

## **ARTICLE X – HISTORIC PRESERVATION CONTROLS**

### **§17:10-1. PURPOSE**

The purpose of this Ordinance is to promote the educational, cultural, economic and general welfare of the City through the preservation of historic buildings, structures, places and districts, to develop and maintain appropriate settings for such resources and to document and promote the public enjoyment of such resources which impart a distinct aspect of the City and which serve as visible reminders of the historical and cultural heritage of the City, the State and the Nation.

### **§17:10-2. PROCEDURES FOR DESIGNATION OF HISTORIC SITES AND DISTRICTS**

- A.** Interested parties shall contact the administrative officer or the Historic Preservation Commission 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 Historic Preservation Commission to review the proposed historic site or district. The formal historic district nomination shall include: a building-by-building inventory of all properties within the district; 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. The formal historic site nomination shall include: a black and white photograph, a tax map of the property and a physical description and statement of significance which address the criteria for designation set forth herein.
- B.** Upon review and approval of the proposed site or historic district by the Historic Preservation Commission, the Commission shall forward the proposed site or district nomination to the Planning Board for consideration. In the case of a site nomination, the interested parties shall send notification of intent to designate the historic site to the owner of the proposed historic site; in the case of a district nomination, the interested parties shall send notification of intent to designate the historic district to all property owners within the proposed historic district. In the case of expansion of a historic district, notice is required only for the property owners in the area of the expansion. Notification shall be by certified mail at least thirty (30) days prior to the Planning Board hearing. The interested parties shall submit to the Planning Board a complete list of notified property owners. In the event that fifty-one percent (51%) of the property owners object in writing to the proposed district, it shall not be designated.
- C.** Upon review and approval of the proposed site or district by the Planning Board, the site or district nomination will be sent to the City Council for adoption to amend and supplement the City's Zoning Ordinance.
- D.** All other requirements of the Municipal Land Use Law regarding adoption of development regulations shall be followed.
- E.** Provisions of this section relating to designation of historic districts shall also apply to proposals to expand historic districts, except that notice shall be required only for expanded districts.

### **§17:10-3. CRITERIA FOR DESIGNATION OF HISTORIC SITES AND DISTRICTS**

The Commission or any interested party may recommend designation of historic sites or districts that have integrity of location, design, setting, materials, workmanship and association and that meet one or more of the following criteria:

- A. Character, interest, or value as part of the development, heritage or cultural characteristics of the City, State or Nation;
- B. Association with events that have made a significant contribution to the broad patterns of our history; or
- C. Association with the lives of persons significant in our past; or
- D. Embodiment of the distinctive characteristics of a type, period, or method of construction, or that represent the work of a builder, designer, artist, architect or landscape architect whose work has influenced the development of the City, State or Nation; or
- E. Unique location or singular physical characteristics that make a district or site an established or familiar visual feature; or that have yielded, or may be likely to yield, information important in prehistory or history.

**§17:10-4. ACTIONS REQUIRING A CERTIFICATE OF APPROPRIATENESS**

- A. A Certificate of Appropriateness issued by the Historic Preservation Commission shall be required before a permit is issued for any of the following, or, before work can commence on any of the following within a historic district or on a historic site:
  - 1. Demolition of any building, site, place or structure.
  - 2. Relocation of any building, site or structure.
  - 3. Change in the exterior appearance of any contributing building or structure by addition, reconstruction, alteration, maintenance or repair, if such change would be subject to view from a public street. Exterior change for all primary and accessory buildings visible from a public street shall include all matters which require a permit as defined in Article 1, Section 17:1-5 and also shall include but are not limited to additions and changes visible from a public street such as the removal, repair or replacement of windows, doors, shutters, balustrades, railings, columns, cornices, moldings, trim, stairs, steps, porches, walks, siding, gutters, signs, and solar panels.
  - 4. Any addition or new construction of a principal or accessory building or structure subject to public view.
  - 5. Changes to existing sidewalks within the public right of way and changes to existing walls, fences, signs, solar panels or parking lots or the construction of any new sidewalks, within the public right of way, or of any new fences, walls, signs, solar panels or parking lots, if subject to public view.
  - 6. The removal of living trees measuring 18 inches or more in diameter at breast height located within the public right of way.
- B. A Certificate of Appropriateness shall not be required before a permit is issued by the administrative officer for the following matters:
  - 1. Changes to the interior of structures.
  - 2. Changes not visible to the public.
  - 3. Exterior or interior painting of existing structures.

#### **§17:10-5. REFERRAL OF PERMITS**

All permits or actions requiring a Certificate of Appropriateness for historic sites or property in historic districts shall be referred to the Historic Preservation Commission for a written report on the application of the zoning ordinance provisions concerning historic preservation to any of those aspects of the change proposed which aspects were not determined by approval of an application for development by a municipal agency. The Historic Preservation Commission shall submit its report to the administrative officer within 45 days of the referral of the application to the Historic Preservation Commission. If within the 45-day period the Historic Preservation Commission recommends to the administrative officer against the issuance of a permit or recommends conditions to the permit to be issued, the administrative officer shall deny issuance of the permit or include the conditions in the permit, as the case may be. Failure to report within the 45-day period shall be deemed to constitute a report in favor of issuance of the permit and without the recommendation of conditions to the permit.

#### **§17:10-6. APPLICATION PROCEDURES**

Applications for Certificates of Appropriateness and for other actions of the Board shall be made on forms available therefore in the office of the administrative officer, the office of the City Clerk or directly from the Commission. Completed applications shall be delivered or mailed to the Commission, City Hall.

Persons interested in obtaining Commission approval of proposed work covered by the Provisions of this Ordinance are encouraged to apply directly to the Commission for review and approval. At the request of any such person, the Commission shall schedule a hearing. Filing deadlines, forms and other application procedures shall be specified in the Rules of Procedure of the Historic Preservation Commission.

Each application must be accompanied by sketches, drawings, photographs, descriptions or other information sufficient to show the proposed alterations, additions, changes or new construction. The Commission may require the subsequent submission of such additional materials as it reasonably requires to make an informed decision.

#### **§17:10-7. ACTION ON APPLICATIONS**

- A.** The applicant shall give at least ten days notice of the time, date, place, and subject of the meeting in writing to each property owner within 200 feet of subject property.
- B.** The Commission shall reach a decision on the application within forty-five (45) days of submission of the application or referral of same by the administrative officer. Nothing herein shall prohibit an extension of time by mutual agreement of the applicant and the Commission.
- C.** The Commission may advise the applicant and make recommendations in regard to the appropriateness of the proposed action, and may grant approval upon such conditions as it deems appropriate within the intent and purposes of this article.
- D.** An applicant shall not be required to appear or to be represented at the meeting to consider the application for a Certificate of Appropriateness and the Commission may take action in the absence of the applicant.
- E.** If an application is approved, the Commission shall forthwith issue a Certificate of Appropriateness or other decision.

- D.** New additions, alterations or new construction in a historic landscape shall be visually differentiated from the old and shall be compatible with the historic character of the landscape.
- E.** Replacement of missing historic plant material or vegetation features shall be substantiated by documentary or physical evidence. The replacement plant material or features shall match the historic appearance, function and where possible, species or variety.
- F.** A property shall be used for its historic purpose, or shall be placed in a new use that requires minimal change to the defining characteristics of the property and its environment.
- G.** The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- H.** Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or historic features from other properties shall be avoided.
- I.** Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- J.** Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
- K.** Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary or physical evidence.
- L.** Chemical or physical treatments, such as sandblasting that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- M.** Significant archeological resources shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

#### **§17:10-10. DESIGN GUIDELINES FOR HISTORIC DISTRICTS AND SITES**

The purpose of this section is to provide uniform design criteria and guidelines for the regulation of historic sites and historic districts for use by the Historic Preservation Commission, the City of Plainfield and the public.

In addition to designation and regulation of historic sites and historic districts as set forth in Chapter 17, Article 9, Section 17:9-18, all permits or actions requiring a Certificate of Appropriateness and all applications for development in historic districts or for historic sites shall be governed by the design guidelines for historic districts and sites as shown on a map entitled “Zoning Map, City of Plainfield, New Jersey”, which map accompanies and is hereby made a part of this ordinance.

Plainfield Design Guidelines for Historic Districts and Sites is an integral part of the Zoning Ordinance and is incorporated in the Ordinance as if set forth at length in the body of this Ordinance.

#### **§17:10-11. DEMOLITIONS**

In regard to an application to demolish a historic building, site, place or structure, the following matters shall be considered:

- A. Its historic, architectural and aesthetic significance;
- B. Its use;
- C. Its importance to the City and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest;
- D. 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;
- E. The extent to which its retention would promote business, create new positions, attract tourists, students, writers, historians, artists and artisans, attract new residents, encourage study and interest in American history, stimulate interest and study in architecture and design, educate citizens in American culture and heritage, or make the City a more attractive and desirable place in which to live;
- F. The probable impact of its removal upon the ambiance of the historic district;
- G. The structural soundness and integrity of the building and the economic feasibility of restoring or rehabilitating the structure so as to comply with the requirements of the State Uniform Code.

#### **§17:10-12. CONFLICTS WITH CODES**

Although all buildings, sites, places and structures should meet the appropriate housing and building codes, it is recognized that instances may arise where certain normal provisions thereof might be in conflict with the purposes of this article. In such instances, the provisions of the building code shall be applicable.

In the event that a structure is unsafe or unsound so as to pose a danger to health or safety, the power and authority of the City of Plainfield to demolish the structure, as otherwise provided by Law, shall not be impaired or altered in any way by the provisions of this ordinance.

#### **§17:10-13. PURPOSE OF DEMOLITION PROVISIONS**

The purpose of these procedures regarding demolition is to further the purposes of this chapter by affording the City, interested persons, historical societies or organizations the opportunity to acquire or to arrange for the preservation of historic buildings, sites, places and structures.

#### **§17:10-14. PROCEDURE WHERE DEMOLITION DISAPPROVED**

In the event that 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:

- A. The owner has applied for the necessary Certificate of Appropriateness and has received notice of denial of same from the Commission and has appealed to the Zoning Board of Adjustment, which has affirmed such denial.
- B. The owner has met the notice requirements set forth in Section 17:10-21 for the full notice period as defined in

If the Commission disapproves an application, the Commission shall state its reasons in writing within ten (10) days of such decision. In case of disapproval, the Commission shall notify the applicant in writing of such disapproval and provide the applicant with a copy of the reasons.

- F.** The owner shall post the Certificate of Appropriateness on a conspicuous spot visible to the public during the entire process of the work. Failure to post such Certificate of Appropriateness shall be deemed a violation of this article and may be a cause for work stoppage.
- G.** When a Certificate of Appropriateness or other decision has been issued, the administrative officer shall, from time to time, inspect the work approved by such Certificate or decision and shall regularly report to the Commission the results of such inspections, listing all work inspected and reporting any work not in accordance with such Certificate or decision or which violates any ordinance of the City. The Commission shall also make inspections of work approved by such Certificate or decision whenever it considers such to be desirable.
- H.** A Certificate of Appropriateness shall be valid for a period of two (2) years from date of issue unless reasonable extensions are granted by the Commission. If a building permit is also required for the action approved and is obtained prior to expiration of such two year period, then the Certificate of Appropriateness shall be valid for the life of the building permit and any extensions thereof.

#### **§17:10-8. REFERRALS FROM MUNICIPAL AGENCIES**

The Planning Board and Board of Adjustment shall refer to the Historic Preservation Commission every application for development submitted to either Board for development in historic zoning districts or on historic sites designated on the Zoning or Official 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 the application as required shall not invalidate any hearing or proceeding. The Historic Preservation Commission may provide its advice, which shall be conveyed through its delegation of 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.

On all matters referred to the Historic Preservation Commission which require approval or action by the Planning Board or Board of Adjustment, the decision of the Historic Preservation Commission shall be a recommendation only, which recommendation may be approved, disapproved or amended by the Planning Board or Board of Adjustment. In the event the Planning Board or Board of Adjustment should disapprove or amend the decision of the Historic Preservation Commission, it shall state its reasons therefore at a public hearing and in its resolution of memorialization.

#### **§17:10-9. STANDARDS FOR REHABILITATION PROJECTS**

- A.** New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.
- B.** New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- C.** Construction of historic designs that were never built shall not be undertaken.

- C. The owner has, during the notice period and at a price reasonably related to its fair market value, made a bona fide offer to sell such building, place or structure and the land pertaining thereto to any person, organization, government or agency thereof or political subdivision which gives reasonable assurance that it is willing to preserve the building, place or structure and the land pertaining thereto.
- D. The owner shall not have been a party to any bona fide contract, binding upon all parties thereto, for the sale of any such building, place or structure and the land pertaining thereto executed prior to the expiration of the notice period, except a contract made in accordance with paragraph (c) above.

**§17:10-15. DEMOLITION NOTICE POSTED; PUBLICATION**

Notice of proposed demolition shall be posted on the premises of the building, place or structure throughout the notice period in a location such that it is clearly readable from the street. In addition, the applicant shall publish a notice in the official newspaper of the City as follows:

- A. Within the first 10 days of the notice period.
- B. Within not less than 10 nor more than 15 days prior to the expiration of the notice period.
- C. At least once each 90 days between the above first and last notifications, if the notice period is nine (9) months or longer.

**§17:10-16. NOTICE PERIOD**

The period of time during which notice must be given in the manner herein before set forth shall be known as the "Notice Period" which shall commence on the 10th day following the date of the notice of denial received from the Zoning Board of Adjustment after an appeal and such notice period shall run for a period of time of nine (9) months unless a shorter period is authorized by the Commission.

**§17:10-17. APPROVAL AFTER CHANGE OF CIRCUMSTANCE**

The Commission may at any time during such notice period, if a significant change in circumstances occurs, approve a Certificate of Appropriateness, in which event, a permit shall be issued within 10 days thereafter.

**§17:10-18. EFFECT OF CERTIFICATE OF APPROPRIATENESS**

Issuance of a Certificate of Appropriateness shall be deemed to be final approval pursuant to this article. Such approval shall neither cause nor prevent the filing of any collateral application or other proceeding required by any other municipal ordinance to be made prior to undertaking the action requested vis-à-vis the site or structure in the historic district.

**§17:10-19. DENIAL OF A CERTIFICATE OF APPROPRIATENESS**

Denial of a Certificate of Appropriateness shall be deemed to preclude the applicant from undertaking the activity applied for.

#### **§17:10-20. APPEAL**

- A.** The granting or denial of a Certificate of Appropriateness may be appealed to the Zoning Board of Adjustment in the same manner as if the appeal were taken pursuant to N.J.S.A. 40:55D-70(a). The appellant shall pay all costs of reproducing the record.
- B.** In the event of an appeal of a Historic Preservation Commission ruling to the Zoning Board of Adjustment, the Appellant shall provide notice of the appeal to the administrative officer of the Historic Preservation Commission simultaneously with filing with the Board of Adjustment by certified mail, return receipt requested. The Appellant shall also be responsible for notifying the administrative officer of the Historic Preservation Commission at least ten (10) days in advance of the appeal hearing.
- C.** The administrative officer and the Commission shall have a right to appear before the Zoning Board of Adjustment. The Commission may convey its position through delegation of 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.
- D.** In the event the Zoning Board of Adjustment determines there is an error in any order, requirement, decision or refusal made by the administrative officer pursuant to a report submitted by the Historic Preservation Commission, the Board of Adjustment shall include the reasons for its determination in the findings of its decision thereon at the public hearing and in its Resolution of Memorialization.
- E.** Nothing herein shall be deemed to limit the right of judicial review of the municipal action after an appeal is concluded by the municipal Zoning Board of Adjustment.

#### **§17:10-21. RIGHT TO SELL DURING APPEAL**

Any appeal which may be taken to court from the decision of any municipal agency whether instituted by the owner or any other proper party, shall not affect the right of the owner to make a bona fide offer to sell.

#### **§17:10-22. RECONSIDERATION OF DENIAL OF CERTIFICATE OF APPROPRIATENESS**

The Commission may refuse to reconsider for a period of one year any disapproval of an application, except in cases where an applicant reapplies, with his application amended to comply with any recommendations which the Commission may have made in its written reasons for disapproval. The Commission may, however, reconsider at any time denial of a Certificate of Appropriateness for demolition if a significant change in circumstances has occurred.

#### **§17:10-23. APPLICATION TO GOVERNMENTAL AGENCIES**

It is recognized that the intent and purposes of this Article would not be fully served if the City were to control the actions of others but fail to apply similar constraints to itself. Accordingly, a Certificate of Appropriateness shall be required before final approval of any City actions on public as well as private lands, streets, easements and rights-of-way. This requirement shall be deemed to include any action by any party which requires the approval or concurrence of the City or any City agency and which is not otherwise covered by the provisions of this chapter.

In those circumstances where the City cannot require compliance, as in certain cases involving the County, State and Federal governments, the City urges, most strongly, the voluntary cooperation of such agencies in seeking a Certificate of

Appropriateness and hereby authorizes the Commission to consider such requests and applications.

#### **§17:10-24. OTHER REQUIREMENTS UNAFFECTED**

The requirements of this article shall be considered to be in addition to and in no case shall they be interpreted as a substitute for any other approval, permit or other action as otherwise provided for.

#### **§17:10-25. VIOLATION PENALTIES**

Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to the penalties herein.

- A.** A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- B.** If any person shall undertake any activity vis-à-vis a historic site or improvement within a historic district without first having obtained and posted a Certificate of Appropriateness, such person shall be deemed to be in violation of this ordinance.
- C.** Upon learning of the violation, the Zoning Officer shall personally serve upon the owner of the lot whereon the violation is occurring a notice describing the violation in detail and giving the owner ten (10) days to abate the violation by restoring the site or improvement to its status quo ante. If the owner cannot be personally served within the municipality with the said notice, a copy shall be posted on site and a copy sent by certified mail, return receipt requested, to the owner at the last known address as it appears on the municipal tax rolls.
- D.** In the event that the violation is not abated within ten (10) days of service or posting on site, whichever is earlier, the Zoning Officer shall cause to be issued a summons and complaint, returnable in the municipal court, charging violation of this ordinance.
- E.** The penalty for violations shall be as follows:
  - 1.** For each day, up to 10 days - not more than \$25 per day;
  - 2.** For each day, 11 to 25 days - not more than \$50 per day;
  - 3.** For each day beyond 25 days - not more than \$75 per day.
- F.** If any person shall undertake any activity vis-à-vis a historic site or improvement within a historic district without first having obtained a Certificate of Appropriateness, he shall be required to restore same.

#### **§17:10-26. INJUNCTIVE RELIEF**

In the event that 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 Certificate of Appropriateness having been issued, the Zoning Officer is hereby authorized to apply to the Superior Court of New Jersey for such injunctive relief as is necessary to prevent the destruction of such site or district.

#### **§17:10-27. PREVENTIVE MAINTENANCE**

Recognizing the need for preventive maintenance to insure the continued useful life of historic sites and structures in historic districts, the Plainfield City Council hereby declares that code enforcement vis-à-vis historic sites and structures

in historic districts is a high municipal priority.

All historic sites and all buildings and structures in a historic district shall be maintained so that all exterior walls, roofs, stairs, porches, windows and door frames are in a watertight condition. Cornices, entablatures, wall facings, trim and similar decorative features shall be maintained so as to prevent deterioration and any deterioration which adversely affects the overall character of the building or the district in which the building is located is prohibited.

In the event that any landmark or improvement in a historic district deteriorates to the point that, in the best estimate of the Division of Inspections, the cost of correcting the outstanding code violations equals more than twenty-five percent (25%) of the cost of replacing the entire improvement on which the violations occur, the Division shall serve personally or by certified mail, return receipt requested, a notice on the owner of the site or structure, listing the violations, the estimate for their abatement, and the replacement cost of the improvement and stating that if the owner does not take all necessary remedial action within ninety (90) days, or such extensions as the Division shall for good cause grant, The City of Plainfield's designated official may, at the expiration of ninety (90) days, enter upon the property and abate such violations itself and cause the cost thereof to become a lien on the property.

Upon receipt of such notice, the owner may, within ten (10) days after such receipt, notify the Division of Inspections of his/her wish to have a hearing as to the allegations and estimates set forth in the Division's notice. Such hearing shall be conducted by the Commission and shall, so far as possible, be a formal proceeding in which the Division of Inspections shall establish the matters alleged in the notice by a preponderance of the evidence.

If the owner does not request a hearing, the procedures set forth in (c) above shall be binding. If a hearing is requested, the administrative officer will, within 10 days following the hearing, serve on the owner an opinion in writing setting forth his conclusions and the reasons therefore. Such opinion shall be deemed to be a first notice pursuant to paragraph (c) hereof.

Thereafter, if the owner does not comply, the Division may enter onto the premises and by use of municipal labor or outside contractors or both, perform such work as is necessary to abate all violations.

The head of the Division shall then certify to City Council the cost of such work, plus all administrative, clerical and legal costs and overhead attributable thereto and shall present the same to City Council.

The City Council may, by resolution, vote to cause the sum so certified to become a lien upon the site or property, payable within the next quarter's property taxes, and, if not then paid, bearing interest at the same rate as delinquent taxes.

In addition to the remedies set forth herein, any violation of the preventive maintenance standards of this Ordinance shall be subject to the penalties set forth in Section 17:10-31 of this Ordinance.

#### **§17:10-28. ENFORCEMENT**

It shall be the duty of all municipal officials of the City of Plainfield reviewing all permit applications involving real property or improvements thereon to determine whether such application involves any activity which should also be the subject of an application for a Certificate of Appropriateness or subject to review by the Historic Preservation Commission. If it should, the Officer shall inform both the Secretary of the Commission and the applicant.

#### **§17:10-29. SEVERABILITY**

In the event that any portion of this article is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the article actually adjudged invalid and shall not be deemed to affect the operation on any other portion hereof.

**§17:10-30. INTERPRETATION**

This article shall be liberally construed to affect the purposes set forth herein. In the event that this ordinance conflicts with State Law, State Law shall take precedence.

**§17:10-31. RELATIONSHIPS TO EXISTING CODES**

This Ordinance is prospective only and these regulations shall not apply to any structures for which approval by either the Planning Board or Zoning Board of Adjustment has already been granted.