

ORDINANCE #6-13

150 - 15.4 LANDMARKS PRESERVATION COMMISSION

The Purpose of this Article is to provide a method by which to locate, identify and designate historical landmarks within the Township of Verona and to regulate the repair, alteration, replacement, removal and demolition of historical landmarks, to prevent the loss and destruction of historical landmarks by neglect, improper restoration, alteration and development and to preserve historical landmarks and thereby preserve the historical, cultural, and architectural heritage of the Township of Verona and to thereby foster civic pride and the well being of the community.

A. There is hereby established a Landmarks Preservation Commission which shall consist of five regular members and two alternate members.

B. Membership on the Commission shall include one member designated as a Class A member, who shall be a person who is knowledgeable in building design and construction or architectural history and who may reside outside of the municipality; and one member designated as a Class B member, who shall be a person who is knowledgeable of or has a demonstrated interest in local history and who may reside outside the municipality. Regular members who are not designated as Class A or Class B members shall be designated as Class C members and shall be citizens of the municipality and shall hold no other municipal office, position or employment except for membership on the Planning Board or Board of Adjustment. Alternate members shall meet the qualifications of Class C members.

C. Appointment; terms.

1. Regular members and alternate members shall be appointed by the Mayor. At the time of the appointment, the Mayor shall designate the members by class and the alternates as "Alternate No. 1" and "Alternate No. 2."

2. The term for a regular member shall be for four years and the term of an alternate member

3. shall be for two years.

4. A vacancy in the term of any regular or alternate member occurring otherwise than by expiration of a term shall be filled for the unexpired term only.

5. Despite any other provision contained herein, the term of any member common to the Commission and to the Planning Board shall be for the term of the membership on the Planning Board, and the term of any member common to the Commission and the Board of Adjustment shall be for the term of membership on the Board of Adjustment.

5. The Commission shall elect a Chairman and Vice Chairman from its members and shall select a Secretary who may or may not be a member of the Commission or a municipal employee.

6. Alternate members may participate in 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. In the event that only one alternate number may vote, alternate number one shall have priority to vote over alternate number two.

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.

8. A member of the Commission may, after public hearing, if public hearing is requested by such member, be removed by the Township governing body for cause.

D. Authority and Responsibility:

The Commission shall have the responsibility to

1. Prepare a survey of the historic sites of the municipality, pursuant to criteria identified in the survey report.
2. Make recommendations to the Planning Board on the historic preservation plan element of the Master Plan and on the implications for preservation of historic sites of any other Master Plan elements.
3. Advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program.

4. Advise the Planning Board and to the Board of Adjustment on applications for development, pursuant to N.J.S.A. 40:55D-110.
5. Provide written reports, pursuant to N.J.S.A. 40:55D-111, on the application of the provisions of this Chapter concerning historic preservation.
6. Make recommendations to the governing body of sites to be designated as historic under this Section.
7. Carry out such other advisory, educational and informational functions as will promote historic preservation in the municipality.
8. Conduct research on and, if appropriate, nominate additional significant resources to the State and National Register of Historic Places.

150 - 15.5 APPROPRIATIONS; EMPLOYMENT OF EXPERTS AND STAFF

- A. The governing body shall make provision in its budget and appropriate funds for the Landmarks Preservation Commission.
- B. The Landmarks Preservation 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, Planning Board Attorney or Zoning Board Attorney, as determined by the Manager, at the rate of compensation determined by the governing body. Expenditures by the Commission shall not exceed, exclusive of gifts or grants, the amount appropriated by the governing body for the Commission's use.

150-15.6. MEETINGS.

- A. The Landmarks Preservation Commission shall meet a minimum of once per quarter. Regular meetings shall be held as scheduled unless canceled for lack of a quorum, lack of applications to process or for other good reason(s). Additional special meetings may be called by the chairman or vice chairman, 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.
- B. The Landmarks Preservation Commission shall hold public hearings to review all applications for Certificates of Appropriateness, referrals of development applications and other business which comes before the commission.

- C. The presence of three members, at least two of which must be Class C members, which may include alternate members filling the vacancies of regular members, shall constitute a quorum. Liaison person(s) are not entitled to vote and shall not be counted towards achieving a quorum. A majority vote of those present and voting shall prevail, and shall be sufficient to grant or deny a Certificate of Appropriateness. Not less than a majority of the appointed membership shall be required to grant or change an historic landmark or historic district designation or to grant approval for demolition.

150 - 15.7 REFERRAL FROM MUNICIPAL BOARDS

The Planning Board and Board of Adjustment shall, when an application before it that pertains to property in an historic zoning district or on a landmark designated on the Zoning Map or on the official map or identified in any component of the Master Plan, is deemed complete or is scheduled for a hearing, whichever is sooner, refer such application to the Landmarks Preservation Commission in accordance with N.J.S.A. 40:55D-110.

150-15.8 CERTIFICATE OF APPROPRIATENESS

- A. A Certificate of Appropriateness shall be required before any permit or other authority is issued on any property which has been designated by ordinance as a landmark or as being within an historic district allowing:
1. Demolition of an historic landmark or demolition of any improvement within an historic district.
 2. Relocation of any historic landmark or relocation of any improvement within an historic district.
 3. Change of the exterior appearance of any existing landmark or of any improvement within any historic district by addition, alteration or replacement.
 4. Change or addition of new signs or exterior lighting on any historic landmark or within an historic district. Despite the foregoing no Certificate of Appropriateness shall be required for one unlighted sign per premises if the surface area of such sign does not exceed one square foot for an identification sign or four square feet for a commercial sign, provided that such sign is attached to and parallel to the facade of the building or structure.

5. Any new construction of a principal or accessory structure within an historical district.

B When Review Not Required.

A Certificate of Appropriateness shall not be required in the following circumstances:

1. If the proposed change to the landmark or to the property within an historic district was approved by the Planning Board or the Board of Adjustment in connection with an application prior to the passage of this ordinance.
2. Exterior repair or exact replacement of any existing exterior improvement. In the event that the color or exterior surface material of the improvement shall be changed as a result of painting, a permit shall not be required if the new color or exterior surface is one that has been previously approved by regulation duly promulgated by the Commission for similar improvements in that district.
3. Changes to interiors.
4. Changes not in the public view, other than relocation or demolition
5. Repair of existing windows and doors, using the same material.
6. Installation of storm windows that are compatible with the architectural period or design of the subject structure.
7. Maintenance and repair of existing roof material, involving no change in design, scale, material, or appearance of the structure.
8. Repair of existing roof structure, such as cupolas, dormers, chimneys using the same materials, which will not alter the exterior architectural appearance of the structure.
9. Replacement, in kind, of existing shingles, clapboards or other siding, using the same materials that are being repaired or maintained.
10. Repairs using the same material as existing to signs, shutters, outdoor displays, fences, hedges, street furniture, awnings, off-street driveway and parking materials and sidewalks.

C. Application for a Certificate of Appropriateness pursuant to this Chapter shall be filed with the Commission on a form to be supplied by the

Township clerk. There shall be an application fee in the amount set forth in the Verona Code.

D. The Commission shall submit a report of its findings to the construction code official within 45 days from the date such application was referred by the Commission. If within the 45 day period the Commission recommends to the Construction Code Official against the issuance of a permit, or recommends issuing conditions to the permit, the Construction Code Official shall deny issuance of the permit or include conditions, as the case may be. Failure of the Commission to report its findings within 45 days shall be deemed to constitute a report in favor of issuance of the permit and without recommendations of conditions to the permit.

150 - 15.9 STANDARDS FOR CONSIDERATION

The following standards shall be considered by the Landmarks Preservation Commission in connection with referrals pursuant to N.J.S.A. 40:55D-110 and by the Landmarks Preservation Commission and Planning Board in connection with permits and/or certificates as required by this chapter; and by the Planning Board and Board of Adjustment in connection with development applications pursuant to N.J.S.A. 40:55D-1 et seq. when a development application involves a property which has been designated by ordinance as a landmark or as being located within an historic district:

- A. Demolitions. The following matters shall be considered when an application is made to demolish an historic landmark or to make an improvement within an historic district,
1. The structure or landmark's historic, architectural and aesthetic significance.
 2. The structure or landmark's current and potential use and whether such use is permitted by the zoning ordinance.
 3. The probable impact of the structure or landmark's removal upon the ambiance of the historic district.
 4. The structural soundness and integrity of the building, structure, site, object, or improvement and the economic feasibility of restoring or rehabilitating same.

5. The structure's importance to the municipality and the extent to which its historic or architectural value is such that its demolition would be detrimental to the public interest.
6. The extent to which the structure is of old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty.
7. The extent to which preservation of the structure would generate business, create new jobs, attract tourists, students, writers, historians, artists, and new residents or promote the general welfare by maintaining and increasing real estate values, encouraging study and interest in American history, stimulating interest and study in architecture and design, educating citizens in American culture and heritage, or making the municipality a more attractive and desirable place in which to live.
8. If a structure is within an historic district, the probable impact of its removal upon the ambience of the historic district.

B. Relocation.

1. If an application is made to move an historic landmark or any structure in an historic district to a new location within the municipality, the following matters, in addition to those factors set forth in paragraph A. of this section, shall be considered:
 - a. The probability of significant damage to the landmark or structure itself.
 - b. The historic loss to the site of original location.
 - c. The compelling reasons for not retaining the landmark or structure at its present site.
 - d. The compatibility, nature and character of the proposed surrounding area into which the landmark or structure will be moved as they relate to the intent and purposes of this article.
 - e. If the proposed new location is within an historic district, the visual compatibility factors as set forth in this article.
2. If an application is made to move an historic landmark to a

location outside of the municipality, in addition to the matters set forth in paragraphs A and B of this section, the Commission shall consider the proximity of the proposed new location to the municipality, including the accessibility to the residents of the municipality and other citizens.

C. Modifications

1. The following matters shall be considered if an application is made to alter, modify or otherwise change an historical structure or landmark:
 - a. The impact of the proposed alteration, modification or change on the historic and architectural character of the landmark or structure in an historic district.
 - b. The historic or architectural importance to the municipality and the extent to which such interest would be affected by the proposed action.
 - c. The extent to which textures and materials could not be reproduced and the hardship to the applicant of reproducing such textures or obtaining such materials.
 - d. The use of the structure.
 - e. The extent to which the proposed action would adversely affect the view from a public street, of a landmark or structure within an historic district
 - f. If the application deals with a structure within an historic district, the impact that the proposed change would have on the character and ambience of the historic district and the structure's visual compatibility with the buildings, places and structures to which it would be visually related.

Visual compatibility factors. In assessing the effect of any proposed change under application for any landmark, the following visual compatibility factors and standards shall be used to analyze the effect that the proposed change would have on the landmark and on those structures to which the landmark is visually related:

1. Height. The height of the proposed building shall be visually

compatible with adjacent buildings.

2. Proportion of the building's front facade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings and places to which it is visually related.
3. Proportion of openings within the facility. The relationship of the width of windows to the height of windows in a building shall be visually compatible with the buildings and places to which it is visually related.
4. Rhythm of solids to voids on facades fronting on public places. The relationship of solids to voids in such facades of a building shall be visually compatible with the buildings and places to which it is visually related.
5. Rhythm of spacing of buildings on streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with the buildings and places to which it is visually related.
6. Rhythm of entrance and/or porch projections. The relationship of entrance and porch projections to the street shall be visually compatible with the buildings and places to which it is visually related.
7. Relationship of materials, texture and color. The relationship of materials, texture and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related.
8. Roof shapes. The roof shape of a building shall be visually compatible with buildings to which it is visually related.
9. Wall of continuity. Appurtenances of buildings, such as walls, open-type fencing and evergreen landscape masses, shall form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of the building with the buildings and places to which it is visually related.
10. Scale of building. The size of a building, the mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the buildings and

places to which it is visually related.

11. Directional expression of front elevation. A building shall be visually compatible with buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or non-directional character.

150 - 15.10 IDENTIFICATION AND DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS; PROCEDURES

- A. The Landmarks Preservation Commission shall perform a comprehensive survey of the Township of Verona to identify potential historic sites, historic districts and landmarks that are worthy of protection and preservation upon the effective date of this ordinance. Thereafter, the Commission shall perform a comprehensive survey no less than every ten years.
- B. In evaluating and identifying landmarks and historic districts, the Landmarks Preservation Commission shall be generally guided by the National Register criteria. The Landmarks Preservation Commission may identify and recommend for designation any real property or improvement, such as a building, structure, ruins, foundation, route, trail, place or object, including but not limited to a cave, cemetery, burial ground, camp or village area or a natural object or configuration, geological formation or feature, which is of particular, historic, cultural, scenic or architectural significance to the municipality and in which the broad cultural, political, economic or social history of the nation, state, or municipality is reflected or exemplified; or is identified with historical personages or with important events within the main current of national, state or local history; or shows evidence of habitation, activity, or the culture of prehistoric man; or embodies a distinguishing characteristic or an architectural type valued as representative of a period or a style or method of construction; or presents a work of a builder, designer, artist or architect whose individual style significantly influenced the architectural history of the municipality; or is imbued with traditional or legendary lore.
- C. The Landmarks Preservation Commission shall, after completing the comprehensive survey as set forth in Section A herein, determine whether to initiate the process to designate a landmark or district as historic.

- D. The Landmarks Preservation Commission shall schedule a public hearing to consider the designation of any potential landmark or historic district. Such hearing shall be on at least 30 days, written notice, by certified mail, return receipt requested and by regular mail to the owner of property which is being considered for designation, and when an historic district is being considered for designation, to all owners of property within said district and within 200 feet of said district, by certified mail. At the hearing, the Landmarks Preservation Commission shall consider the comments and questions of the owner or owners of such property to be effected, of interested parties, and comments of the public, along with other relevant testimony, exhibits or other physical evidence which in the Commission's determination, is relevant to the issues then before the Commission.
- E. At the conclusion of the public hearing on the designation of a potential landmark, the Landmarks Preservation Commission shall make its recommendation in the form of a written report. The Commission shall memorialize its findings by resolution.
- F. If the Landmarks Preservation Commission shall determine that a property or district is worthy of landmark designation, then the Landmarks Preservation Commission shall forward its recommendation to the Township Planning Board and the Planning Board shall note the designation on its records.
- G. In the event that the Commission determines that a structure warrants landmark designation, the Commission shall make written request of the owner of such structure for such owner's written consent to the designation of such property as a landmark,
- H. In the event that the Commission determines that an area warrants designation as an historical district, the Commission shall make written request of all property owners within such area for written consent for the owner's property to be included as part of an historical district.
- I. If the owner of a property which has been identified as a potential landmark by the Landmarks Preservation Commission has consented to the designation of such property as a landmark, then the Landmarks Preservation Commission shall forward its recommendation and the written consent of the owner of such property to the Township Mayor and Council and Township Planning Board. Upon receipt of consent and the recommendation of the Landmarks Preservation Commission, the Mayor and Council may consider such property for designation

as a landmark by ordinance pursuant to N.J.S.A. 40:55D-65.1.

- J. Properties designated as landmarks shall be set forth in Schedule VI of this Chapter and shall be so noted on the Township Zoning Map. The Township Tax Assessor, Tax Collector and Construction Code Official shall identify such properties as "Historic Landmark" on public records of such properties.
- K. Regulation of the properties identified as landmarks in accordance with this chapter shall be in addition to such regulation as the Township Zoning Ordinance (Chapter 150 of the Verona Code) may otherwise require.

150 - 15.11 NOTICE OF VIOLATIONS; VIOLATIONS AND PENALTIES

- A. No person shall alter, modify or otherwise change any structure designated as an historical structure, nor alter modify or otherwise change any property within an historical district without first obtaining a Certificate of Appropriateness.
- B. The Construction Code Official shall, upon notice of any violation of this Chapter, notify the property owner by means and in accordance with standards of service otherwise set forth in the municipal code, of such violation and shall order that the owner cure the violation within 10 days of such notice by restoring the landmark or improvement to its status quo ante.
- C. In the event that the violation is not abated within 10 days of service of a notice of violation, the Construction Code Official shall issue a summons and complaint, returnable in the Verona Municipal Court, charging violation of this Chapter. There shall be a separate violation for each day that this Chapter is violated. The penalties for violations of this Chapter are as follows:
 - 1. For each day up to 10 days, not more than \$25 per day.
 - 2. For each day from 11 days to 25 days, not more than \$50 per day.
 - 3. For each day beyond 25 days, not more than \$75 per day.
- D. In the event that any action which is about to occur would permanently and adversely change the landmark or historic district, such as in the case of a demolition or removal, and a required permit or Certificate of Appropriateness has not been issued for such action,

the Construction Code Official is authorized to apply to the Superior Court of New Jersey for such injunctive relief as is necessary to prevent the destruction or removal of such landmark.

150 - 15.12 EMERGENCY REPAIRS

When a historic landmark requires immediate emergency repair to preserve the continued habitability of the landmark and/or health and safety of its occupants or others, such repairs may be performed in accordance with town codes, without the necessity of first obtaining a Certificate of Appropriateness. In such event, repairs shall be limited to those that are necessary to maintain habitability of the structure and to preserve the health and welfare of the occupants and the public in general.

150-15.11 +*+DEMOLITION

A. Where Demolition is Disapproved. In the event that the Landmarks Preservation Commission disapproves an application for a Certificate of Appropriateness to demolish an historic landmark or a building, structure, site, object or improvement, the owner shall, nevertheless, as a matter of right, be entitled to raze or demolish same provided that all of the following requirements have been fully met:

1. Appeal to Planning Board. The owner has applied for the necessary Certificate of Appropriateness and has received notice of the Commission's denial of same from the Construction Code Official and has appealed to the Planning Board, which has affirmed such denial.
2. Sale for Fair Market Value. The owner has prior to beginning demolition, for a period of at least 180 days (the "offer period"), and at a price reasonably related to its fair market value, made a bona fide offer to sell such building, structure, site, object or improvement and the land pertaining thereto to any person, entity, organization, government or political subdivision thereof which gives reasonable assurance that it is willing to preserve the building, structure, site, object or improvement and the land pertaining thereto.

B. Demolition Notice Posted and Publication.

1. Notice of any proposed demolition shall be posted on the

exterior premises of the building, structure, site, object or improvement throughout the Notice Period in a location such that it is clearly readable. In addition, the applicant shall cause to be published in the official newspaper of the Township a notice setting forth the following:

- a. The applicant's intent to demolish, including a description of the subject property (by block and lot as well as by physical location) and a description of the building, structure, site, object or improvement to be demolished; and
 - b. The applicant's proposed use of the property following demolition; and
 - c. The anticipated time frame(s) associated with the demolition; and
 - d. A statement indicating that the applicant shall consider any and all bona fide offers to sell the property to any person who wishes to preserve the building, structure, site, object or improvement; and
 - e. The applicant's name and address, along with a telephone number where the applicant may be reached during normal business hours by any interested person who wishes to discuss the proposed demolition and/or to make an offer to purchase the property as set forth above
2. The notice shall be published as follows:
- a. At least once within the first ten days of the Notice Period; and
 - b. At least once within the period of time that is not less than ten nor more than 15 days prior to the expiration of the Notice Period; and
 - c. At least once each 20 days between the above first and last notifications.
 - d. At the conclusion of the Notice Period, if the applicant intends to demolish the subject building, structure, site, object or improvement, it shall, prior to performing the demolition, perform the following:

- i. Advise the Commission in writing of its intention to proceed with the demolition; and
- ii. Certify in writing to its compliance with the provisions of this Chapter and section relating to the 180-day offer period; and
- iii. Provide the Commission with a copy of the notice that appeared in the official newspaper of the township and a listing of all dates on which the said notice appeared in the newspaper; and
- iv. Advise the Commission in writing as to whether any interested persons submitted an offer or offers to purchase the property, whether during the 180-day "offer period" or
- v. Following the newspaper noticing referenced above, and set forth the terms and conditions relating to said offer(s) and the results of any negotiations pertaining thereto; and
- vi. File copies of the affidavits of publication relating to the newspaper noticing with the Commission.

3. Notice Period. The period of time during which notice must be given in the manner hereinbefore set forth shall be known as the "Notice Period" which shall commence on the tenth day following the date of the notice of denial of the appeal from the zoning board of adjustment and such Notice Period shall run for a period of time of 60 days.

C. Assignment. No assignment of the rights granted by a certificate of appropriateness to demolish shall be permitted.

D. Expiration of Approval.

1. In cases where demolition is permitted, the Certificate of Appropriateness shall be valid for one year from the date of Landmarks Preservation Commission approval of the application. The one year period shall not be extended.
2. At the time of issuance of the Certificate of Appropriateness to demolish, the Construction Code Official shall designate the period of time (within the one year approval period) within which demolition must be completed.

E. Approval After Change of Circumstances. The Commission may at any time during such Notice Period, if a significant change in

circumstances occurs, approve a Certificate of Appropriateness to demolish, in which event, a permit from the Construction Code Official shall be issued within ten days thereafter.

150-15.12 PERMIT REVIEW

It shall be the duty of all municipal officials reviewing all permit applications involving real property or improvements thereon to determine whether such application involves any activity that should also be the subject of an application for a Certificate of Appropriateness under this article and to inform both the Secretary of the Landmarks Preservation Commission and the owner of such property of such requirement..

150-15.13 SEVERABILITY

If any provision of this article or the application thereof is held invalid for any reason, the invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to that end, the provisions of this article are severable.

150-15.14 CERTIFIED LOCAL GOVERNMENT PROGRAM

Despite anything contained herein to the contrary, upon township certification under the state's Certified Local Government (CLG) Program, the Commission shall, in accordance with the state's CLG guidelines, review and comment on all State and National Register nominations for historic resources within the Township.