



# The Local Landmarker

## Issue 12, Summer 2009

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***On the Cover:** Constructed in 1817, this impressive Federal style house is on General Smith Drive in the Village of Sackets Harbor. The Village has many such impressive residential buildings reflecting the history of the Village in the Sackets harbor Village Historic District, listed on the National Register of Historic Places. Sackets Harbor has been a Certified Local Government since 1987.*

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## *From the Coordinator*

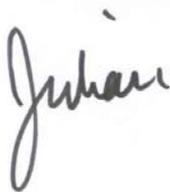
### What's in a name?

You might notice that this issue of the *Landmarker* is not named as past issues, that is, according to the month in which it appears, but to the season. There are several reasons for this, but foremost is the need to not meet a self imposed deadline of a specific month so that we can produce a quality publication for the CLG community. I am working to include more "guest" columnists, particularly articles written by fellow commission members on issues that they have addressed or are struggling with in an effort to truly make this a publication for and by the CLG community. Since many commission members work with preservation as an avocation, I don't want to create a hard and fast "press time" that doesn't allow enough time for them to be comfortable with their product.

### A Growing Community

The growth of CLGs across New York State over the past year has been fast and furious. As of this writing, we are welcoming the Town of Saugerties (Ulster County), and the Village of Fayetteville, (Onondaga County) to the fold. Over the past several months we also added the City of Lockport (Niagara County), the Village of Fairport (Monroe County), The City of Elmira (Chemung County), and the Village of Palmyra (Wayne County). I am also working with the Village of Fishkill (Dutchess County), the Town of North Salem (Westchester County), the City of Ossining (Dutchess County), the City of Poughkeepsie (Dutchess County), the Town of Maine (Broome County), and the Village of Holland Patent (Oneida County) to explore the benefits of Certified Local Government status for their communities. I am finding that as many municipalities are working on new comprehensive plans, they are considering the protection of their historic character an important aspect of their future. I attribute much of the interest in the program to the good work that existing CLGs are doing to highlight and protect their historic resources. Nothing succeeds like success!

See you in the field!



### **Julian Adams, CLG Coordinator**

Historic Preservation Field Services Bureau  
P.O. Box 189; Waterford, NY 12188-0189  
(518) 237-8643, ext. 3271  
Julian.Adams@oprhp.state.ny.us

Listserv: <http://groups.yahoo.com/group/NYSCLGS/>

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## *The Certified Local Government Agreement and an Audit: A Check Under the Hood*

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### **The CLG Agreement: Did you know you had one?**

When your community made a successful application to the Certified Local Government process, your Chief Elected Official (typically a Mayor or Supervisor) signed an agreement document binding both the municipality and the State Historic Preservation Office (SHPO) to a set of commitments in regard to the performance of both parties. The commitments in the agreement are based on Section 5 of the *Information and Regulations Regarding the Certification Process, updated July 31, 2002*, which is part of the CLG package every municipality receives during the certification process. Unfortunately, sometimes this document becomes a “lost” article, thought about only during its signing. The reality is that the agreement document and Section 5 should be kept in a prominent location within the files of a CLG, both at the commission level and in the Chief Elected Official’s office; they are key to the responsibilities of the commission and the State Historic Preservation Office in the CLG partnership.

### **An overview of the Agreement**

The agreement document is comprised of 2 sections, one pertaining to the responsibilities of the CLG, and the other pertaining to those of the SHPO. They are all, at first read very simple statements that in definition have strong ramifications for the functioning of the municipality and the SHPO in regard to internal processes and interaction.

In the Agreement, the CLG (the municipality) has the following responsibilities:

1. To enforce the local historic preservation legislation
2. To maintain a qualified historic preservation review commission.
3. To maintain a system for the survey and inventory of historic properties
4. To provide for adequate public participation
5. To actively participate in the process of nominating properties to the State and National Registers
6. To submit an annual report to the SHPO
7. When awarded subgrant monies,
  - A. To perform all services to the standards and schedule in the subgrant agreement and:
  - B. To maintain fiscal management and audit standards
8. To cooperate fully with the SHPO in his monitoring and evaluation of the activities required by this agreement.

### **Looking more closely: The CLG’s part**

As stated before, section 5 of the “*Information and Regulations...*” spells out the responsibilities in the agreement document in detail. For ease of reference, I am simply republishing them as a refresher for commission members, members of the public and local officials. Please read these responsibilities carefully; as you will see in the next section, there will be a test!



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## SECTION 5: RESPONSIBILITIES OF CERTIFIED LOCAL GOVERNMENTS

- 1) To enforce the local historic preservation legislation:
  - i) The local legislation shall be enforced continuously and consistently.
  - ii) Before amending the local legislation or implementing regulations, the local government shall consult with the SHPO.
  - iii) Any amendments to the legislation enacted by the local government and any rules or related administration procedures shall be consistent with the requirements and intent of the CLG program.
  - iv) The local government shall provide the SHPO with copies of any amendments or rules within **90** days of their enactment.
  
- 2) To maintain a qualified historic preservation review commission:
  - i) An adequate commission shall be maintained at all times. Vacancies shall not be allowed to impair the commission's ability to take action for more than thirty days.
  - ii) The local government shall make maximum effort to obtain professionals who meet the qualification standards set forth in 36 CFR 61.6 and the Secretary's Professional Qualifications Standards to fill any vacancies on the commission. At a minimum, commission members must demonstrate interest, competence or knowledge of historic preservation. The local government shall maintain records of the appointment process and shall submit a description of the recruitment process and qualifications of any newly appointed members to the SHPO.
  - iii) When a commission reviews and comments on National Register nominations or other actions requiring evaluation by a professional in a discipline that is not represented on the commission, the commission shall obtain expertise in that area before rendering its decision. The commission may seek assistance from universities, private preservation organizations, the SHPO, other review commissions or private consultants. The local government shall maintain records documenting that such professional advisors to the commission comply with the 36 CFR 61.6 and the Secretary's Professional Qualification Standards.
  - iv) Commission members shall maintain or augment their knowledge through participation in historic preservation training at least annually or as provided by the SHPO. The SHPO will provide all local commissions with orientation materials and training pertaining to the roles and operations of federal, state and local historic preservation programs. Commission members may satisfy the training requirement through attendance at training provided by the SHPO or at other training approved by the SHPO. Unless otherwise stated, at least 75% of commission members must attend such training.
  - v) The commission shall meet **at least four times** during each year. In order to ensure public participation, the commission shall conduct all business in a public manner, consistent with provisions of the NYS Open Meetings Law (articles 6 and 7 of chapter 47 of the Consolidated Laws--Public Officers Law).



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- 3) To maintain a system for the survey and inventory of historic properties coordinated with and complementary to the survey activities of the SHPO;
    - i) Local inventories shall include, at a minimum:
      - (a) All properties in the municipality that have been listed in the State and National Registers of Historic Places,
      - (b) All locally designated properties, and
      - (c) In the case of counties, all county-owned properties that meet the National Register criteria for evaluation. Evaluation of county properties shall be undertaken in consultation with the SHPO.
    - ii) Copies of local inventory shall be provided to the SHPO for inclusion in the statewide inventory of historic resources.
    - iii) All inventory material shall be **updated** to reflect new historic information or significant changes in the condition or status of inventoried property as such information becomes available, but **at least every five years**.
    - iv) Local inventory data shall be maintained in a manner that is accessible to the public and secure from physical damage or loss.
  - 4) To provide for adequate public participation in the historic preservation program.
    - i) All local government meetings concerning historic preservation shall be open to the general public, announced by public notice, and documented through the taking of minutes, in compliance with the NYS Open Meetings Law (articles 6 and 7 of chapter 47 of the Consolidated Laws--Public Officers Law).
    - ii) All local government records, policies, procedures and standards for the historic preservation program shall be maintained in written form and be readily accessible to the general public.
    - iii) The local government shall inform its employees and officers of conflict of interest rules mandated by NYS General Municipal Law Article 18 Sections 801 and 802, and by the *National Register Programs Guidelines* (NPS-49) by means of a written code of conduct, oath of office, annual training, or other means.
    - iv) The local government shall solicit and respond to public comment on all historic preservation issues that are of general public interest, including, but not limited to local district designations, State and National Register nominations and establishment of policies and procedures.
  - 5) To actively participate in the process of nominating properties to the State and National Registers of Historic Places.
    - i) Certified local governments may propose and sponsor nominations to the State and National Registers, but may not review and nominate properties directly to the National Register except as provided in 36 CFR 60.12 (Nomination appeals). Nominations developed and sponsored by CLGs shall be given priority for review by the New York



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State Board for Historic Preservation, provided they are developed in consultation with the SHPO and based upon a comprehensive local historic resources survey.

- ii) If any State or National Register nomination proposal received by the SHPO lies within the jurisdiction of a CLG, the SHPO shall transmit a copy of the fully documented nomination proposal to the local historic preservation review commission and the chief elected official for review and comment in no less than sixty days nor more than one hundred and twenty days prior to the scheduled review of the proposal by the State Board for Historic Preservation.
- iii) If a historic district is proposed, the CLG shall assist the SHPO in notifying property owners and/or conducting public information meetings at a time and place agreeable to the SHPO.
- iv) The commission, after providing a reasonable opportunity for public comment, shall prepare a report stating its opinion as to whether or not such property meets the criteria for listing in the State and National Registers. The report shall objectively evaluate the property in accordance with the National Register criteria for evaluation. Upon request, the SHPO shall provide guidance in applying the National Register criteria.
- v) Within sixty (60) days of notice from the State Historic Preservation Officer, the chief elected local official shall transmit the report of the commission and his/her recommendation to the SHPO. The CLG comment period may be reduced by mutual agreement between the CLG and the SHPO, and will be eliminated when the CLG, as sponsor of a nomination, transmits its report and recommendation as part of the nomination package.
- vi) If the commission and the chief elected official agree that the proposed nomination does not meet the criteria for listing in the State and National Registers of Historic Places, the chief elected official will return the nomination materials along with the commission's report and his/her opinion to the SHPO. The chief elected official shall notify the commission, the property owner(s) and the public of this action. The SHPO shall take no further action regarding the National Register nomination unless an appeal is filed in accordance with 36 CFR 60.12. If such an appeal is filed, the SHPO shall place the nomination before the State Board for Historic Preservation at the earliest possible meeting.
- vii) For the purposes of the State and National Registers nomination process, the jurisdiction of a county CLG shall include only properties owned by the county. Only in the case of county-owned property shall the county CLG have the powers described in Section 5.B.5.vi previous.

6) To submit an annual historic preservation report.

The report shall be submitted to the SHPO no later than November 15 and shall cover the period ending on the preceding September 30. The report shall follow a format prepared by the SHPO and shall include:

- i) A statement of the present status of historic preservation activities and land use or other regulations relating thereto as they are being administered within the reporting jurisdiction;



- ii) An identification and analysis of any problems or issues relating to the effectiveness of local development or administration of historic preservation plans and programs, including problems of funding and personnel requirements, procedural problems, enforcement problems, or any other issue;
  - iii) A report on commission activities, which shall include, at a minimum, the number and types of cases reviewed, documentation on any new designations made, updated resumes for commission members, and minutes relating to consideration of National Register nominations;
  - iv) A report on the status of inventory and survey, including a list of properties added to the local inventory, and copies of the inventory forms.
  - v) Copies of any documents published by the commission or CLG concerning the local historic preservation program.
- 7) The SHPO may at his/her discretion and by mutual written agreement with the local governing body, delegate further responsibilities to the certified local government.
- 1) Either the SHPO or the local government may initiate expansion of CLG responsibilities at any time.
  - 2) Such delegation will be executed in the written certification agreement. It shall be the responsibility of the SHPO to establish criteria, qualifications, and performance standards for such additional responsibilities.

## An Audit

### What is it?

Under Section 3 of the *Information and Regulations Regarding the Certification Process, updated July 31, 2002*, the State Historic Preservation Office has the responsibility to “evaluate each certified local government to ensure that it is fulfilling its responsibilities as defined in these procedures and in the written certification agreement.” This Section states that such evaluations, which we call audits, for lack of a better word, shall take place every 4 years. Now, if you have been active in the CLG program for more than 4 years, you may have noticed that we have not performed a CLG audit in that time frame, or during several years before that. There is very little reason for that except for lack of staffing and what was for many years an overtaxed CLG coordinator. **However, I am committing our office to restarting the audit schedule in fall of this year.** I am hoping that this does not make member communities think that they are being called to the principal’s office; in fact, I am hoping that this will be an excellent opportunity to learn more about each other, and how we all can be more committed the agreement signed at the onset of your CLG experience.

### What happens if we don’t pass?

An audit reviews the records of the CLG and measures the actions of the commission against the commitments made in the agreement document. However, if an audit finds that a commission has not been meeting those commitments, the SHPO will make a formal report outlining the issues, offering corrective measures, and setting a time frame (no less that 30 days, no more than 120 days) for the CLG to make the corrections. If the corrections are not made, the SHPO can recommend that the National Park Service revoke the municipality’s CLG status. After that point, a municipality would have to make a new application to become a CLG, hopefully addressing in the new materials the problems that caused the revocation. In reality, we will most likely work with the appropriate people in the CLG to find a solution amenable to all parties, and decertification would be an extreme last step.



## Featured Websites

The **Technical Preservation Services Unit of the National Park Service** has some excellent online resources, some of which I've shared here before. However, one interesting new one is "Walk through historic buildings: Learn how to identify the visual character of an historic building". This can be found at [www.nps.gov/history/hps/tps/walkthrough/index.htm](http://www.nps.gov/history/hps/tps/walkthrough/index.htm)

Identifying historic character is the first step in understanding the appropriateness of replacement materials, material or feature removals, new additions, etc. for a building where work is proposed. This site helps a commission member put together a methodology for understanding exactly what gives a building character, and the rationale for why it should be protected.



If your commission is not already a member, we encourage you to join the **National Alliance of Preservation Commissions**, or NAPC. A sample issue of their bi-monthly newsletter can be found at [www.uga.edu/napc/](http://www.uga.edu/napc/). There are a number of very useful articles on design guidelines, signage guidelines, staying out of court and educating public officials.



*This limestone building in the Sackets Harbor Village Historic District was constructed in 1818, it has been used as a sawmill, gristmill, distillery, sail loft, and private residence. It might just win the award in the Village for most adaptive reuses! Yet, it still exists with its historic character highly intact, ready for another 200 years of use. Buildings such as this carry a great deal of the history and story of a locality in their stones, bricks, wooden members and form.*



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## *The Back Page(s)*

### **Sustainability and Historic Preservation**

Those of us working in preservation know that it is more than the saving of “pretty buildings”, but that the character of the area, along with economic development, sense of place, and other tangible and intangible issues is what is at stake. What is coming to the fore recently is that historic preservation has been a leader in the “Green Movement”, even before we knew what “green” was! (See the *Local Landmarker*, Issue 10, December 2008). There are many leaders in the preservation field that see that connection, and recently, a number of them came together to “codify” that connection in a statement called “The Pocantico Proclamation”. The meeting took place at the National Trust Site “Kykuit”, located near the hamlet of Pocantico Hills, in Westchester County, NY. The Proclamation makes for interesting reading. You may find some points that you can use when discussing the true benefits of historic preservation and historic buildings with your elected officials, property owner, or developers.

### **POCANTICO PROCLAMATION on Sustainability and Historic Preservation**

*The information below is reprinted from [www.preservationnation.com](http://www.preservationnation.com), the website of the National Trust for Historic Preservation*

Thanks to the generous support of the Rockefeller Brothers Fund, in early November, 30 preservationists, architects, green builders and energy experts gathered at Pocantico for a retreat hosted by the National Trust for Historic Preservation and Friends of the National Center for Preservation Training and Technology. The group met to discuss the future of historic preservation in light of global warming, and specifically the implications of climate change for preservation policy. After two days of intense discussions, the group developed the core of the Pocantico Proclamation on Sustainability and Historic Preservation, which outlines six principles to sustain our built environment

The historic preservation community has a deep tradition of stewardship for our built environment, emerging as leaders in sustainable practices. Consistent with this tradition, historic preservation practitioners resolve to face head-on the global human-caused ecological crises that threaten our built and natural resources. Historic preservation must play a central role in efforts to make the built environment more sustainable. To this end, we urge all policy makers to recognize the following:

1. *The Climate Change Imperative* – Human activity has increased and accelerated global warming putting the environment at risk. It is imperative that we immediately and significantly reduced greenhouse gas emissions to begin reversing extreme climate change patterns within a generation.
2. *The Economic Imperative* – Our current economy is based upon unsustainable consumption and an overreliance on finite resources. A new green economy must rest upon a conservation-based foundation to manage natural and cultural resources in a sustainable and economically beneficial manner.
3. *The Equity Imperative* – In recent years, economic inequalities between rich and poor have grown in the United States and abroad. The disproportionate levels of resource consumption and global pollution are unsustainable. Our consumption patterns must be altered to foster social equity, cultural diversity, and survival of all species.



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**The Pocantico Principles on Sustainability and Historic Preservation, *continued***

Therefore, in order to address the three above imperatives, we advocate the following:

1. **FOSTER** a Culture of Reuse  
Maximizing the life cycle of all resources through conservation is a fundamental condition of sustainability. The most sustainable building, community or landscape is often the one that already exists. Lessons learned from historic preservation are transferable to the entire existing built and landscaped environment.
2. **REINVEST** at a Community Scale  
It is not sufficient to address sustainability on a piecemeal basis through individual building projects. We must consider the larger context of the built environment: our communities. Reinvestment in existing, more sustainable neighborhoods – especially our older and historic ones – saves resources and promotes socially, culturally, and economically rich communities.
3. **VALUE** Heritage  
The design of older buildings, landscapes, and communities should inform future building practices. While new green building technology offers promise for reducing the environmental harms caused by new construction, traditional building practices provide a wealth of sustainable design solutions that are premised on sensitivity to local conditions, careful siting and planning, and longterm durability, all of which provide essential models for the future.
4. **CAPITALIZE** on the Potential of the Green Economy  
Preservation economics provide a powerful model for shifting away from a consumption-based and energy-inefficient economy. Reinvestment in our existing built environment must become an indispensable part of America's new green economy. Per dollar spent rehabilitation activities create more new jobs than new construction.
5. **REALIGN** Historic Preservation Policies with Sustainability  
Today's challenges require that historic preservation move beyond maintaining or recovering a frozen view of the past. Historic preservation must contribute to the transformation of communities and the establishment of a sustainable, equitable, and verdant world by re-evaluating historic preservation practices and policies, and making changes where appropriate.

### Next Steps

Consequently, we, the historic preservation community, recognize the environmental, economic, and social challenges that face us and call for policies that will result in revising our present course. We stand ready to offer an example for sustainability, while further challenging preservationists to more fully accommodate sustainable practices. We call for our leaders and fellow citizens to join us in taking immediate action.

