

CITY COUNCIL

The City of Orange Township, New Jersey

DATE May 19, 2015

NUMBER 22-2015

**AN ORDINANCE AMENDING CHAPTER 210 OF THE MUNICIPAL
TITLE: CODE OF THE CITY OF ORANGE TOWNSHIP ENTITLED
DEVELOPMENT REGULATIONS
REGARDING THE HISTORIC PRESERVATION COMMISSION**

Sponsored by: Council Member Donna K. Williams

WHEREAS, on September 3, 2013, the City Council for the City of Orange Township (hereafter the "City") adopted Ordinance Numbered 34-2013 and Ordinance Numbered 35-2013 which established a Historic Preservation Commission under Article X and Historic Preservation Controls under Article XI of Chapter 210 of the Municipal Code of the City of Orange Township (hereafter the "Code"); and

WHEREAS, the City Council desires to seek certification as a Certified Local Government (hereafter "C.L.G.") from the State of New Jersey's Department of Environmental Protection, Natural & Historic Resources - Historic Preservation Office (hereafter "H.P.O."); and

WHEREAS, such certification will make the City: (1) eligible to apply for a portion of the State's grant funding for historic sites survey and historic preservation planning projects; (2) better able to become more involved in New Jersey and federal historic preservation programs; and (3) better able to coordinate and cooperate with the H.P.O.; and

WHEREAS, to receive such certification, the City shall have to amend its current Code to better conform with the guidelines established by the H.P.O.; and

WHEREAS, the City Council for the City of Orange Township feels that said amendment is in the best interests of the citizens and residents of the City.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Orange Township that Chapter 4 of the Code is amended and supplemented as follows:

I. ORDINANCE

Chapter 210 DEVELOPMENTAL REGULATIONS

ARTICLE X Historic Preservation Commission

[Adopted 9-3-2013 by Ord. No. 34-2013]

§ 210-77. Establishment.

Pursuant to N.J.S.A. 40:55D-65(i) and 107 et seq., the Historic Preservation Commission (hereafter the "Commission") of the City of Orange Township (hereafter the "City") is hereby established: to advise the Planning Board and Zoning Board of Adjustment on applications as provided for herein, and to make written reports to the Administrative Officer on applications for Certificates of Appropriateness.

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§ 210-77.1. Definitions.

ADMINISTRATIVE OFFICER shall mean the Zoning Officer in the case of a subdivision application, and Construction Official in the case of an application for demolition, relocation or removal.

CERTIFICATE OF APPROPRIATENESS shall mean an approval of an application to demolish an historic structure and/or to subdivide a property whereon an historic structure is located, upon recommendation from the Historic Preservation Commission.

DEMOLITION shall mean destruction of the front façade with a primary entrance or any façade facing the public street of an historic property, structure, site or district; destruction of more than one-half (50%) of the original historic designated property, site, structure or district; or destruction of one or more of an historic property's structure's, site's or district's architectural elements that define or is key to its historic significance or character.

RELOCATION shall mean the transport of a building to a new location, by means adequate to assure structural and architectural integrity, for continuation of the designed use of the building, or an adaptive reuse pursuant to the regulations of the United States Department of the Interior.

§ 210-78. Membership.

The Historic Preservation Commission shall consist of ~~nine (9)~~ seven (7) regular members and two (2) alternate members. ~~Seven (7) regular members shall be appointed by the City Council and two (2) regular members shall be appointed by the Mayor. One (1) alternate member shall be appointed by the City Council and one (1) alternate member shall be appointed by the Mayor~~ Members shall be appointed by the Mayor with the advice and consent of the City Council. Members at the time of the passing of this Article shall serve without compensation and shall be interested in or qualified to contribute to the preservation of historic resources. The provisions of this Ordinance shall not apply to the initial appointments previously made under Ordinance Numbers 34-2013 and 35-2013. Those members previously appointed shall serve for the remainder of their respective terms which upon the expiration of said terms; the provisions of this Chapter shall then apply. At the time of appointment, members shall be designated by the following classes:

Class A - A person who is knowledgeable in building design and construction or architectural history.

Class B - A person who is knowledgeable, or with a demonstrated interest in, local history.

Class C - Citizens of the municipality who 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. At the time of appointment, alternate members shall be designated as "Alternate No. 1" and "Alternate No. 2." Of the ~~nine (9)~~ seven (7) regular members, at least ~~four (4)~~ two (2) members shall be of Classes A and B. All members shall reside in the City.

§ 210-79. Terms of office.

The terms of the regular members appointed shall be four (4) years; the term of an alternate member shall be two (2) years. Should a vacancy occur otherwise than by expiration of term; said term shall be filled within sixty (60) days for the unexpired term only. Notwithstanding any other provision herein, the term of any member common to the Historic Preservation Commission and the Planning Board shall be for the term of membership on the Planning Board; and the term of any member common to the Historic Preservation Commission and the Zoning Board of Adjustment shall be for the term of membership on the Zoning Board of Adjustment. The 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. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

§ 210-80. Vacancies.

Should a vacancy occur otherwise than by expiration of term; said vacancy shall be filled within sixty (60) days as above for the unexpired term only.

§ 210-81. Conflict of interest.

No member of any Historic Preservation Commission shall be permitted to act on any matter in which said member has, either directly or indirectly, any personal or financial interest.

A member of the Historic Preservation Commission may, after a public hearing, if requested, be removed by the Orange City Council for cause.

§ 210-82. Organization.

The Historic Preservation Commission shall elect a Chairperson and Vice-Chairperson from its members and select a Secretary who need not be a member of the Commission and may be a City employee.

§ 210-83. Budget/employees.

The Orange City Council shall make provision in its budget and appropriate funds for the expenses of the Historic Preservation Commission. The Historic 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 City Attorney at the rate of compensation determined by the Orange City Council unless the Orange City Council by appropriation provides for separate legal counsel for the Commission. Expenditures pursuant to this section shall not exceed, exclusive of gifts or grants, the amount appropriated by the Orange City Council for the Commission's use.

The Commission shall appoint a consultant who is a recognized professional in the field of architectural history, historic preservation or similar discipline to advise the Commission on applications before it. If the consultant has rendered an oral or written opinion, the Commission must consider the opinion of the consultant in rendering its decision and must give a statement of reasons in the event that the consultant's recommendations are not followed.

The Mayor or his designee, and the Director of the Department of Planning and Development shall provide such technical, administrative and clerical assistance as the Historic Preservation Commission shall require. For budgeting and purchasing purposes, however, the Commission shall be allocated its own budget.

§ 210-84. Rules of commission.

The Historic Preservation Commission shall adopt written rules for the transaction of its business and for the consideration of applications for Certificates of Appropriateness and for designations of historic districts and sites. Such rules shall not be inconsistent with the provisions of this section of the City Zoning Ordinance and shall include but not be limited to rules pertaining to all notices and hearings required herein.

In order to make available to the public information useful to the preservation and protection of historic resources and to provide the basis for consistent policy, the Commission shall maintain complete files and records including, but not limited to, data used in the classification of buildings, places and structures, minutes of Commission meetings, applications for Certificates of Appropriateness along with collateral data, decisions and appeals associated therewith, and information, materials and references submitted to the public related to historic preservation.

Such materials shall be the property of the City but held in the custody of the Commission which shall keep a complete file of all records in the offices of the Department of Planning and Development, the City libraries or other suitable facilities or depositories and lend materials from time to time for public display.

§ 210-85. Meeting quorum.

The Historic Preservation Commission shall establish a regular schedule of meetings on at least a quarterly basis. Additional meetings may be called by the Chairperson or Vice Chairperson when the regular meetings are inadequate to meet the needs of its business, to handle emergencies, or to meet time constraints imposed by law.

Five (5) members shall constitute a quorum. Ex-officio members are not entitled to vote. 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 designate or dedesignate a historic site or district.

A record of the proceedings shall be kept and made available but a formal verbatim record shall not be required.

§ 210-86. Informational meetings.

Persons considering action that may require a Certificate of Appropriateness, even if they are in doubt as to whether such is required, are encouraged to request an informal "informational meeting" with the Historic Preservation Commission. Requests for such informational meetings can be made to the administrative officer. The Commission shall hold such informational meetings within forty-five (45) days of receipt of such request. The purpose of an informational meeting is to inform the persons of the standards of appropriateness and the procedures for obtaining a Certificate of Appropriateness, if such is required.

The Commission may grant a Certificate of Appropriateness at an informational meeting, if the preliminary data and drawings are sufficiently explicit, for projects which it deems to be very minor, involving exterior repairs or alterations to existing buildings, signs, walls or fences.

§ 210-87. Emergency procedures.

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 City codes, without first obtaining a Certificate of Appropriateness. 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. A request for the Commission's review shall be made simultaneously with the onset of emergency work. Such emergency work shall be permitted only if the Construction Official certifies to the administrative officer the immediate necessity for such permit issuance. Upon notice by the administrative officer to the full Historic Preservation Commission by telephone, personal contact or other appropriate means of communication, at least three (3) members of the Commission shall convene as soon as possible and such convening members shall proceed to review the Certificate of Appropriateness application as provided in this chapter. Subsequent to such review, a Certificate of Appropriateness may be issued upon a majority vote of the members convened.

§ 210-88. Duties, powers and responsibilities of Commission.

The Historic Preservation Commission shall have the following duties, powers and responsibilities:

- A. To identify, record and maintain a system for survey and inventory of all buildings, sites, places, landmarks and structures of historical or architectural significance based on the United States Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (Standards and Guidelines for Identification); and to aid the public in understanding their worth, methods of preservation, techniques of gathering documentation and related matters.
- B. To advise the Planning Board on the relationship of the historic preservation plan element of the Master Plan to other Master Plan elements.
- C. To advise the Planning Board on the inclusion of historic sites and landmarks in the recommended capital improvement program.
- D. To advise the City Council and Planning Board on the relative merits of proposals involving public funds to restore, preserve and protect historic buildings, places and structures, including the preparation of long-range plans therefore, securing state, federal and other grants and aid to assist therein and monitoring such projects once underway.
- E. To recommend to the Planning Board and the City Council the designation of additional historic districts and sites where appropriate, in accordance with the procedures and criteria for designation of set forth in Sections 210-90 and 210-91.

- F. To draft and recommend to City Council and the Planning Board ordinances or amendments to existing ordinances that would resolve any conflicts which may exist between the design standards of the historic preservation ordinance and the building or zoning regulations of the City.
- G. Provide written reports pursuant to N.J.S.A. 40:55D-111 and Sections 210-92 and 210-93 on the application of the zoning ordinance provisions concerning historic preservation.
- H. To advise the Planning Board and Zoning Board of Adjustment on applications for development pursuant to N.J.S.A. 40:55D-110 and Section 210-96.
- I. To purchase estates, easements, rights, restrictions and less than fee acquisitions, with the approval of City Council, and to acquire grants, assistance or aid either outright or in exchange in order to further the intent and purposes of this Article and the welfare of the City. The Commission may negotiate and recommend such arrangements subject, however, to approval of the City Council as necessary for any monetary expenditures, and, at the direction of City Council. Corporation Counsel shall assist the Commission in such arrangements.
- J. To advise and assist City officers, employees, boards and other bodies, including those at county, state and federal levels, on all matters which have potential impact on the historic buildings, places and structures in the City or on the physical character and ambiance of a historic district.
- K. To assemble and arrange for the proper care, cataloging and availability of materials relevant to the City's history.
- L. To secure the voluntary assistance of the public, and within the limits of the budget, to retain consultants and experts to assist the Commission in its work or to provide testimony in support of the Commission's position before other bodies, boards, commissions or courts.
- M. To cooperate with local, county, state or national historical societies, governmental bodies and organizations to maximize their contributions to the intent and purposes of this Article.
- N. To recommend to applicable county, state and federal agencies, where appropriate, recognition and protection of historic districts and historic sites and to review National and State Register nominations.
- O. To request the City Council to seek, on its own motion or otherwise, injunctive relief of violations of this Article or other actions contrary to the intent and purposes of this Article.
- P. To carry out such other advisory, educational and informational functions as will promote historic preservation in the municipality.

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ARTICLE XI Historic Preservation Controls

[Adopted 9-3-2013 as Ord. No. 35-2013]

§ 210-89. Purpose.

The purpose of this Article 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.

§ 210-90. 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.

§ 210-91. 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 (1) 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
- F. That have yielded, or may be likely to yield, information important in prehistory or history.

§ 210-92. 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 the existing Land Use Code under Chapter 210 of the Code of the City of Orange Township 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 eighteen (18) inches or more in diameter at breast height located within the public right-of-way.

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- 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.

§ 210-93. 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 forty-five (45) days of the referral of the application to the Historic Preservation Commission. If within the forty-five (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 forty-five (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.

§ 210-94. Application procedures.

Applications for Certificates of Appropriateness and for other actions of the Board shall be made on forms available therefor 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 Article 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.

§ 210-95. Action on applications.

- A. The applicant shall give at least ten (10) days notice of the time, date, place, and subject of the meeting in writing to each property owner within two hundred (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.

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- 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. 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 (2) year period, then the Certificate of Appropriateness shall be valid for the life of the building permit and any extensions thereof.

§ 210-96. 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 (1) 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 therefor at a public hearing and in its resolution of memorialization.

§ 210-97. 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.
- 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.

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- 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.

§ 210-98. 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 Orange Township and the public.

In addition to designation and regulation of historic sites and historic districts as set forth in this chapter, 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 Orange Township, New Jersey," which map accompanies and is hereby made a part of this chapter.

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

§ 210-99. 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.

§ 210-100. 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 Orange Township to demolish the structure, as otherwise provided by law, shall not be impaired or altered in any way by the provisions of this chapter.

§ 210-101. 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.

§ 210-102. 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 210-103 for the full notice period as defined in Section 210-104.
- 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 subsection C. above.

§ 210-103. 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:

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

§ 210-104. 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 tenth (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.

§ 210-105. 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 ten (10) days thereafter.

210-106. 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-a-vis the site or structure in the historic district.

§ 210-107. 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.

§ 210-108. 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 (1) 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.

§ 210-109. 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.

§ 210-110. Reconsideration of denial of Certificate of Appropriateness.

The Commission may refuse to reconsider for a period of one (1) 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.

§ 210-111. 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.

§ 210-112. 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.

§ 210-113. 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-a-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 chapter.
- 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 chapter.
- E. The penalty for violations shall be as follows:
 - (1) For each day, up to ten (10) days - not more than twenty-five dollars (\$25.) per day;
 - (2) For each day, eleven (11) to twenty-five (25) days - not more than fifty dollars (\$50.) per day;
 - (3) For each day beyond twenty-five (25) days - not more than seventy-five dollars (\$75.) per day.

If any person shall undertake any activity vis-a-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.

§ 210-114. 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.

§ 210-115. Preventive maintenance.

- A. Recognizing the need for preventive maintenance to insure the continued useful life of historic sites and structures in historic districts, the Orange City Council hereby declares that code enforcement vis-a-vis historic sites and structures in historic districts is a high municipal priority.
- B. 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.

- C. In the event that any landmark or improvement in a historic district deteriorates to the point that, in the best estimate of the Department of Planning and Development, 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 Department 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 Department shall for good cause grant, the City of Orange'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.
- D. Upon receipt of such notice, the owner may, within ten (10) days after such receipt, notify the Department of Planning and Development of his/her wish to have a hearing as to the allegations and estimates set forth in the Department's notice. Such hearing shall be conducted by the Commission and shall, so far as possible, be a formal proceeding in which the Department of Planning and Development shall establish the matters alleged in the notice by a preponderance of the evidence.
- E. If the owner does not request a hearing, the procedures set forth in subsection C. above shall be binding. If a hearing is requested, the administrative officer will, within ten (10) days following the hearing, serve on the owner an opinion in writing setting forth his conclusions and the reasons therefor. Such opinion shall be deemed to be a first notice pursuant to subsection C. hereof.
- F. Thereafter, if the owner does not comply, the Department 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.
- G. The Director of Planning and Development 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.
- H. 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.
- I. In addition to the remedies set forth herein, any violation of the preventive maintenance standards of this Article shall be subject to the penalties set forth in Section 210-113 of this Article.

§ 210-116. Enforcement.

It shall be the duty of all municipal officials of the City of Orange Township 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.

§ 210-117. 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.

§ 210-118. Interpretation.

This Article shall be liberally construed to affect the purposes set forth herein. In the event that this Article conflicts with state law, state law shall take precedence.

§ 210-119. Relationships to existing codes.

This Article 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.

II. SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

III. INCONSISTENT ORDINANCE

Any Ordinance inconsistent with this Ordinance is repealed, but only to the extent of such inconsistencies.

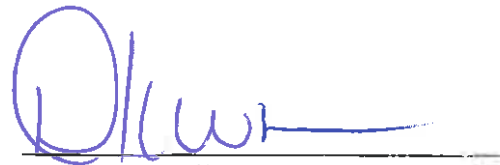
IV. EFFECTIVE DATE

This Ordinance shall take effect twenty (20) days after passage unless waived by Resolution of City Council.

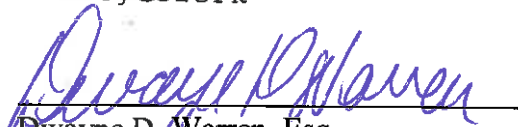
Adopted: May 19, 2015



Joyce L. Lanier
City Clerk



Donna K. Williams
Council President



Dwayne D. Warren, Esq.
Mayor

Purpose: To amend the Code for the Historic Preservation Commission to conform with the guidelines of the State of New Jersey's Historic Preservation Office.

Fiscal Impact: None.

ORDINANCE NO. 22- 2015

**REGULAR MEETING- APRIL 21, 2015
INTRODUCTION-FIRST READING**

MOTION TO ADOPT: Corbitt

SECOND: Gaunt-Butler

YEAS: Coley, Corbitt, Eason, Gaunt-Butler, Johnson, Summers-Johnson & Council Pres. Williams

NAYS: None

ABSTENTIONS: None

ABSENCES: None

**REGULAR MEETING – 5/19/2015
SECOND READING / PUBLIC HEARING 5/19/2015**

MOTION TO ADOPT: Eason

SECOND: Johnson , Jr.

YEAS: Coley, Corbitt, Eason, Gaunt-Butler, Johnson, Summers-Johnson & Council Pres. Williams

NAYS: None

ABSTENTIONS: None

ABSENCES: None