

**BOROUGH OF RED BANK  
COUNTY OF MONMOUTH  
STATE OF NEW JERSEY**

**ORDINANCE NO. NP2024-03**

**ORDINANCE AMENDING CHAPTER 9: “BOARDS, COMMITTEES, AND COMMISSIONS”  
AND CHAPTER 490, “PLANNING AND DEVELOPMENT REGULATIONS” TO ENHANCE  
THE HISTORIC PRESERVATION COMMISSION AND TO SUPPLEMENT THE  
BOROUGH’S REGULATIONS AS TO HISTORIC DISTRICTS AND HISTORIC SITES**

**WHEREAS**, the heritage of the Borough of Red Bank (the “Borough”) is entrusted from generation to generation, enriched and then passed on; and

**WHEREAS**, the character, lifestyle and quality of life in the Borough depends in great measure on the ability to protect this heritage; and

**WHEREAS**, Red Bank contains historically significant architecture and other historic resources deserving of protection that enhance the character of the Borough; and

**WHEREAS**, the Borough is empowered by the New Jersey Municipal Land Use Law to establish and empower a Historic Preservation Commission to protect historic districts and sites and to enforce the regulations established therefor within the Borough; and

**WHEREAS**, the Borough finds that it is in the best interests of its citizens and heritage to enhance the Historic Preservation Commission and to supplement the Borough regulations pertaining to designated historic districts and historic sites;

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Red Bank, County of Monmouth, State of New Jersey, that Section 9-29: “Establishment of Commission” of Article VIII: “Historic Preservation Commission” of Chapter 9: “Boards, Committees and Commissions” of the Borough’s Revised General Ordinances is hereby replaced in its entirety as follows:

**CHAPTER 9: “BOARDS, COMMITTEES AND COMMISSIONS”**

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**ARTICLE VIII: “HISTORIC PRESERVATION COMMISSION”**

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**§ 9-29 Establishment of Commission.**

A Historic Preservation Commission is hereby established within the Borough to be governed and operated in accordance with the provisions of Sections 490-7.1 and 490-55 of the Borough Code and in accordance with the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq.

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**BE IT FURTHER ORDAINED** that Article III: “Administration and Enforcement” of Chapter 490: “Planning and Development Regulations” of the Borough’s Revised General Ordinances is hereby supplemented with *new* Section 490-7.1: “Historic Preservation Commission” as follows:

**CHAPTER 490: “PLANNING AND DEVELOPMENT REGULATIONS”**

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**ARTICLE III: “ADMINISTRATION AND ENFORCEMENT”**

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**§ 490-7.1 Historic Preservation Commission.**

*A. Establishment; Members; Terms; Meetings; Reports.*

- (1) *Establishment.* The “Historic Preservation Commission”, referred to in this Chapter as the “Commission”, is established consistent with the Municipal Land Use Law; namely, at N.J.S.A. 40:55D-107, et seq.
- (2) *Members.* The Commission shall consist of seven (7) regular members and two (2) alternate members, all of whom shall be appointed by the Mayor. Members shall serve without compensation. At the time of appointment, at least one member shall be designated from each of the following classes:
  - (a) Class A - A person who is knowledgeable in building design and construction or architectural history and who may reside outside the municipality.
  - (b) Class B - A person who is knowledgeable or with a demonstrated interest in local history and who may reside outside the municipality.
  - (c) Class C - Citizens of the municipality who shall hold no other municipal office, position, or employment except for membership on the Planning Board. Class C members should have, at minimum, a demonstrated interest in history, historic preservation, or a related field.
  - (d) Alternate members shall meet the qualifications of Class C members. At the time of appointment, alternate members shall be designated as “Alternate No. 1” and “Alternate No. 2.”
  - (e) Of the seven regular members, at least one less than a majority shall be of Classes A and B.
- (3) *Terms.* Members of the Commission first appointed under this Section during 2024 shall have their terms staggered such that two members shall be appointed to a one-year term, two members shall be appointed to a two-year term, two members shall be appointed to a three-year term, and one member shall be appointed to a four-year term. Alternate No. 1 shall be appointed to a two-year term, and Alternate No. 2 shall be appointed to a one-year term. The first year of the terms of all initial appointments under this Section shall expire on December 31, 2024.

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Thereafter, the term of a regular member subsequently appointed shall be four years and the term of an alternate member shall be two years. Notwithstanding any other provision herein, the term of any member common to the Commission and the Planning Board shall be for the term of membership on the Planning Board.

- (4) *Vacancies.* A vacancy occurring other than by expiration of term shall be filled for the unexpired term only.
- (5) *Officers.* Annually, the Commission shall elect a chair and vice-chair from its members and select a recording secretary, who may or may not be a member of the Commission or a municipal employee.
- (6) *Meetings.* The Commission shall establish and post in Borough Hall a regular schedule of meetings with a minimum of one meeting per month. Regular meetings shall be held as scheduled unless cancelled for lack of applications or work to process. Additional special meetings may be called by the chair or vice chair, or on the request of any two of its members, when the regular meetings are inadequate to meet the needs of its business, to handle emergencies or to meet time constraints imposed by law.
- (7) *Alternate Member Participation.* Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. If a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.
- (8) *Council Liaison.* The Red Bank Borough Council shall designate a Council member to act as a liaison between the Commission and the Council.
- (9) *Quorum/Voting.* Four members shall constitute a quorum. A majority vote of those present and voting shall govern and shall be sufficient to approve a permit recommendation on behalf of the Commission. Non-member liaisons shall not be entitled to vote. A staff member of the Department of Planning and Zoning may attend meetings of the Commission and may participate in a non-voting capacity.
- (10) *Reports.* The Commission shall prepare an annual report for the Borough Council, detailing all Commission activities, which shall be available to the public.

**B. *Scope and Purpose.***

- (1) The Commission shall report to the Planning Board and the Zoning Board of Adjustment on development applications for properties in historic districts, designated historic sites, and properties identified in the historic preservation element of the Master Plan.
- (2) The Commission shall review permits for exterior improvements for buildings and structures in a historic district or designated as a historic site and report to the

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Planning Board regarding the historic preservation aspects of the requested permit that are not approved by an application for development.

- (3) The purpose of the Commission is to implement the historic preservation element of the Master Plan, to provide guidance to property owners in achieving preservation of historic resources and to advance the following public purposes:
  - (a) To preserve and protect historic resources; and
  - (b) To maintain and develop an appropriate and harmonious setting for the historically and architecturally significant historic resources in the Borough.

C. *Powers and Responsibilities.* The Commission shall have the following duties and responsibilities:

- (1) To identify, record and maintain a survey of buildings, structures, sites, objects, improvements, and districts of historical significance within the Borough.
- (2) To carry out such other advisory, educational, and informational functions to promote historic preservation.
- (3) To recommend to the Planning Board and Borough Council historic resources for inclusion in the New Jersey and National Registers of Historic Places and for local designation.
- (4) To make recommendations to the Planning Board regarding the historic preservation element of the master plan and on the implications for preservation of historic landmarks and historic districts of any other master plan elements.
- (5) To make recommendations to the Planning Board and Borough Council on the historic preservation implications of any proposed or adopted development ordinances.
- (6) To draft and recommend to the Planning Board and Borough Council ordinances or amendments to existing ordinances that would resolve any conflicts that may exist between the design standards of this article and the development regulations of the Borough.
- (7) To advise and assist Borough officers, employees, boards, and other bodies, including those at the county, state, and federal levels, on matters that have potential impacts on the historic resources in the Borough.
- (8) To advise the Planning Board and the Zoning Board on applications for development pursuant to N.J.S.A. 40:55D-110.
- (9) To report to the Planning Board regarding permits.
- (10) To advise the Planning Board and Borough Council on the relative merits of proposals involving the use of public funds for historic resources and to secure grants and assistance to support and monitor such projects.

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- (11) To provide guidelines for rehabilitation and design criteria to owners of historic properties and for new construction established under this Chapter.
- (12) To seek any benefits that may be available under the National Historic Preservation Act or any other state, county, or federal legislation, including, but not limited to, the benefits that flow to communities under the certified local government program for training, grant funding, and technical assistance.

*D. Budget/Finances.*

- (1) *Budget.* The Borough Council shall make provision in its budget and appropriate funds for the expenses of the Commission. The Commission may employ, contract for, and fix the compensation of experts and other staff and services as it shall deem necessary. The Commission shall obtain its legal counsel from the municipal attorney at the rate of compensation determined by Borough Council, unless Council by appropriation provides for separate legal counsel for the Commission. Expenditures pursuant to this subsection shall not exceed, exclusive of gifts or grants, the amount appropriated by Borough Council for the Commission's use. If the Commission receives gifts or grants, they will be placed in a dedicated fund for the exclusive use of the Commission.
- (2) *Finances.* The Borough Council shall establish reasonable fees necessary to cover the expenses of administration and professional services to aid the Commission in its review of permits and reviews of applications for development. These fees are in addition to any other required under any portion of this Chapter or any other applicable regulations.

*E. Rules/Procedures.*

- (1) The Commission shall adopt written rules for the transaction of its business and for the consideration of applications for permits, for reports on applications for development and for designation and de-designation of historic districts and sites. Such rules shall not be inconsistent with the provisions of this Chapter and shall include, but not be limited to, rules pertaining to all notices and hearings required.
- (2) To provide information to the public that is useful to the preservation and protection of historic resources and to provide the basis for consistency of policy, the administrative officer on behalf of the Commission shall maintain complete files and records. The Commission's files shall include, but are not limited to, data used in the classification of buildings, places and structures, minutes of Commission meetings, comments on reviewed applications and permits.
- (3) The Commission shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, decisions, and applications. All meetings shall be noticed and conducted in accordance with the Open Public Meetings Act. Copies of all minutes shall be

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maintained in the office of the Commission and shall be delivered promptly to the Borough Clerk. A record of Commission proceedings shall be maintained and made available, but a formal verbatim record shall not be required.

- (4) Copies of records shall be made available to municipal bodies, agencies, and officials for their use.
- (5) When the Planning Board or Zoning Board of Adjustment refers an application for development to the Commission, the Commission shall provide a copy of its report to the referring board and shall provide a copy to the applicant.
- (6) The zoning officer shall maintain and display an up-to-date zoning map showing the historic districts, as well as a current listing of historic resources with addresses.
- (7) No member of the Commission shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. Unless a member resides or owns property within 200 feet of property that is the subject of an application, mere ownership or residence in a designated historic district or ownership of a designated historic site, or a non-designated site shall not be deemed to be a personal or financial interest.

**BE IT FURTHER ORDAINED** that Section 490-55: "Historic District Regulations" of Article V: "General Regulations" of Chapter 490: "Planning and Development Regulations" of the Borough's Revised General Ordinances is hereby replaced in its entirety as follows:

**CHAPTER 490: "PLANNING AND DEVELOPMENT REGULATIONS"**

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**ARTICLE V: "GENERAL REGULATIONS"**

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**§ 490-55 Historic Districts/Sites Regulations and Procedures.**

A. *Definitions.* As used in this Chapter, the following terms shall be defined as follows:

- (1) **Addition** - An extension or increase in building size, floor area or height.
- (2) **Administrative officer** - For purposes of historic preservation, the Borough's zoning officer shall be the administrative officer.
- (3) **Alteration** - As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress or an enlargement, whether by extending on a side or by increasing in height or the moving from one location or position to another, or the change in appearance of the exterior surface of any improvement.

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- (4) **Commission** - The "Historic Preservation Commission" established pursuant to Section 490-7.1 of this Chapter.
- (5) **Demolition** - The partial or total razing, dismantling or destruction of any historic site or any improvement within a historic district.
- (6) **Evaluation** - The process of determining whether identified properties meet defined criteria of historical, architectural, archeological, or cultural significance.
- (7) **Historic District** - One or more historic sites and certain intervening or surrounding property significantly affecting or affected by the quality and character of historic site or sites, as specifically designated herein.
- (8) **Historic Resource** - Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National or State Register of Historic Places; such term includes artifacts, records, and remains which are related to the district, site, building, structure, or object.
- (9) **Historic Site** - Any real property, manmade structure, natural object or configuration or any portion or group of the foregoing which has been designated in the Master Plan as being of historic, archaeological, cultural, scenic, or architectural significance at the national, state, or local level, as specifically designated in this ordinance, including any property that is in a historic district. The designation of a historic site or landmark shall include the improvements on the entire tax map lot on which it is located.
- (10) **Improvement** - Any structure or any part thereof installed upon real property by human endeavor and intended to be kept at the location of such construction or installation.
- (11) **Integrity** - The ability of a property or element to convey its historic significance; the retention of those essential characteristics and features that enable a property to effectively convey its significance.
- (12) **Inventory** - A list of historic properties determined to meet criteria of significance specified herein.
- (13) **Minor Application** - Any application for a permit that:
  - (a) Does not involve demolition, relocation or removal of a historic site;
  - (b) Does not involve an addition to a property in a historic district or new construction in a historic district;
  - (c) Is a request for approval of fences, signs, lighting, doors, windows, roofs, paving, exterior sheathing, or streetscape work that complies with the adopted design guidelines for the improvement proposed. To qualify as a minor application, the application must comply with the applicable and

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specific guideline that applies and can be approved if it does not substantially affect the characteristics of the historic site or the historic district;

- (d) Is a request for a field change for a permit that has already been issued and that meets the criteria of subparagraph (c) above.
- (14) **Minor Work Review Committee (“MWRC”)** - The members of the Commission appointed by the Chair at the annual organizational meeting. The MWRC shall consist of the Chair and two other members and shall be responsible for approving minor applications.
- (15) **National Register Criteria** - The established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.
- (16) **Non-Contributing Buildings** - A building, site, structure, or object that does not add to the historic architectural qualities, historic associations, or archaeological values for which a property is significant. A building can be non-contributing, if it was not present during the period of significance, or if it was altered, disturbed, or modified in a manner that eliminates its character defining features.
- (17) **Ordinary Maintenance and Repair** - Repair of any deterioration, wear or damage to a structure or any part thereof to return the same, as nearly as practicable, to its condition prior to the occurrence of such deterioration, wear, or damage with in-kind material and quality workmanship. Ordinary maintenance shall further include in-kind replacement of exterior elements or accessory hardware, including signs, using the same materials and workmanship, and having the same appearance.
- (18) **Permit** - Any required approval for exterior work to any improvement of property in a historic district or on a historic site. Permit shall include, but is not limited to, a building permit, a demolition permit, a permit to move, convert, relocate, or remodel or to change the use or type of occupancy of any improvement or property in a historic district that involves exterior changes to the structure or the property on which it is located that were not approved by an application for development.
- (19) **Preservation** - The act or process of applying measures to sustain the existing form, integrity, and material of a building or structure and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.
- (20) **Protection** - The act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss or attack, or to cover or shield the property from danger or injury.
- (21) **Reconstruction** - The act or process of reproducing by new construction the exact form and detail of a vanished or non-surviving building, structure or object, or any part thereof, as it appeared at a specific time-period when documentary and physical evidence is available to permit accurate reconstruction.



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- (22) **Rehabilitation** - The act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.
  - (23) **Repair** - Any work done on an improvement that is not an addition.
  - (24) **Restoration** - The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular time period by means of the removal of later work or by the replacement of missing earlier work.
  - (25) **Streetscape** - The visual character of the street including, but not limited to, the architecture, building setbacks and height, fences, storefronts, signs, lighting, parking areas, materials, color, sidewalks, and curbing.
  - (26) **Structure** - A combination of materials to form a construction for occupancy use or ornamentation whether installed on, above or below the surface of a parcel of land. The word "structure" shall also include any building or improvement with a roof.
  - (27) **Survey** - A process of identifying and gathering data on a community's historic resources. It includes a field survey, which is the physical search for and recording of historic resources on the ground, preliminary planning and background research before the field survey begins, organization and presentation of survey data as the survey proceeds and the development of inventories.
  - (28) **Survey Data** - The raw data produced by the survey; that is, all the information gathered on each property and area investigated.
- B. *Designation of Districts.* The following historic districts and sites are delineated and described in the Historic Preservation Element of the Master Plan and are hereby designated on the official Borough Zoning Map. The boundaries of the historic district(s), including those improvements located therein, are established as overlay zoning districts on the Borough of Red Bank zoning map. If a property is partly within a designated district, the designation shall apply to the entire property.
- (1) *Broad Street Historic District.* The Broad Street Historic District is designated on the zoning map of the Borough of Red Bank. The zoning map is incorporated herein by reference.
  - (2) *Washington Street Historic District.* The Washington Street District is designated on the zoning map of the Borough of Red Bank.
  - (3) *Additional designated districts and sites.* Any additional designated districts and sites or any changes in the designation of historic districts and historic sites shall be effectuated by amendment of this Ordinance in accordance with procedures provided for under Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the procedures set forth in this ordinance, which shall include designation of the historic district or site on the Zoning Map.

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- C. *Survey.* The Commission shall maintain a comprehensive survey of the Borough to identify historic districts, sites and resources that are worthy of protection and preservation.
- D. *Criteria for Designation.* The criteria for evaluating and designating historic districts and sites shall be guided by the National Register Criteria. The Commission or any interested party may recommend designation of historic resources that have integrity of location, design, setting, materials, workmanship, and association and that meet one or more of the following criteria:
- (1) Character, interest, or value as part of the development, heritage or cultural characteristics of the Borough, State, or nation; or
  - (2) Association with events that have made a significant contribution to the broad patterns of our history; or
  - (3) Association with the lives of persons significant in our past; or
  - (4) Embodiment of the distinctive characteristics of a type, period or method of construction, architecture, or engineering; or
  - (5) Identification with the work of a builder, designer, artist, or architect whose work has influenced the development of the Borough, State, or nation; or
  - (6) Embodiment of elements of design, detail, material, or craftsmanship that render an improvement architecturally significant or structurally innovative; or
  - (7) Unique location or singular physical characteristics that make a district or site an established or familiar visual feature; or
  - (8) Historic resources that yield, or may be likely to yield, information important in prehistory or history.
- E. *Procedures for Designation.*
- (1) Interested parties shall contact the administrative officer regarding consideration of a proposed historic site or district. The Commission may also initiate the designation of a historic site or district. The administrative officer will schedule a hearing before the Commission to review the proposed historic site or district.
  - (2) The formal historic site or district nomination shall include: a building-by-building inventory of all properties within the district; color and/or black and white photographs of all properties within the district; a property map of the district showing boundaries; and a physical description and statement of significance which address the criteria for designation set forth herein.
  - (3) The Commission shall provide notice to the public of the meeting to consider designation of a historic site or district. Notice shall minimally be provided in accordance with the Open Public Meetings Act and by prominent posting in the Borough Hall at least thirty (30) days prior to the Commission meeting. The

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Commission may give any other notice that it considers advisable to increase public participation. All documents regarding the proposed designation shall be available on the Borough website and in Borough Hall.

- (4) Upon review and recommendation by the Commission for designation of the proposed site or historic district and after hearing the comments of the public, if any, the Commission shall forward the proposed site or district nomination to the Planning Board for consideration.
- (5) Notification by the Planning Board shall be by public notice in accordance with the Open Public Meetings Act and by prominent posting in the municipal building at least thirty (30) days prior to the Planning Board hearing. The Planning Board may give any other notice that it considers advisable to increase public participation. All documents regarding the proposed designation shall be available on the Borough website and in Borough Hall.
- (6) If the historic resource is not included in the Historic Preservation Element of the Master Plan, the Planning Board shall amend the element to include the resource. Upon review and approval of the proposed site or district by the Planning Board, the site or district nomination will be sent to the Borough Council for adoption to amend and supplement the Borough Zoning Ordinance.
- (7) All other requirements of the Municipal Land Use Law regarding adoption of development regulations shall be followed.

*F. Referral of Applications for Permits.*

- (1) *When Required.* Applications for permits as defined herein shall be referred to the Commission by the administrative officer for review and written report before a permit is issued or before work can commence, for any activities within a designated historic district or on a historic site. The following activities shall require permit review:
  - (a) Demolition of any building, improvement, site, place, or structure. Demolition is not the subject of an application for development.
  - (b) Change in the exterior appearance of any building, improvement, site, place or structure by addition, reconstruction, alteration, or maintenance.
  - (c) Relocation of a principal or accessory building or structure.
  - (d) Any addition to a principal or accessory building or structure.
  - (e) New construction.
- (2) *When Not Required.*
  - (a) Referral to the Commission shall not be required before a zoning permit, or a construction permit is issued for changes to the interior of a structure or

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changes to the exterior of a structure that strictly meet the definition in this ordinance of ordinary maintenance and repair.

- (b) The administrative officer shall review permit applications to determine if the application proposes work that constitutes ordinary maintenance and repair as defined in this ordinance. The administrative officer shall notify the Commission of the proposed work, and may issue a permit if the documentation strictly meets the definition.
- (c) The administrative officer shall refer the permit application to the Commission if the proposed work does not meet the definition of ordinary maintenance and repair. If the administrative officer has any doubt as to whether the work constitutes ordinary maintenance and repair, then the proposal shall be referred to the Commission.

(3) *Procedures for Permits.*

- (a) The administrative officer shall refer the permit application and supporting documents to the Commission for review and shall simultaneously provide a copy to the Planning Board.
- (b) The Commission may require the subsequent submission of such additional materials as is reasonably necessary to make an informed recommendation including, but not limited to, sketches, drawings, photographs, descriptions, the property survey, building elevations and other information to show the proposed alterations, additions, changes, or new construction.
- (c) The Commission shall report its recommendations on the permit to the Planning Board within thirty-five (30) days of referral by the administrative officer. Failure to report within a 30-day period shall be deemed to constitute a report in favor of the proposed work and without conditions.
- (d) The decision of the Commission on the permit shall be a recommendation only. The Commission shall recommend approval if it finds the permit conforms with the design guidelines. The Commission's recommendation shall not be binding on the Planning Board.
- (e) The Planning Board shall submit a report to the administrative officer within forty-five (45) days of submission of the permit application to the administrative officer. If the Planning Board denies the permit or requires conditions, the administrative officer shall deny issuance of the permit or include the conditions in the permit, as the case may be.
- (f) Failure to report within a 45-day period shall be deemed to constitute a report in favor of the proposed work and without conditions.

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- (g) Nothing herein shall prohibit an extension of time by mutual agreement of the applicant, the Commission, or the Planning Board.

*(4) Permit Review.*

- (a) Meetings must comply with the requirements of the Open Public Meetings Act.
- (b) An applicant is encouraged to attend the Commission meeting at which the permit will be considered but shall not be required to appear or to be represented at the meeting to consider the application for issuance of permit. If the applicant opts not to attend the meeting, the Commission may act in the absence of the applicant.
- (c) The Commission shall issue an affirmative recommendation in its report if it finds the permit application is in conformity with the design guidelines.
- (d) The Commission shall issue a recommendation in its report against the issuance of a permit if it finds that the permit application is not in conformity with the design guidelines.
- (e) The Commission shall convey its report to the Planning Board as soon as possible. Failure to report within a 30-day period shall be deemed to constitute a report in favor of the proposed work and without conditions.
- (f) The Planning Board shall report to the administrative officer within 45 days of the referral of the application to the Commission.
- (g) If the applicant has consented to an extension of time to consider the application, the extension of time should be transmitted to the Planning Board and administrative officer, who shall not issue the permit during the period of the extension.
- (h) Appeals from determinations of the administrative officer pursuant to the decision of the Planning Board may be made to the Zoning Board of Adjustment in accordance with N.J.S.A. 40:55D-70a. Nothing herein shall be deemed to limit the right of judicial review of the action after an appeal is concluded by the Zoning Board.
- (i) The appellant shall pay all costs of the appeal, including costs for copies of any records or transcripts required for the appeal.
- (j) If, in the appeal, the Zoning Board determines that there is an error in any order, requirement, decision or refusal made by the administrative officer, the Zoning Board shall, in writing, include the reasons for its determination in its findings of its decision.

*(5) Minor Applications.*

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- (a) At the annual organizational meeting, the Chair of the Commission shall appoint a Minor Work Review Committee (“MWRC”) consisting of the Chair and two Commission members to approve minor applications without a public hearing and without referral of approvals to the Planning Board.
- (b) A minor application shall require submittal of information consisting of the standard application and, where applicable, drawings and submissions in sufficient detail to demonstrate that the proposal meets the definition of a “minor application.”
- (c) If the MWRC finds the permit application conforms to the applicable design guidelines and meets the definition of a “minor application,” the MWRC may act in place of the full Commission and approve the minor application.
- (d) The MWRC shall submit its report on approval of the minor application permit to the administrative officer without action by the Planning Board. If the MWRC recommends denial of the minor application, it shall send its report to the Planning Board, and the Planning Board may grant or deny the permit.

*(6) Applications for Demolition or Relocation.*

- (a) Any application for a permit to demolish or relocate a historic resource shall be referred by the administrative officer to the Commission for its report.
- (b) A permit to demolish or relocate a historic resource is not an application for development and shall be decided separately from the decision on the application for development. If an application for development is decided prior to the issuance and perfection of a demolition or relocation permit, the application for development shall be subject to the condition that a demolition or relocation permit must be obtained.
- (c) A demolition or relocation permit shall include information to establish that a taking of property without just compensation will result if the property and improvements are required to remain.
- (d) An applicant for a demolition or relocation permit must obtain a Certificate of Economic Hardship. The criteria to obtain a Certificate of Economic Hardship shall be:

[1] For the Commission to issue a Certificate of Economic Hardship, the applicant must establish to the satisfaction of the Commission that the improvement parcel with such improvements as exist at the time of the request is not capable of earning a reasonable return as herein defined. If such a finding is made by the Commission, it shall approve the application for a Certificate of Economic Hardship and any pending application for a Certificate of Appropriateness for demolition for the improvement parcel.

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- [2] The applicant for a Certificate of Economic Hardship shall submit the following information to the Commission before it renders a decision on the application:
- i. A report from a licensed engineer or architect with experience in rehabilitation of historic buildings as to the structural soundness of the structures and improvements proposed for demolition.
  - ii. Estimates of the cost of the proposed construction, alteration and rehabilitation of the structures and improvements and an estimate of any additional costs to be incurred to comply with the recommendations of the Commission set forth in or necessary for the issuance of a permit.
  - iii. The estimated market value of the property in its current condition; the estimated market value after completion of the proposed construction, alteration, or rehabilitation to comply with any changes recommended by the Commission; and in the case of a proposed demolition, after demolition as a vacant parcel and proposed new construction.
  - iv. In the case of proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
  - v. Amount paid for the property, the date of purchase and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, including any terms of financing between the seller and buyer. The remaining balance on any mortgage or other financing and annual debt service, if any for the previous two years.
  - vi. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property. Any listing of the property for sale or rent, the price asked and offers received, if any, within the previous two years.
  - vii. Assessed equalized value of the property according to the two most recent assessments and real estate taxes for the previous two years.
  - viii. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture or other.

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[3] The Commission shall review all the evidence and information submitted by the applicant for a Certificate of Economic Hardship and shall render a recommendation to the Planning Board within thirty (30) days of receipt of the application and supporting documentation as to whether denial of the demolition or relocation permit will deprive the owner of the property of reasonable use of the property.

[4] In addition to the above requirements for a demolition or relocation permit, the applicant shall provide the following information:

- i. Its historic, architectural, and aesthetic significance.
- ii. Its use.
- iii. Its importance to the Borough and the extent to which its historic or architectural value is such that its removal would be detrimental to the public interest.
- iv. The extent to which it is of such old, unusual, or uncommon design, craftsmanship, texture, or material that it could not be reproduced or could be reproduced only with great difficulty.
- v. The probable impact of its removal upon the ambience of the historic district.
- vi. The structural soundness and integrity of the building necessary to comply with the requirements of the state Construction Code, taking into account the Rehabilitation Subcode.
- vii. The effect on the remaining portions of the building, structure, site, object, or landscape feature in cases of partial demolition.

(e) Procedure When Application for Demolition or Relocation is Disapproved.

[1] Sale for fair market value. If the Planning Board disapproves an application to demolish or relocate a historic resource, the owner shall, for a period of one year from the date of said disapproval, make *bona fide* and diligent efforts to sell the property to a person, organization, governmental agency, or political subdivision that provides reasonable assurance that it is willing to preserve the historic resource. To maximize the opportunity to preserve the historic resource, the owner shall provide notice of the proposed demolition or relocation in accordance with the provisions set forth below.



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[2] Notice of Demolition or Relocation Posted and Published. Notice of the proposed demolition or relocation shall be posted on the subject property for a period of at least 30 days in such a manner as to be clearly readable from the street and shall be published in the official newspaper at least once a week for a minimum of four (4) consecutive weeks.

[3] Opportunity to salvage or recycle part of structure prior to demolition. With respect to demolitions only, in the event the owner does not intend to recycle or salvage parts of the structure, the owner shall for thirty (30) days afford interested parties and groups the opportunity to remove parts or architectural features from said structure prior to its demolition. The Commission shall maintain a list of interested parties and groups and the owner shall provide notice by certified mail to such groups advising of said opportunity to salvage.

[4] For the purposes of satisfying the requirements of this subsection, the applicant shall not be obligated to accept less than the structure's fair market value as a historic structure.

(f) Approval after change of circumstances. The Planning Board may at any time during such notice period, if a significant change in circumstances occurs, grant a certificate of approval to demolish, in which event, a permit shall be issued within ten (10) days thereafter.

(g) Demolitions in conjunction with a development application. In those circumstances where the planned demolition is part of a development application pending before the Planning Board or Zoning Board, the hearing provided for in this section may be combined as part of the development application hearing held before the reviewing board.

(7) *Emergency Procedures.*

(a) When a historic site or resource in the historic district requires immediate repair or work to preserve its continued habitability or the health and safety of its occupants or others, emergency repairs may be performed in accordance with applicable construction codes, if the construction official certifies that a bona fide emergency exists.

(b) Emergency work shall be permitted only as necessary to preserve the continued habitability or stability of the building or structure or the health and safety of its occupants or others. Under such circumstances, where feasible, temporary measures to prevent further damage shall be employed, provided these measures are reversible without causing damage to the building or structure.

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- (c) The emergency procedures are strictly limited to those circumstances that, in the opinion of the construction official, rise to the level of a bona fide emergency. No work in addition to the emergency repairs shall be performed until an appropriate request for approval has been granted by the administrative officer and with the review of the Commission.

*G. Referral from Municipal Agencies.*

- (1) Pursuant to N.J.S.A. 40:55D-110, the Planning Board or the Zoning Board shall refer to the Commission every application for development in historic districts or on historic sites designated on the Zoning Map or identified in any component element of the master plan. This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner. Failure to refer an application as required shall not invalidate any hearing or proceeding.
- (2) The Planning Board or the Zoning Board shall provide a copy of its agenda to the Commission members as soon as it has been prepared and mailed to the members of the Board.
- (3) The Commission may provide its advice, which shall be conveyed through one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.
- (4) The advice of the Commission on an application for development shall be a recommendation only. In reviewing applications for development, the Commission may comment on any of the zoning and land use considerations that are relevant to the application.
- (5) Yard Variances. Because structures in historic districts are often built close to the lot lines, it is in the public interest to retain a neighborhood's historic appearance by approving variances from normal yard requirements. Where it is deemed that such variance will not adversely affect neighboring properties, the Planning Board or the Zoning Board may grant such variance, if recommended by the Commission and if the Planning Board or the Zoning Board finds the variances are justified.

*H. Standards, Design Guidelines, and Criteria.*

- (1) All projects requiring review by the Commission and all applications for development in historic districts or on historic sites shall be governed by the Secretary of the Interior's Standards for Rehabilitation, the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings, and the Design Guidelines that may be adopted by ordinance in the future.
- (2) The goals of these guidelines are to promote historic preservation as part of a comprehensive plan that guides municipal agencies in protecting historic resources harmoniously and effectively.

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- (3) The design guidelines apply to the Commission's review of permits not approved by an application for development.
- (4) In reviewing development applications, the Commission may consider use, zoning requirements for setbacks, density, height limitations and lot coverage in rendering its advice to the referring board. The Commission should emphasize preservation planning objectives and the streetscape when reviewing applications for development.
- (5) *Guidelines and Criteria for Plan Review.* All reviews of plans within historic districts shall consider:
- (a) The cultural, historic, or architectural values of a structure and its relationship to properties in the surrounding area.
  - (b) The general compatibility of the proposed use to the cultural and historical values of the surrounding area.
  - (c) The general compatibility of exterior design, arrangement, texture, and materials proposed to be used. In carrying out the review under the guidelines, the following criteria shall be utilized:
    - [1] All exterior elevations, including the roof, must be maintained and new construction must be compatible with existing districts and surrounding areas.
    - [2] In-kind or compatible exterior colors must be utilized.
    - [3] In-kind or similarly compatible building materials must be utilized.
- (6) *Guidelines for Non-Contributing Sites.* In recognition of the different needs for reviews related to non-contributing structures/sites, the following criteria shall be used for review by the Commission:
- (a) The general compatibility of the exterior design, arrangement, texture, and materials proposed to be used with the historical value of the surrounding area. In carrying out its design review under these guidelines, the following criteria shall be used:
    - [1] All exterior elevations, including the roof, must be maintained and new construction must be compatible with existing structures, districts, and surrounding areas.
    - [2] In-kind or similarly compatible building materials must be used.
- (7) *Guidelines for New Construction.* This chapter does not require or prohibit a particular architectural style; rather its purpose is to preserve the past by making the past compatible with and relevant to the present. To that end, new construction within a historic district or upon or near a historic property is not required to

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duplicate an exact historic style but must be compatible with and not detract from the historic character of the district and affected historic sites.

I. *Enforcement.*

- (1) It shall be the duty of municipal officials who review permit applications involving designated historic sites and districts to determine whether any requested permit involves an activity that requires review of the Commission.
- (2) If any action, which would permanently and adversely change a historic site or historic district, such as demolition or removal, is about to occur without a permit having been issued, the zoning officer shall issue a notice of violation and may request approval from Borough Council to apply to the Superior Court of New Jersey for such injunctive relief as is necessary to prevent the destruction of the historic site.

J. *Other Requirements Unaffected.* The requirements of this Chapter shall be in addition to other requirements, and in no case shall they be interpreted as a substitute for any other approval, permit or other action as otherwise provided for.

**BE IT FURTHER ORDAINED** by the Mayor and Council of the Borough of Red Bank that any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.


**BE IT FURTHER ORDAINED** by the Mayor and Council of the Borough of Red Bank that if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

**BE IT FURTHER ORDAINED** by the Mayor and Council of the Borough of Red Bank that, after introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Red Bank for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough's Mayor & Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

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**BE IT FURTHER ORDAINED** by the Mayor and Council of the Borough of Red Bank that this Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16.

INTRODUCTION						COUNCILMEMBER	FINAL ADOPTION					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		X				KRISTINA BONATAKIS			X			
		X				DAVID CASSIDY			X			
		X				NANCY FACEY-BLACKWOOD		X	X			
X		X				BEN FOREST			X			
		X				LAURA JANNONE			X			
	X	X				KATE TRIGGIANO	X		X			
		X				MAYOR WILLIAM PORTMAN			X			
Introduced: January 11, 2024						I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Red Bank, County of Monmouth, State of New Jersey on the aforementioned date.						
Final Adoption: February 8, 2024												
						 Laura Reinertsen, Borough Clerk						