

BOROUGH OF WEST CAPE MAY  
COUNTY OF CAPE MAY  
STATE OF NEW JERSEY

ORDINANCE NO. 640-24

AN ORDINANCE AMENDING  
SECTION 27-19 OF THE WEST CAPE MAY BOROUGH CODE  
PERTAINING TO HISTORIC PRESERVATION

WHEREAS, Section 27-19 of the West Cape May Zoning Code governs the preservation of historic structures in the Borough and authorizes the creation of an Historic Preservation Commission; and

WHEREAS, the Borough's Historic Preservation Commission has reviewed section 27-19 and recommended that the Borough Code be revised and updated; and

WHEREAS, the Borough of West Cape May finds that it is in the best interest of the Borough to adopt the recommendations of the Historic Preservation Commission and amend the Borough Code; and

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Borough of West Cape May, in the County of Cape May, New Jersey, as follows:

**Section 1.** The following sections of Chapter 30 of the Borough Code are hereby amended as follows (deletions in ~~strike through~~, additions **boldfaced and underlined**):

§ 27-19.2 Definitions

....

ADMINISTRATIVE OFFICER

~~Shall mean the Borough Zoning Official.~~ **Shall mean a municipal official or officials who are designated by Borough ordinance or resolution.**

....

BOROUGH ZONING OFFICIAL

**Shall mean the individual holding this position in the Borough, and who is authorized to issue zoning permits pursuant to 40:55D-18.**

CERTIFICATE OF APPROPRIATENESS

Shall mean a ~~document~~ **resolution** issued by the Historic Preservation Commission approving a proposed project **for minor and/or major work** in an historic district or on an historic site. The review **takes place at a public hearing held before the full**

Commission and is based upon the application and representation of the applicant and the approved plans presented for the preservation, restoration, rehabilitation or alteration of an existing property, or the demolition, addition, removal, repair or remodeling of any feature on an existing building within the historic district, or for any new construction within the historic district.

....

#### MAJOR WORK

Shall mean any proposed work that includes:

- a. Demolition of any building, improvement, site, place or structure;
- b. Change in the exterior appearance of any contributing building, improvement, site, place or structure by addition, reconstruction, alteration or maintenance;
- c. Relocation of a principal or accessory building or structure; or
- d. Any addition to or new construction of a principal or accessory building or structure, except that sheds of an area less than 120 square feet are excluded.

#### MINOR APPLICATION WORK

Shall mean any ~~application for a certificate of appropriateness~~ proposed work that:

- a. Does not involve demolition, relocation or removal of a historic building, resource, or structure;
- 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, rear decks, signs, lighting, doors, windows, roofs, paving, shutters, HVAC, generators, exterior shower enclosures exterior sheathing or ~~streetscape~~ hardscape work that will comply with the adopted design guidelines for the improvement proposed where a specific guideline applies and that will not substantially affect the characteristics of the historic site or the historic district; or  
[Amended 1-22-2020 by Ord. No. 577-20]
- d. Is a request for a field change for a Certificate of Appropriateness that has already been issued and that meets the criteria of Subsection c above.

....

#### PERMIT FOR MINOR WORK

Shall mean a ~~document~~ resolution issued by the Historic Preservation Commission to an applicant and the zoning and building official, endorsing a project. The project must be "minor work" as defined in this section (see "Minor ~~application~~ Work"), the Zoning Official must determine the project as applicable for committee review, and the work must be deemed appropriate by a committee of the Historic Preservation

Commission.  
[Amended 3-23-2022 by Ord. No. 609-22]

**§ 27-19.3 Historic Preservation Commission**

...

- a. Responsibilities. The Historic Preservation Commission shall have the following duties and responsibilities:

...

- 6. To issue Certificates of Appropriateness **and Permits for Minor Work** pursuant to Subsection 27-19.5 of this section.

...

- 11. Meetings; Quorum.

...

(b) Three members shall constitute a quorum. Nonmember liaisons may not vote. A majority vote of those present and voting shall prevail, and shall be sufficient to grant or deny a Certificate of Appropriateness. A majority of the appointed membership shall be required to grant or change a historic site or district designation or to ~~grant~~ **hear** a demolition **application** ~~permit~~.

...

(d) The Historic Preservation Commission shall hold public hearings to review all applications for ~~permits~~ **Certificates of Appropriateness**, referrals of development applications and other business that comes before the Commission.

**§ 27-19.5 Certificate of Appropriateness**

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- b. When Not Required.
  - 3.** The Zoning Official shall review all applications to the Historic Preservation Commission for Minor Work to determine if the application shall be reviewed for appropriateness by a committee of the Historic Preservation Commission or before the full Commission. See Permit for Minor Work subsection 27-19.5(f) below.

- c. Procedures.

- 1. All applicants shall complete an application form. Application forms shall be made

available in the office of the Administrative Officer. Complete applications shall be filed with the **office of the** Administrative Officer.

...

5. Applications for demolition shall comply with all document, notice, and miscellaneous requirements provided by the "~~Guidelines for Certificate of Appropriateness Applications for Demolition~~" "**West Cape May Guidelines for the Historic District**" adopted pursuant to this ordinance.

- d. Informational Meetings/Conceptual Review. Persons considering action that requires a Certificate of Appropriateness **for Major Work**, as set forth in this section, are encouraged to request an informal informational meeting with the Commission prior to submitting a formal application for a Certificate of Appropriateness **for Major Work**. Requests for such informational meetings can be made to the Administrative Officer, who will contact the ~~Chairman~~ **Chairperson** of the Commission. The Commission shall hold such informational meetings within 15 days of receipt of such request. The purpose of an informational meeting is to review the design guidelines and standards of appropriateness and the procedures for obtaining a Certificate of Appropriateness. Neither the applicant nor the Commission shall be bound by any informational meeting or conceptual review. Conceptual review shall not apply to any applications for development. The Commission shall not consider conceptual review of an application for development unless specifically referred to it by the Planning Board.
- e. Application Review.

...

- 3. The Historic Preservation Commission shall issue a Certificate of Appropriateness to the applicant if it finds the ~~permit~~ application appropriate to the historic district or site and in conformity with the design guidelines. The Commission shall issue a denial of a Certificate of Appropriateness to the applicant if it finds the ~~permit~~ application inappropriate to the historic district or site or not in conformity with the design guidelines.
- 4. When an application is approved, the Commission shall forthwith issue a Certificate of Appropriateness. Failure to report within a 45 day period shall be deemed to constitute a report in favor of the proposed work and without conditions. If the applicant has consented to an extension of time to consider the Certificate, the extension of time should be transmitted to the Zoning Official and the ~~permit~~ **Certificate** shall not be issued during the period of time of the extension.
- 5. Appeals from determinations of the Administrative Officer pursuant to referral to the Historic Preservation Commission may be made by the applicant to the Planning Board, exercising the powers of a Board of Adjustment according to N.J.S.A. 40:55D-

25 and -70a. Nothing herein shall be deemed to limit the right of judicial review of the action after an appeal is concluded by the Planning Board. The appellant shall pay all costs of copies of any transcript(s) required for appeal. If, in the case of an appeal made pursuant to this subsection, the Planning Board determines there is an error in any order, requirement, decision or refusal made by the Administrative Officer pursuant to a Certificate or denial of a Certificate submitted by the Historic Preservation Commission in accordance with N.J.S.A. 40:55D-111, the Planning Board shall, in writing, include the reasons for its determination in the findings of its decision thereon.

6. The owner shall post the Certificate of Appropriateness or Permit for Minor Work on a conspicuous spot on the site visible to the public during the entire process of work.
7. Issuance of an approval for an application to the Historic Preservation Commission ~~of a permit~~ shall be deemed to be a final approval pursuant to this section. Such approval shall neither cause nor prevent the filing of any collateral application or other proceeding required by any other ordinance to be made prior to undertaking the action required concerning the landmark or any building, structure, object, or site located within a landmark district. The denial ~~of a permit~~ of an application to the Historic Preservation Commission shall be deemed to preclude the applicant from undertaking the activity applied for.
- f. Permit for Minor Work Application. A committee of the Historic Preservation Commission, consisting of the ~~Chairman~~ Chairperson or ~~his~~ their designee, a Commission member appointed by ~~him~~ the Chair or Secretary, and the Zoning Official as a nonvoting member may review applications for a ~~Permit for Minor Work (Minor Application)~~ without holding a public hearing, if the Zoning Official determines at the time the application is received that the proposed work meets the appropriate criteria for a Permit for Minor Work. If the committee finds the application appropriate, it may act in place of the full Commission and issue a Permit for Minor Work to the Zoning Official, who may then forward it to the Borough's Construction Official so that a building permit may be issued. In this instance the Permit for Minor Work issued by the Committee shall include, at a minimum, a statement of the significance of the structure, a description of the proposed work and the reasons supporting the Committee's decision. If the committee does not find the application appropriate or doubts its appropriateness, the application shall be considered for a Certificate of Appropriateness and scheduled for a public hearing before the full Board.  
[Amended 3-23-2022 by Ord. No. 609-22]
- g. Emergency Procedures.

1. When a structure or improvement requires immediate repair to preserve the

continued habitability of the structure and/or the health and safety of its occupants or others, emergency repairs may be performed in accordance with construction codes, without first obtaining a Certificate of Appropriateness **or Permit for Minor Work**. Under such circumstances, the repairs performed shall be only such as are necessary to protect the health and safety of the occupants of the structure or others and/or to maintain the habitability of the structure. Where feasible, temporary measures to prevent further damage should be used, provided these measures are reversible without damage to the structure.

2. The property owner shall make a request for the Commission's review simultaneously with the onset of emergency work. The request shall be made to the Administrative Officer. Such emergency work shall be permitted only if the Administrative Officer certifies the immediate necessity for such ~~permit~~ issuance. Upon notice to the full Commission by telephone, personal contact, or other appropriate means of communication, at least three members of the Commission shall convene as soon as possible and shall proceed to review the Certificate of Appropriateness application as provided in this section. The Commission shall conduct the emergency meeting in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-9. Subsequent to such review, a Certificate of Appropriateness **or Permit for Minor Work** may be issued upon a majority vote of the members convened.

#### § 27-19.7 Standards, Design Guidelines, and Criteria

- a. This section provides uniform standards, design guidelines and criteria for the regulation of Historic Sites and Districts by the Historic Preservation Commission. All projects requiring a Certificate of Appropriateness, **Permits for Minor Work**, and all applications for development shall be governed by the principles of 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 & Reconstructing Historic Buildings, and the "West Cape May Guidelines for the Historic District". In the event that there is a conflict between any of the documents referenced above, the ~~Borough of West Cape May Guidelines~~ "**West Cape May Guidelines for the Historic District**" shall prevail.

...

- c. In considering ~~permit~~ applications **to the Historic Preservation Commission**, the ~~Historic Preservation~~ Commission shall not consider use, zoning requirements for setbacks, density, height limitations or lot coverage in finding appropriateness, as these fall within the purview of the Planning Board.

d. In considering development applications referred to it by a Board, the Historic Preservation Commission may consider use, zoning requirements for setbacks, density, height limitations, and lot coverage, in rendering its advice to the Planning Board on the application of the zoning ordinance provisions concerning historic preservation. The Commission should emphasize the streetscape when reviewing applications for development. The Commission shall not hear applications for development unless referred to it by either the Planning Board or the Zoning Board of Adjustment.

e. ~~Criteria for Review of all Applications for Certificate of Appropriateness.~~ All reviews of applications for Certificate of Appropriateness and plans within historic preservation districts shall consider:

1. The cultural, historic or architectural values of a structure and its relationship to the surrounding area.
2. The general compatibility of the proposed use to the cultural and historical values of the surrounding area.
3. The general compatibility of exterior design, arrangement, texture and materials proposes to be used. In carrying out the review under the guidelines, the following criteria shall be utilized:

(a) All exterior elevations, including the roof, must be maintained and new construction must be compatible with existing districts and surrounding areas.

(b) In-kind or similarly compatible building materials must be utilized.

(c) Uses shall be environmentally compatible with the uses adjacent to the property and throughout the surrounding areas. Uses shall not adversely affect the uses in the adjacent or surrounding areas.

f. Guidelines. From time to time the Historic Preservation Commission may, pursuant to resolution, adopt guidelines that shall become part of this chapter. Those guidelines include, **but are not limited to**, guidelines for demolition applications, window guidelines, door guidelines, exterior sheathing guidelines, fence guidelines, streetscape guidelines and design guidelines. A copy of the guidelines shall be available in the offices of the Construction Official, the Zoning Official and the Borough Clerk. The guidelines may be amended by the Historic Preservation Commission, but shall not take effect until approved by ordinance of Board of Commissioners. [Guidelines Amendments: Ord. No. 409-08 § 1; Ord. No. 439- 09 § 1; Ord. No. 495-2015; Ord. No. 575-2019]

## § 27-19.8 Demolitions and Relocations

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2. Where Demolition Disapproved. If the Commission disapproves an application for a Certificate of Appropriateness to demolish a historic building, place or structure, the owner shall nevertheless, as a matter of right, be entitled to raze or demolish such building, place or structure, provided that all of the following requirements have been fully met:

...

5. 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~~ **certificate** shall be issued within 10 days thereafter.

### § 27-19.9 Enforcement

[Ord. No. 364-06 § 1; Ord. No. 378-07 § 1; Ord. No. 533-2018]

All municipal officials reviewing permit applications for real property or improvements thereon shall determine whether the application involves any activity that should also require **Historic Preservation Commission approval** ~~a Certificate of Appropriateness~~. If so, the official shall inform the Administrative Officer, the applicant, and the Historic Preservation Commission.

### § 27-19.10 Violations and Penalties; Restoration of Property; Injunctive Relief

a. Violations.

1. Should any person undertake a qualified activity at an historic site or improvement within a historic district without first having obtained and posted a Certificate of Appropriateness **or Permit for Minor Work**, he shall be in violation of this § 27-19.
2. Upon learning of a violation, the Zoning Officer or ~~his~~ **their** designee shall personally serve upon the owner of the lot where the violation is occurring a notice describing the violation in detail and giving the owner 10 days to abate the violation by seeking review of the extent and proposed work by the Historic Preservation Commission.

...

- b. Penalties. Any person who undertakes an activity affecting an historic site or improvement within a historic district without first having obtained a Certificate of Appropriateness **or Permit for Minor Work**, or without subsequent review by the Commission following discovery of the omission shall in addition to fines and penalties as set forth in § 1-5 of the West Cape May Code, be required to restore same



to a condition consistent with its historic character and integrity, as approved by the Historic Preservation Commission.

- c. **If, on three occasions, a contractor who undertakes an activity affecting an historic site or improvement within a historic district without first having obtained a Certificate of Appropriateness or Permit for Minor Work or without subsequent review by the Commission following discovery of the omission, shall have their mandatory permit revoked with the Borough of West Cape May.**

~~e.~~ **d.** Injunctive Relief. Should any action that permanently and adversely change a historic site or historic district, such as demolition or removal, be about to occur without a Certificate of Appropriateness having been issued, the Zoning Officer may apply to the Superior Court of New Jersey for the injunctive relief necessary to prevent the injury to the site or district.

### **§ 27-19.12 Violations and Penalties; Restoration of Property; Injunctive Relief**

[Ord. No. 381-07 §§ 1,2; Ord. No. 533-2018]

- a. Application Fees to be Paid to the Historic Preservation Commission.
  - 1. Permit for Minor Work (i.e. review by a committee of the Historic Preservation Commission): ~~\$35.00~~ **\$45.00**
  - 2. Certificate of Appropriateness (i.e. review by the full Historic Preservation Commission): \$135.00
- b. **Additional Fees to be Paid to the Historic Preservation Commission.**
  - 1. **Legal Review (i.e. all applications): \$300.00**
- c. Should the Commission determine that any professional review of an application is necessary, it shall have the ability to require the applicant to make an escrow deposit in an amount sufficient to defray the cost of that professional review, and to require additional such deposits if necessary.  
[Amended 3-23-2022 by Ord. No. 609-22]

**Section 2.** Repealer. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of that conflict.

**Section 3.** Severability. Should any portion of this ordinance be declared unconstitutional or invalid, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are declared to be severable.

**Section 4. Effective Date.** This ordinance shall take effect 20 days after passage and publication, according to law.

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Carol E. Sabo, Mayor

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George Dick, Deputy Mayor

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Giacomo Antonicello, Commissioner

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Theresa Enteadó, RMC  
Municipal Clerk

**Introduced:** August 28, 2024

**First Publication:** September 4, 2024

**Second Reading and Adoption:** September 11, 2024

**Final Publication:** September 18, 2024

**Effective Date:** October 1, 2024

I hereby certify that the foregoing is a true copy of an Ordinance duly passed and adopted by a majority of full membership of the Board of Commissioners of the Borough of West Cape May, County of Cape May, New Jersey, at a meeting held on August 28, 2024.

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Municipal Clerk