - ii. If they are properties of exceptional importance.
- G. A resource or resources may be recommended for designation upon a motion of three members of the Commission, or by an organization with interest in a property, or by the owner of the property being recommended. A recommendation shall contain information specified by the Commission. If the Commission recommends a resource or resources with historical significance as described

within this section to the Town for designation, it should include a statement of significance, a map of the proposed boundaries, and written justification of the boundaries.

- H. The Town Board shall conduct a public hearing, after notice, to discuss the proposed recommendation and boundaries thereof. A timely notice of the hearing must be specifically sent to the owners of the properties proposed for designation. The Commission may present documentary evidence at the hearing which will become part of the record regarding the importance of the proposed resource or resources. Within 62 days, the Town Board shall adopt the proposed recommendation, reject it entirely, or modify it.
- I. The Commission shall forward notice of each property designated for filing with the Town Clerk and to the Code Enforcement Officer.

Section 7: Notice and Hearing Requirements for Proposed Designation.

The commission shall recommend delineation and identification of individual landmarks or historic districts in the following manner:

- A. Initiation of Proposed Designation. Designation of an individual historic landmark or historic district may be proposed by the commission, by the owner of the property, or by any resident of the Town to the commission for recommendation to the Town Board.
- B. Public Hearing; general notice.
 - i. Within a reasonable time after receipt of a full application or other matter referred to it, the commission shall schedule a public hearing on all proposed resource, individual, landmark or historic district designations. Public notice of any such hearing shall be given by publication in a newspaper of general circulation within the Town at least 15 days prior to the public hearing date.
 - ii. The commission shall require submission of written comments on the application prior to designation of any landmark, interior landmark, scenic landmark, or historic district.
 - iii. The commission, property owners, and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance of the proposed resource, individual, landmark or historic district.
- C. Notice of Public Hearing; multiple properties proposed for designation.
 - i. Ten properties or less: Notice of public hearing for a proposed designation involving no more than ten properties shall be sent by certified mail/return receipt requested or courier service with proof of delivery or personal service with proof of delivery to the owners of properties located within the area of the proposed historic district at least 15 days prior to the date of the public hearing. Such notice shall include a description of the properties proposed for designation and state the time and place where any public hearing to consider such designation will be held by the commission.
 - ii. More than ten properties: Where the proposed designation of an historic district includes more than ten properties and the commission deems individual notice infeasible, notice may instead be published at least once in newspaper of general circulation in the Town 15 days prior to the date of the public hearing. The notice shall specify the time and place of the public hearing, a brief description of the proposed designation, and the location where the proposal may be reviewed prior the hearing.

- iii. The notice provisions are in addition to the general notice requirements under (B) of this Section.
- D. **Work Moratorium:** Once the commission has issued notice of a proposed designation it may recommend to the 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.
- E. **Commission Record:** The commission shall compile a public record in support of its designation of a resource, landmark or historic district. In addition to testimony or documentary evidence received at any public hearing, the record may also contain reports, public comments, expert testimony, or other evidence offered outside of the hearing, but submitted for the commission's consideration by the date of the hearing. At a minimum, the record of the designation shall contain the application, commission and/or staff reports, any comments made on the application at the public hearing, and the commission's decision to recommend approval, approval with modifications, or deny the application requesting designation to the Board.
- F. **Town Board Decision:** Within 62 days after the close of the public hearing, the Board shall by resolution undertake a designation in whole or in part, or shall disapprove in entirety, setting forth in writing the reasons for the decision. Within 7 days, the Board shall send notice of its designation to the applicants and owners of a designated property by certified mail return receipt requested, or in the case of an approved historic district, the Board shall send notice by certified mail return receipt requested to the applicants and owners of all properties within the approved district, as well as to the Town Board.
- G. The commission may agree with the applicant, in writing, to extend the time period within which a designation will be made on behalf of the Town Board.
- H. The commission shall forward notice of each property designated as an individual landmark and the boundaries of each designated historic district to the building department and planning department and Town clerk and county clerk for recordation on behalf of the Town Board.
- I. **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.
- J. **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 8: Certificates of Appropriateness

- A. The Town of Salem 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 requiring a building or demolition permit within a designated historic district without first obtaining a Certificate of Appropriateness that authorizes such work from the Town of Salem commission.

- B. 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.
- C. The building department shall receive and file all applications issued for any individual landmark, or landmarks or historic district to which this local law applies. The building department shall transmit a copy of any such application to the commission.
- D. 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 9: Criteria for Issuance of a Certificate of Appropriateness

- A. 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.
- B. 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, interior landmark, scenic landmark will be guided by the Secretary of the Interior's Standards for Rehabilitation and by the following principles:
 - i. 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
 - 3. New construction shall be compatible with the historic district in which it is located.
- C. In applying the principle of compatibility set forth in paragraph (B) of this Section, the commission shall consider the following factors:
 - i. The general design and character of the proposed alteration or new construction relative to existing features of the property or improvement;
 - ii. The scale and visual compatibility of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
 - iii. Texture and materials, and their relation to similar features of the property and other properties in the neighborhood;
 - iv. 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
 - v. The importance of historic physical and visual features to the significance of the property.

- D. In approving an application for a certificate of appropriateness, the commission shall find that the building or structure for which the permit was requested, if erected or altered in accordance with the submitted plan or with stated modifications, would be consistent with the spirit and intent of this local law, would not be visually offensive or inappropriate by reason of poor quality of exterior design, monotonous similarity or visual discord in relation to the sites or surroundings, would not mar the appearance of the area, would not impair the use, enjoyment and desirability or reduce the values of properties in the area, would not be detrimental to the character of the neighborhood, would not prevent an appropriate development and utilization of the site or of adjacent lands and would not adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the community.
- E. Where the commission grants a certificate of appropriateness, under circumstances where the permitted activity is likely to uncover or affect archaeological resources outlined by local knowledge and/ or the State archeological sensitivity data, the commission shall require reasonable efforts to protect and preserve such resources. This effort should include conference with the State Historic Preservation Office (SHPO) for recommendations on protection and preservation of resources if an archeologist is not on the Commission or part of Town professional staff. Where such protection and preservation is not feasible, the commission shall nonetheless impose appropriate and reasonable conditions to insure that the archaeological resource is made accessible for a reasonable period to qualified persons.
- F. In approving an application for a certificate of appropriateness, the commission shall not review changes to exterior paint colors.

Section 10: Certificate of Appropriateness Application Procedure

The Town of Salem shall issue no building permit that affects a designated resource without a certificate of appropriateness from the Historic Review Commission. Thus, prior to the commencement of work requiring a certificate of appropriateness, the Town shall inform the owner that they need to obtain the certificate.

- A. The application shall contain:
 - i. Name, address, telephone number of applicant;
 - ii. Location and photographs of property;
 - iii. If available, elevation drawings of proposed changes;
 - iv. If available, perspective drawings;
 - v. Samples of materials to be used, including their proposed color;
 - vi. If the proposal includes signs or lettering, visuals showing lettering, dimensions, location, colors, and method of illumination;
 - vii. Other information that the Commission may deem necessary to visualize the proposed work.
- B. The certificate of appropriateness required by this ordinance shall be in addition to and not in lieu of a building permit, variance, or other permits required by the Town.
- C. 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.
- D. Based on the information presented at the application review, the Commission, if it chooses, may set a date and time for a public hearing on the application.

- E. The Commission shall have the right to develop guidelines to be adopted by the Town Board to suggest modifications to enable the applicant to meet the requirements of the Commission.
- F. Within 62 days after the application review, or after a public hearing if held, the Commission shall act upon the findings, either approving with modifications or denying. Evidence of approval of the application shall be a certificate of appropriateness issued by the Commission, and whatever its decision, notice in writing shall be given to the applicant and a copy filed with the Town Clerk for public inspection.
- G. Certificates of appropriateness shall be valid for 12 months, after which the owner must reapply if he or she still wishes to undertake work on the property.

Section 11: Certificate of Appropriateness Public Notice Requirements

- A. Upon application for a certificate of appropriateness, public notice of the proposal shall be posted by the owner or owner's representative on the property for a minimum of ten days. This notice must remain in place until a decision to approve or deny the certificate of appropriateness has been made. The notice shall specify the proposed work, the time and place of the public hearing, and to whom and by when any public comments are to be communicated. The notice must be placed at or near the property line in the front yard so that it will be plainly visible from the street, and, in cases where a property has frontage on more than one street, an additional sign must be placed at or near the property line on any additional street frontage so that the sign will be plainly visible from the street on which it has such additional frontage.
- B. The commission shall 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 a newspaper of general circulation in the Town at least 15 calendar days prior to the public hearing date. The notice shall specify the time and place of the public hearing, a brief description of the proposal, and the location where the proposal may be reviewed prior to the hearing. The property owner and any interested party may present testimony or documentary evidence regarding the proposal at the hearing, which will become a part of the record. The record may also contain staff reports, public comments, and other evidence offered outside of the hearing, but presented by the hearing date.
- C. 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.
- D. 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.
- E. All decisions of the commission shall be in writing. A copy shall be sent to the applicant by certified mail/return receipt requested or courier service with proof of delivery or personal service with proof of delivery, and a copy filed with the 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.

Section 12: Recommendation on a Temporary Moratorium on Land Use Approvals

- A. Once the commission has received a complete application requesting a certificate of appropriateness it may request the Town Board to adopt a temporary moratorium prohibiting the issuance of any building permits or demolition permits, relating to any property or resource that is the subject of the application, by the Code Enforcement Officer as long as the application is under active consideration by the commission and until the commission has made its decision.
- B. The commission's request for a temporary moratorium shall include the reasons the commission deems the imposition of such a temporary moratorium is in the best interest of the public or to preserve the historic landmark or district. Copies of the commission's request for imposition of a temporary moratorium shall be sent to the applicant by certified mail return receipt requested or hand delivered to the applicant's representative of record.
- C. An applicant for a certificate of appropriateness may petition the Town Board for the lifting of any temporary moratorium to allow certain work to proceed pending the commission's determination to approve, approve with modification(s) or to deny the application, if such work would not affect the historic features under consideration. The applicant shall send a copy of the petition with all supporting documents to the commission. Before the Town Board renders a decision on the applicant's petition, it shall hold a hearing if requested by the commission or member of the public.
- D. 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 Salem.

Section 13: Expiration of Approval; Extension Approval

Certificates of appropriateness shall be valid for twelve (12) months, after which time the owner shall apply for a new certificate if he/she still wishes to undertake work on the property.

At least two months prior to expiration of the twelve month period the owner may apply, in writing, for an extension and shall explain the reasons for the extension request. The commission may grant up to two extensions of six months each. A written application for an extension of a certificate of appropriateness approval shall not be considered an application for a new certificate of appropriateness.

Section 14: Hardship Criteria and Application for Alteration or Demolition

- A. An applicant whose certificate of appropriateness for a proposed alteration or demolition has been denied may apply for relief on the ground of hardship.
- B. To prove hardship in case of demolition or alteration, 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 another use, whether by the current owner or by a purchaser, which would result in a reasonable return;
 - iii. Efforts to find a purchaser interested in acquiring the property and preserving it have failed,
 - iv. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; and

- v. The alleged hardship has not been self-created.
- C. Hardship Application: After written notification from the Commission of denial of a certificate of appropriateness, an applicant may begin the hardship process. The Commission must find that a hardship exists before a building or demolition permit shall be issued.
 - D. The applicant shall consult in good faith with the Commission and interested parties including but not limited to the SHPO, in a diligent effort to seek an alternative that will result in the preservation of the property.
 - E. 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.
 - i. The commission may hold a public hearing on the hardship application at which an opportunity will be provided for the applicant and public to present their views on the hardship application.
 - ii. If no public hearing is held, the commission must render a decision on the hardship application within 62 days following its receipt of a complete application.
 - 1. A complete application includes the conclusion of all activities under (B) initiated to consult with necessary parties to determine whether the property may be preserved or rehabilitated in a manner that alleviates the hardship that would otherwise result while substantially accomplishing the goals of this local law.
 - 2. A complete application also includes receipt by the commission of all submissions necessary to meet the applicant's burden of proof.
 - F. Following the submission of a complete application, the commission may schedule a public hearing within a reasonable time and determine within 62 days following to the close of any public hearing held on the application whether the applicant has met his or her burden of proof.
 - G. If the application is granted, the Commission shall approve only such work as is necessary to alleviate the hardship. Decisions of the Commission shall be in writing and a copy filed with the Town Clerk for public inspection.

Section 15: Demolition by Neglect

No owner of any designated resource within a preservation district or such persons who may have legal control thereof shall allow a property to fall into disrepair, decay, deterioration, and unreasonable structural unsoundness. Such conditions produce a detrimental effect upon the character of a historic district as a whole and the life and character of the property itself.

- A. Examples of such deterioration include:
 - i. Deterioration of exterior walls or other vertical supports;
 - ii. Deterioration of roofs or other horizontal members;
 - iii. Deterioration of exterior chimneys;
 - iv. Deterioration or crumbling of exterior stucco or mortar;
 - v. Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors; or
 - vi. Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for public safety.

- B. The Commission recommends to the Town Board that they exercise the powers provided in the Structural Safety Law of 1980 on an annual basis. (A copy of the law is attached.)

Section 16: Appeals

Persons aggrieved by a decision of the Historic Preservation Commission relating to hardship or a certificate of appropriateness may, within 15 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 in this local law.

Section 17: Enforcement and Violations; Penalties

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

- A. 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 is 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.
- B. Penalties. A violation of this local law is deemed an offense punishable by a fine, imprisonment or both, as follows:
- i. First Offense: A first conviction for violation of this local law may result in a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both.
 - ii. Second Offense: A second conviction for violation of this local law, if the occurrence that leads to conviction began within a period of five years from the date of first conviction, may result in a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both.
 - iii. Third Offense: A conviction for a third or subsequent offense all of which were committed within a period of five years from when the occurrence leading to the first conviction began, shall include a fine of not less than \$700 nor more than \$1000 or imprisonment for a period not to exceed six months, or both.
 - iv. 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.
- C. 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 18 of this local law shall be in addition to and not in lieu of any criminal prosecution and penalty.

Section 18: 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.

Section 19: 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.

Certificate of Appropriateness: An official form issued by the Town 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.

Code Enforcement Officer: The person, or his or her designee, authorized to grant permits for construction, alteration, and demolition pursuant to the codes adopted by the Town and authorized and

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

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.

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 6.

Historic Preservation Commission: The Historic Preservation Commission appointed by the Town Board for the Town of Salem.

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 Salem.

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 6 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 the records of the (Property Records Section) of the Town.

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.

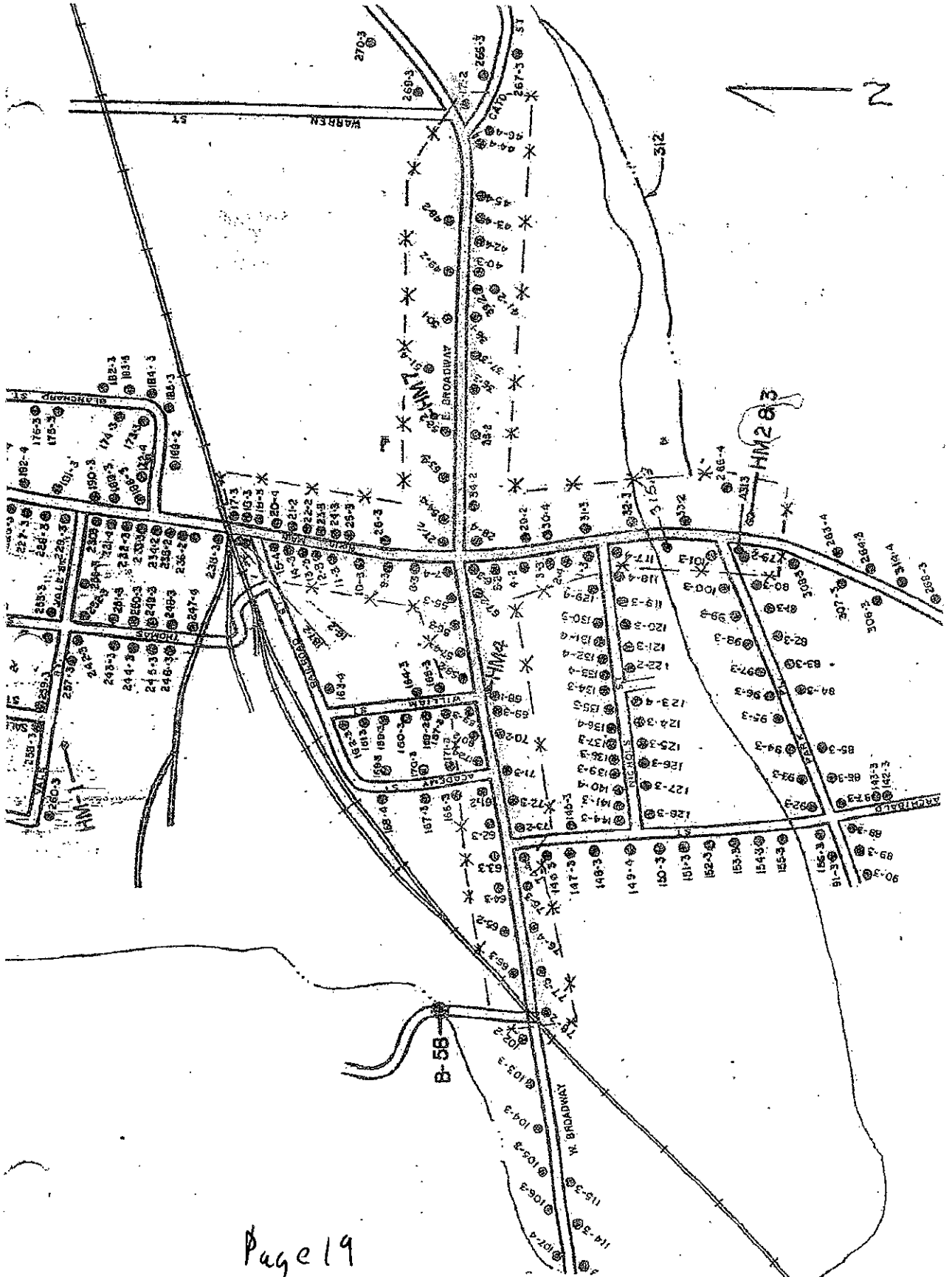
Stabilization: The act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

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.

Salem Village Historic District 2016



SALEM HISTORIC PRESERVATION COMMISSION
SALEM, NEW YORK
2021

Member's Terms

1. **Judith Flagg, chair** 3 year January 1, 2021 – December 31, 2022
j.flagg@outlook.com 518.742.0878 cell/text

2. **Christine Preble** 3 year January 1, 2019 – December 31, 2021
c.preblerealty@gmail.com 518.854.7888

3. **Kay Crank** 3 year January 1, 2020 – December 31, 2022
jcrank@nycap.rr.com 518.854-3813

4. **John Clark** unexpired term – December 31, 2021
johnzflying@aol.com 518.854-3793

5. **Michele Bardwell** unexpired term – December 31, 2023
michelebardwell@gmail.com 518.552.4014; 860.488.0940

LAST REVISED MAY 12, 2021

Page 21

**TOWN OF SALEM
REGULAR MONTHLY MEETING
MAY 12, 2021**

RESOLUTION #38

MOTION MADE BY: Councilwoman Laura Dunham

SECONDED BY: Councilman Marcus Blanck

The Town of Salem is correcting an error made by consultants to the Town of Salem from March-June of 2017 regarding the non-filing with the NYS Department of State for what would have been Local Law #2 of 2017-Historic Preservation Law for the Town of Salem, NY. Public Hearing on said proposed Local Law #2 of 2017 was held on February 28, 2017, at 6:00 p.m. in the Salem Town Office at which time there were no objections to passage of said Local Law #2 of 2017-Historic Preservation Law for Town of Salem, NY.

NOW, THEREFORE, BE IT RESOLVED, that said Town Board of the Town of Salem voted at their regular monthly meeting held on Wednesday, May 12, 2021, to re-number the Historic Preservation Law for the Town of Salem as Local Law #1 of 2021, instructing Town Attorney Alan Wrigley to file the same with the NYS Department of State.

IT IS FURTHER RESOLVED that any actions taken in furtherance of this Local Law or pursuant to the terms of said Local Law are hereby ratified, affirmed and approved nunc pro tunc.

ROLL CALL VOTE:

Town Councilman Marcus Blanck - Yes

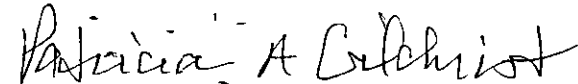
Town Councilwoman Brenda Levey - Yes

Town Councilwoman Laura Dunham - Yes

Supervisor Evera Sue Clary - Yes

Town Councilman Howard Law - Absent

Passed 4-0



Patricia A. Gilchrist-Town Clerk

Town of Salem-Washington County-NY

(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. 1 of 2021 of the (County)(City)(Town)(Village) of Salem was duly passed by the Town Board on May 12 2021, 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) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative Body)
(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) (repassed after disapproval) by the _____ on _____ 20____. Such local 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.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

* 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 1 above.

Patricia A. Belchior

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

Date: 10/26/2021

