

**APPENDIX III**

**AN ORDINANCE ESTABLISHING  
A HISTORIC PRESERVATION COMMISSION AND PROVIDING FOR THE  
DESIGNATION AND PRESERVATION OF HISTORIC DISTRICTS AND  
HISTORIC LANDMARKS IN THE TOWN OF WESTFIELD**

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**§ 1. SHORT TITLE AND INDEX.**

A. **Title.** This ordinance shall be known as and may be cited as "Historic Designation and Preservation Ordinance of the Town of Westfield."

B. **Index.**

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**§ 2. FINDINGS, PURPOSE AND POLICY.**

A. The Town Council of the Town of Westfield finds and determines as follows:

1. The historical, cultural, architectural and social heritage of the Town of Westfield is given in trust from generation to generation to be used, enriched and then passed on; and
2. The character, life-style and very quality of life in the Town of Westfield depend in great measure upon the Town's protecting this heritage of the past; and
3. The ongoing presence of historic districts and landmarks, as an essential element of municipal character and identity, is an important factor in the economy of the municipality and the property values therein; and
4. Such historic districts and landmarks are vital to the education and civic-mindedness of the Town's young people; and

5. A number of critical factors such as deterioration, demolition and redevelopment and resubdivision threaten such landmarks and districts; and
  6. The welfare of the municipality is dependent on the preservation of its historic heritage for the reasons set forth above.
- B. It is therefore determined that there is a special public interest in the preservation of this heritage which requires the designation and regulation of historic districts and historic landmarks as provided in this ordinance, which public interest has been recognized by the State of New Jersey in N.J.S.A. 40:55D-2(j) and N.J.S.A. 40:55D-65(i).
- C. In adopting this ordinance it is the intention of the Town Council to designate and regulate historic sites and historic districts within the Town consistent with and pursuant to authority granted under the New Jersey Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-1 et seq. In accordance with provisions therein (N.J.S.A. 40:55D-107), this ordinance provides for creation of an agency that can assist the Town in establishing a system of preventive regulation, based on a rational plan and objective, which will complement existing land use and construction code legislation. The controls herein established are compatible with the New Jersey State Uniform Construction Code (N.J.A.C. 5:23) and are responsive to the Historic Preservation Plan Element of the Town of Westfield Master Plan and the applicable provisions of the MLUL, including but not limited to N.J.S.A. 40:55D-2(j), 40:55D-28(b)(10), 40:55D-65(i), 40:55D-65.1, and 40:55D-107 through -112.
- D. Nothing contained herein shall supersede the powers of other local legislative or regulatory bodies or relieve any property owner of complying with requirements of any other state statutes or municipal ordinances or regulations.
- E. In the event of any inconsistency, ambiguity and/or overlapping of requirements promulgated by the municipality, the more restrictive shall apply.
- F. This ordinance should not be construed as requiring or prohibiting the use of any particular architectural style; rather, the purpose is to preserve the past by making it compatible with and relevant to the present. To that end, new construction in or near a landmark or historic district should not necessarily duplicate the style of the landmark or historic district; it should simply be compatible with, and not detract from, the landmark or historic district.

### § 3. DEFINITIONS.

For the purpose of this ordinance and unless the context clearly indicated otherwise, the following words and phrases shall have the meanings ascribed to them by this section.

- A. **Addition.** The construction of new improvements as part of an existing improvement when such new improvement changes the exterior appearance of any landmark or existing improvement in a historic district.
- B. **Administrative Officer.** The Zoning Officer, Construction Official, or any other official of the Town of Westfield, as applicable, who is authorized and required as a component of his/her job description and employment to accept, review, and act on permit applications in accordance with the ordinances and regulations of the Town.
- C. **Alteration.** Any work done on any improvement which:
  - 1. is not an addition to the improvement; and
  - 2. changes the appearance of the exterior surface of any improvement.
- D. **Demolition.** The razing of any improvement or the obliteration of any natural feature of a landmark.
- E. **Façade.** The exterior elevation of a building as viewed from a single vantage point. The façade shall include the entirety of the building wall or walls making up the elevation, as well as any parapets, fascia, windows, doors, canopies, decorative features, and visible roof structures.
- F. **Historic district.**
  - 1. One or more historic landmarks and intervening or surrounding property significantly affecting, or affected by, the quality and character of the historic landmark or historic landmarks.
  - 2. A historic district may also consist of a definable group of tax map lots, the improvements on which when viewed collectively:
    - a. represent a significant period or periods in the architectural and social history of the municipality; and/or
    - b. because of their unique character can readily be viewed as an area or neighborhood distinct from surrounding portions of the municipality; or

- c. have a unique character resulting from their architectural style.

Except as otherwise stated, all references to landmarks in this ordinance shall be deemed to include historic districts as well.

G. **Historic landmark, historic site, (or landmark).** Any real property, man-made structure, natural object or configuration or any portion or group of the foregoing which have been formally designated on the Zoning Map of the Town of Westfield as being of historical, archeological, cultural, scenic, or architectural significance which:

1. is of particular historic, cultural, scenic or architectural significance to the Town of Westfield and in which the broad cultural, political, economic or social history, state or community is reflected or exemplified; or
2. is identified with historic personages or with important events in the main current of national, state or local history; or
3. shows evidence of habitation, activity or the culture of prehistoric man; or
4. embodies a distinguishing characteristic or an architectural type valuable as representative of a period, style or method of construction; or
5. represents a work of a builder, designer, artist or architect whose individual style significantly influenced the architectural history of the municipality; or
6. is imbued with traditional or legendary lore.

All landmarks shall specifically be identified within the historic preservation plan element of the Town Master Plan as recognized by the provisions of N.J.S.A. 40-55D-28(b)(10).

The designation of a landmark shall be deemed to include the lot or lots on which it is located.

The terms "historic landmark," "historic site," and "landmark" shall be used interchangeably in this Ordinance.

H. **Improvement.** Any structure or part thereof constructed or installed upon real property by human endeavor and intended to be kept at the location of such construction or installation for a period of not less than sixty (60) continuous days.

I. **Minor application.** Any application for a certificate of appropriateness which does not involve demolition, relocation, or

removal of a landmark, addition to a landmark, alterations affecting 10% or more of the surface area of any façade of a landmark building, or construction of a new structure in an historic district.

- J. **Major application.** Any application for a certificate of appropriateness which involves demolition, relocation, or removal of a landmark, addition to a landmark, alterations affecting 10% or more of any façade of a landmark building, or construction of a new improvement in an historic district. Demolition of any improvement is also subject to a permit therefore obtained from the Town Council in accordance with provisions of the Town Code affecting demolitions.
- K. **Reconstruction.** The act or process of reproducing by new construction the exact form and details of a vanished building, structure, or object or part thereof, as it appeared at a specific period of time.
- L. **Rehabilitation.** The act or process of returning the exterior of an improvement to a state of utility through repair of alteration which makes possible an efficient contemporary use while preserving those portions or features of the improvement which are significant to historical, architectural and cultural values.
- M. **Repair.** Work done on any improvement which:
  - 1. is not an addition to the improvement; and
  - 2. does not change the appearance of the exterior surface of any improvement.
- N. **Replacement.** Repairs when a building permit is required for same.
- O. **Restoration.** The act or process of accurately recovering the form and details of the exterior of an improvement by means of the removal of later work or by the reconstruction of missing earlier work.

#### § 4. HISTORIC PRESERVATION COMMISSION.

- A. **Establishment.** There is hereby established a commission, pursuant to N.J.S.A. 40:55D-107, which shall be known as the Historic Preservation Commission. Among other powers and responsibilities, this Commission is hereby given, pursuant to N.J.S.A. 40:55D-109(e), authority to grant or deny approvals for certificate of appropriateness under Section 6.0 hereof.
- B. **Membership.** The Commission shall consist of nine (9) regular members consisting of the following classes, and two (2) alternates as set forth below:

1. Class A. Two (2) persons who are knowledgeable in building design and construction or architectural history, not more than one of whom may reside outside of Westfield.
2. Class B. Two (2) persons who are knowledgeable or have a demonstrated interest in local history, not more than one of whom may reside outside of Westfield.

The Town Historian shall be one of those persons appointed as a Class A or Class B member.

3. Class C. Five (5) persons who shall be citizens of the municipality who shall hold no other municipal office, position or employment, with the permitted exception of membership on the Planning Board or Zoning Board of Adjustment.
4. Alternates. There shall be two (2) alternate members, designated as "Alternate No. 1" and "Alternate No. 2", who shall meet the qualifications of Class C members.
5. Planning Board Liaison. At least one (1) regular member of the Commission, whether qualified as a Class A, B, or C member, shall be a member of the Planning Board.
6. All Commission members shall have demonstrated interest, competence, and/or knowledge in historic preservation.
7. To the maximum extent feasible, the Commission shall include members from the disciplines of planning, architecture, landscape architecture, history, architectural history, historic architecture, and archaeology who meet the professional qualifications set forth by the State Historic Preservation Office for New Jersey Certified Local Governments.

C. **Appointment; terms; vacancies; removal of members.** All members shall be appointed by the Mayor with the concurrence of the Town Council, except that the designated Planning Board liaison shall be appointed by the Chairperson of the Planning Board. Members shall serve for the following terms:

1. Regular members shall serve for four (4) year terms, except for the first regular members, two (2) of whom will have one (1) year terms, two (2) of whom will have two (2) year terms, and three (3) of whom will have three (3) year terms.
2. Alternate members shall serve a term of two (2) years, except for the first alternates, one of whom shall serve for one (1) year.

3. Notwithstanding any other provision herein, the term of any member common to the Historic Preservation Commission and the Planning Board or Zoning Board of Adjustment shall be coterminous with his or her term of membership on the Planning Board or Zoning Board of Adjustment.
4. Vacancies shall be filled in the same manner by which the previous incumbent was appointed and such appointee shall serve only for the balance of such incumbent's unexpired term.
5. Any member of the Commission may, after public hearing if he requests it, be removed by the Town Council for cause.
6. Commission members and alternate members shall receive no compensation.

**D. Officers and staff.**

1. The Commission shall elect from its regular members a Chairperson and a Vice Chairperson.
2. The Commission shall appoint a Secretary who need not be a member of the Commission.
3. The Commission shall utilize the Town Attorney as its counsel.
4. The Mayor shall designate a member of the Town Council to act as a liaison between the Historic Preservation Commission and the Council.
5. Within the limits of funds appropriated by the Town Council for the performance of its work, and any grants or gifts provided through other sources, the Commission may obtain the services of qualified persons to direct, advise and assist the Commission and may obtain the equipment, supplies and other material necessary to its effective operation.
6. The Commission is empowered to seek advisory opinions and technical assistance from all municipal employees on any matter within the Commission's jurisdiction.

**E. Rules and procedures.** The Commission shall adopt written by-laws or rules of procedures applicable to the conduct of its business, which shall be available to the public, and which are subject to the following:

1. All meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-6 et. seq.).

2. The Secretary shall keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations, and decisions. All material shall be public record and copies of same shall be provided to the Town Clerk.
3. A quorum for the transaction of business shall consist of five (5) of the Commission's members including the Chairperson, or in his or her absence, the Vice Chairperson.
4. No Commission member may act on any matter in which s/he has, either directly or indirectly, any personal or financial interest.
5. Alternate members may participate in discussions but may not vote except in the absence or disqualification of a regular member.
6. 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.
7. A simple majority of affirmative votes is required to grant a certificate of appropriateness. If a certificate of appropriateness is not granted when voted on by the Commission, it shall be considered denied.
8. All actions to grant, change or deny a certificate of appropriateness shall be by formal written resolution containing findings of fact and conclusions which shall be adopted as a memorialization after the action has been taken.
9. The Commission shall annually establish a schedule of regular monthly meetings, which shall be noticed and posted in Town Hall in accordance with the Open Public Meetings Act. Additional meetings may be called by the Chairperson or Vice Chairperson, as may be required to fulfill the obligations of the Commission on notice duly provided in conformance with the Open Public Meetings Act.

F. **Powers and duties.** The Commission shall have the authority and responsibility to:

1. Adopt and promulgate such rules and procedures not inconsistent with this ordinance as are necessary and proper, for the effective and efficient performance of the duties assigned herein.
2. Survey the Town of Westfield to identify those buildings, structures, sites, improvements, and/or areas that qualify

for designation as historic landmarks or historic districts pursuant to the criteria set forth herein.

3. Maintain and update the survey of historic sites and districts in the Town of Westfield.
4. Make recommendations to the Planning Board on the Historic Preservation Plan Element of the Master Plan, particularly regarding the inclusion of historic districts and historic sites identified by its survey identifying same, and on the implications for preservation of historic sites upon all other elements of the Master Plan.
5. Recommend to the Town Council sites and districts that are qualified for historic designation by zoning ordinance amendment in accordance with the criteria and procedures set forth in § 5.0 hereof.
6. Hear and decide applications for certificate of appropriateness pursuant to § 6.0 hereof.
7. Advise the Planning Board and Board of Adjustment on all applications for development pertaining to historic zoning districts, or historic sites designated on the zoning map or identified in any component of the Master Plan pursuant to N.J.S.A. 40:55D-110.
8. Review all permit applications affecting historic sites or property in historic districts and provide written reports to the Administrative Officer (as such term is defined in Section 3.B. hereof) on the application of the provisions of this ordinance to any of those aspects of the change proposed, which were not determined by approval of an application for development by the Planning Board or Zoning Board of Adjustment, pursuant to N.J.S.A. 40:55D-111.
9. Advise the Planning Board on the inclusion of landmarks and historic districts in the capital improvement program.
10. Collect and disseminate material on the importance of historic preservation and techniques for achieving same.
11. Advise all municipal agencies regarding goals and techniques of historic preservation.
12. Advise and assist citizen groups and individuals interested in establishing landmarks and historic districts.
13. Report at least annually to the Planning Board and the Town Council on the state of historic preservation in the municipality and recommend measures to improve same.

**§ 5. DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS.**

A. **Criteria for Designation.** In establishing and maintaining its survey of historic landmarks, the Commission shall be guided by the National Register Criteria. The survey shall be used as a basis for identifying sites and districts worthy of designation. The Commission shall consider for designation districts and sites that have integrity of location, design, setting, materials, workmanship, and association, and that meet one or more of the following criteria:

1. Character, interest, or value as part of the development, heritage, or cultural characteristics of the Town, State, or Nation;
2. Identification with a person or persons who significantly enriched the Town, State, or Nation;
3. Site of an historic event which had significant effect on the development of the Town, State, or Nation;
4. Embodiment of distinguishing characteristics of a type, period, or method of construction, architecture, or engineering;
5. Identification with the work of a builder, designer, artist, architect, or landscape architect whose work has influenced the development of the Town, State, or Nation;
6. Embodiment of elements of design, detail, materials or craftsmanship that render a site architecturally significant or structurally innovative;
7. Unique location of singular physical characteristics that make a district or site an established or familiar visual feature;
8. Likely to yield information important in prehistory or history.

B. **Procedures for Designation.** The Commission shall consider designation of a district or a site in accordance with the procedures that follow.

1. The Commission shall institute the process for designation of historic sites and districts by providing relevant information to the owner(s) of the property or properties proposed for such designation.
2. The Commission shall provide each owner with a copy of this ordinance and shall advise each owner of the following:

- a. The reasons it believes the proposed site or district may qualify for historic designation;
  - b. The significance and consequences of historic designation; and
  - c. The administrative steps to be undertaken pursuant to this ordinance before such landmark or historic district may be formally designated, emphasizing the means and methods for each owner to present their views at hearings or by petition prior to such formal designation.
3. In the case of a proposed historic site, the Commission shall secure the written consent of the owner(s) of record of such site before taking any further action toward historic designation.
4. In the case of a proposed historic district, the Commission shall secure the written consent of the owner(s) of at minimum, 75% of the properties located within such proposed district, before taking any further action toward historic designation.
5. For each proposed district or site, the Commission shall prepare a report including: a description of the proposed site or district, a description of its significance pursuant to the criteria set forth above, a description of the site or district's location and boundaries, photographs showing current conditions of the site or district inclusive of relevant structure(s) located thereon, and a map depicting the location and boundaries of the site or district. For proposed districts, the description shall include an inventory of all properties to be included by street address and by tax lot and block numbers.
6. After obtaining the required consents, the Commission shall schedule a public hearing on the proposed historic designation. At least twenty (20) days prior to the hearing date, the Commission shall, by personal service or certified mail:
  - a. Notify the owner(s) of record of each property proposed for designation that his/her or its property has been formally proposed for same and provide such owners with a copy of the Commission's report, inclusive of maps, photographs and any other information gathered during the course of the Commission's research; and

- b. Notify each owner of the date, time, and place of the public hearing scheduled to consider the proposed designation of the property.
7. The Commission shall, at least ten (10) days prior to the scheduled hearing date:
- i. File a copy of its full report (including maps and photographs) regarding the proposed designation(s) with the office of the Town Clerk, where it shall be made available for public inspection.
  - ii. Provide notice of the proposed designation by personal service or certified mail to the owner(s) of record of all properties located within 200 feet of the proposed site or of the boundaries of the proposed district as certified by the Town Tax Assessor. Such notice shall include a listing of the property or properties proposed for historic designation, the date, time, and place of the public hearing at which such designation will be considered, and information as to the hours and location at which the Commission report supporting the proposed designation will be available for public inspection.
  - iii. Provide public notice of the hearing by publication in the official newspaper, said notice to include the date, time, and place of the hearing, the intent and purpose of the hearing, identification by street address and Tax Block and Lot of the lot or lots that are the subject of the hearing, a map depicting said lot or lots, and the business hours and location at which the Commission's full report on the matter will be available for public inspection.
8. During the course of the public hearing, the Commission shall hear and consider testimony and evidence presented by any interested party concerning the proposed historic designation(s). The Commission shall maintain records of all objections and statements of support filed in the matter, including those filed by submission in writing prior to the hearing, and by written or oral testimony offered during the course of the hearing, complete with the name and address of the individual who provided it. After full consideration of the testimony and evidence brought forth at the public hearing, the Commission shall make its final decision on the proposed designation(s) and shall issue its final report, stating reasons in support of its actions with respect to each proposed landmark and historic district designation.

9. The Commission shall prepare a memorializing resolution setting forth its findings of fact, describing the public input received during the public hearings, and providing the rationale for its final decision on the historic designation(s), which shall be adopted within 45 days of the date on which the Commission approves or disapproves of the historic designation(s). The Secretary shall forward copies of the adopted resolution to the Town Council for filing with the Town Clerk, the Administrative Officer and the Planning Board.
10. Upon receipt by the Planning Board of the Commission's Resolution, the Planning Board shall perform a review pursuant to N.J.S.A. 40:55D-26 in the manner and within the time prescribed therein. The receipt of the Resolution from the Commission by the Planning Board shall be deemed a referral for review by the Town Council pursuant to the above stated statute.
11. Following receipt of any comments from the Planning Board, the Town Council shall then consider the Commission's action and may vote to approve, reject or modify the recommendations of the Commission, and may, in accordance with the requirements of the MLUL, including but not limited to N.J.S.A. 40:55D-65.1, 55D-64, 55D-26(a), adopt an ordinance designating as historic any sites and/or districts recommended by the Commission for such designation. Once adopted, the designation list and map may be amended to add thereto any such site or sites as may have been designated, in the same manner as previously designated sites were adopted. The Town Council shall, as a matter of policy, give substantial consideration to any objections and/or statements of support concerning the proposed designation(s) from the owners of the property proposed for designation. If the owner of an individual property proposed to be designated as a landmark objects to such designation, the Town Council shall not vote to designate that individual property as a landmark.
12. Copies of the designation list and map as adopted shall be made public and distributed to all municipal agencies reviewing development applications and all building and housing permits. A certificate of designation shall be provided by certified mail to the owner of each site included in the final list, and a true copy thereof shall be filed by the Town of Westfield with the County Recorder of Deeds for recordation in the same manner as certificates of lien upon real property.
13. Each designated historic district or landmark may be marked by an appropriate plaque in such form as the Commission shall promulgate by regulation.

14. Once an improvement has been designated a landmark or incorporated as an historic structure within an historic district, it may only be delisted therefrom by the same process required herein for its designation. If delisted, a certificate to that effect shall also be filed by the Town of Westfield with the County Recorder of Deeds.
15. All historic sites and historic districts designated by ordinance shall be based on identification in the Historic Preservation Plan Element of the Master Plan; provided that the Town Council may designate historic sites or districts not so identified upon affirmative vote of a majority of its members and provided the reasons for its actions are set forth in a resolution and recorded in its minutes (N.J.S.A. 40:55D-65.1).
16. A protest petition against a proposed historic site or district signed by the owners of twenty percent (20%) or more of the area of either, the lots or land included in the proposed designation, or of the lots or land extending 200 feet in all directions therefrom, inclusive of street space, may be filed with the Town Clerk. In such event, pursuant to N.J.S.A. 40:55D-63, the proposed designation shall become effective only by favorable vote of two-thirds (2/3) of all members of the Town Council.

**§ 6. CERTIFICATION OF APPROPRIATENESS.**

- A. **Actions requiring a certificate of appropriateness.** A certificate of appropriateness issued by the Commission shall be required before a permit may be issued by the Administrative Officer, including Zoning Officer and/or the Construction Official, for any of the following activities on the property of any designated landmark or within any designated historic district:
1. demolition of an historic landmark or of any improvement within any historic district;
  2. relocation of any historic landmark or of any improvement within any historic district;
  3. changes in the exterior appearance of any existing landmark or of any improvement within any historic district by addition, alteration, replacement, rehabilitation, restoration, reconstruction, or painting;
  4. changes in, or addition of, new signs or exterior lighting, except that no certificate of appropriateness shall be required for one (1) unlit sign per premises if the surface area of such sign does not exceed one (1) square foot for an identification sign, or four (4) square feet for a

commercial sign, providing either of same is attached to, and parallel to, a facade of the building or structure;

5. any new construction on an historic site or in an historic district; and
6. any change in the exterior appearance of any improvement within an historic district which itself does not have historic significance because same is of new construction, or for other reasons. Such change need not comply with the architectural requirements of the ordinance for that district, but any change shall be consistent with the architectural style of the improvement as constructed and shall insofar as practical be compatible with other structures nearby in the district.

**B. Exceptions.**

1. **Interior work, repairs, exact reconstruction.** A certificate of appropriateness shall neither be required for changes to the interior spaces of buildings nor for any repainting, repair or exact reconstruction of any existing improvement. In the event that the color or exterior surface material of the improvement would be changed as a result of such repainting, repair or exact replacement, a certificate of appropriateness shall not be required if the new color or exterior surface is one that has been previously approved by regulations duly promulgated by the Commission for similar improvements in that district. If such repainting, repairing, or exact replacement does not conform to said regulations, a certificate of appropriateness shall be required.
2. **Emergency repairs.** When, in the opinion of the Construction Official, a historic landmark requires immediate emergency repair to preserve the habitability and/or protect the health or safety of its occupants or others, which repair would otherwise require a certificate of appropriateness, temporary emergency repairs may be performed in accordance with Town codes without the necessity of first obtaining Commission review. Under such circumstances, the repairs performed shall only be such as are necessary to maintain the safety and habitability of the structure. No additional work shall be performed upon the structure until or unless the Commission grants a certificate of appropriateness pertaining to such work.

**C. Review of Permit Applications.**

1. The Administrative Officer shall in writing, notify all applicants for zoning, building, and/or other permits pertaining to activities requiring a certificate of

appropriateness that such certificate is required prior to the issuance of a permit. A copy of such notice shall be provided to the Historic Preservation Commission. Along with such notice, the Officer shall provide the applicant with the Commission's application materials and direct him or her to file an application in accordance with the instructions therein, to the Commission.

2. By confirmation from the Commission of receipt of such application, deemed by it to be complete, and inclusive of a copy of the Administrative Officer's notice advising the applicant of the need to file, the application shall be considered officially referred to the Commission by the Administrative Officer. The date on which the Commission deems the application complete shall be deemed the date of referral by the Administrative Officer.
3. The Commission shall, in accordance with N.J.S.A. 40:55D-111, provide a written report at the conclusion of its review of the request for a certificate of appropriateness, which shall describe the application of the provisions of this Ordinance to the activities proposed by the applicant.
4. In the case of an application approved by the Planning Board or Zoning Board of Adjustment, the Commission's review shall be confined to those aspects of the proposal not under the jurisdiction of and approved by the reviewing Board.
5. The Commission shall, pursuant to N.J.S.A. 40:55D-111, provide its written report to the applicant and to the Administrative Officer within 45 days of the Officer's referral to the Commission.
6. If, by its report to the Administrative Officer within the 45-day period, the Commission recommends against the issuance of a permit the Administrative Officer shall deny issuance of the permit.
7. If, in the case of a landmark demolition permit, the Commission's report filed with the Administrative Officer recommends against the issuance of a permit, and further recommends referral of the application to the Planning Board for consideration of its reservation under the Board's authority granted pursuant to N.J.S.A. 40:55D-44, the Administrative Officer shall deny issuance of the permit and so refer the application to the Planning Board along with the Commission's recommendations regarding reservation as authorized under N.J.S.A. 40:55D-44.
8. If, by its report to the Administrative Officer within the 45-day period, the Commission recommends that the permit be

approved with certain conditions, the Administrative Officer shall only approve the permit with the conditions as therein recommended.

9. Any Commission recommendation to the Administrative Officer in favor of permit issuance shall not be construed to relieve the applicant of his/her or its obligation to comply with any and all other applicable laws, ordinances, rules, regulations, or requirements outside of the jurisdiction of the Commission.
10. Failure of the Commission to report within the 45-day period, as provided at Section 6.D.5, above, shall be deemed to constitute a report in favor of the issuance of the permit, without the inclusion of conditions.
11. Nothing herein shall prohibit an extension of time by mutual agreement between the applicant and the Commission.

**D. Review of Planning and Zoning Board of Adjustment Applications.**

1. The Planning Board and Zoning Board of Adjustment shall refer to the Historic Preservation Commission every application submitted to either Board for development in historic districts or on historic sites designated on the zoning map or identified in any component of the Master Plan. Referral shall be made only when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner.
2. The Historic Preservation Commission may provide its advice and recommendations to the applicable Board, which shall be conveyed through designation of one of its members or staff, to testify orally at any hearing on the application and to explain any written report that the Commission may have submitted.
3. The Commission's review and recommendations shall focus on how the proposed activity would affect the historic or architectural significance of the designated site or district. In considering the Commission's recommendations, the Planning Board or Board of Adjustment shall be guided by the review criteria set forth at Section 8.0, herein.
4. Any approval by the Planning Board or Zoning Board of Adjustment shall not relieve the applicant of the requirement to apply to the Commission for a certificate of appropriateness regarding any aspect(s) of the proposed activity not specifically under the jurisdiction of and approved by the reviewing Board.

**§ 7. PROCEDURES FOR FILING AN APPLICATION.**

- A. All applications for certificate of appropriateness shall be filed with the Administrative Officer on forms promulgated by the Historic Preservation Commission and shall include all supplemental information as required herein to permit a full and accurate assessment and decision by the Commission in accordance with the review criteria set forth in Section 8 hereof.
- B. Any application submitted requesting a Certificate of Appropriateness shall be accompanied by a filing fee in the amount of fifty dollars (\$50.00). **[Amended 2-15-11 by Ord. No. 1975]**
- C. Within twenty (20) days of its receipt of an application for a certificate of appropriateness, the Commission, or a designated officer of the Commission, shall:
1. classify the application as a major or minor application in accordance with the definitions provided in Section 3 hereof;
  2. review the application for completeness in accordance with the submission requirements set forth in this Section;
  3. notify the applicant, in writing, of such completeness determination; and
  4. in the event the application is deemed incomplete, include within such notice, a list of the deficiencies that render the application incomplete and which the applicant must address in order for the application to be complete.

If such notice is not issued to the applicant within twenty (20) days of the Commission's receipt of the application, the application shall be deemed complete upon expiration of the 20-day period.

- D. **Checklist waivers.** The Administrative Officer shall maintain a checklist of the items necessary to be filed in support of an application, as promulgated by the Commission, which the Commission may modify as it shall deem appropriate. The Commission or its designee may waive submission of one or more required items in appropriate instances, however any request for such waiver(s) must accompany the application and shall include a statement of the reasons for such request.
- E. **Validity of submittals.** Nothing herein shall be construed as diminishing the applicant's obligation to prove entitlement to issuance of a certificate of appropriateness. The Commission may

require correction of any information found to be in error in the application and retains authority to require submission of items previously waived for submission, and/or any additional information not specified in the checklist, as may be reasonably required to make a decision upon the application. The application shall not be deemed incomplete for lack of any such additional information or corrections, however.

F. **Submission Requirements, Minor Applications.** Minor applications for a certificate of appropriateness shall include, at minimum, the following:

1. Completed certificate of appropriateness application forms, providing all information therein requested including a detailed description of the project proposal, with the original signature(s) of the owner(s) and/or applicant(s) and date(s) of signature included thereon.
2. Copy of current property survey prepared by a licensed Land Surveyor including metes and boundary lines and location and scale of all existing structures and improvements.
3. Photographs depicting existing building(s), structure(s) and conditions on the subject site and on immediately adjacent properties.
4. Specification of materials to be used in completing the project and proposed colors of exterior finishes.
5. Sketches or drawings illustrating the project, as proposed.
6. Copy of the Administrative Officer's notice advising the applicant of the need to file, if such notice was provided to the applicant.
7. Copy of any application approved by the Planning Board or Zoning Board of Adjustment, as applicable, along with the Board's memorializing resolution.
8. Such additional information as the applicant or the Commission may find necessary to clearly explain and/or illustrate the project proposal and to assess whether or not a certificate of appropriateness will be issued.

G. **Submission Requirements, Major Applications.** Major Applications for a certificate of appropriateness shall, in addition to the items required for minor applications listed at §7.E., above, include the following:

1. Scaled drawings prepared by a licensed professional depicting existing and proposed: site layout, building

elevations, floor plans, roof layout plans, and materials specifications.

2. For new buildings, additions to buildings, and/or those affecting 10% or more of the façade of a building, scaled professional drawings shall include detailed information concerning significant architectural elements, including but not limited to such items as windows, porches, porticos, chimneys, doors, stoops, cornices, and decorative features.
3. For new construction, a streetscape elevation drawn to scale, showing the new structure in the context of neighboring buildings.
4. A written statement or report prepared by a qualified professional (i.e., an individual knowledgeable in historic architecture who is also an architect, landscape architect, planner, architectural historian, or other like professional) discussing the relationship between the project proposal and the standards of review as set forth in Section 8 hereof.

H. The applicant shall file one (1) original and one (1) copy of the full application package for purposes of the completeness determination. Upon receipt of notification that the application has been deemed complete, the applicant shall provide eleven (11) additional copies of the full application for review by the members of the Commission.

I. **Review by Commission.**

1. **Minor Applications.** Minor applications may be scheduled for review at the next regularly scheduled meeting of the Commission following notification to the applicant that the application has been deemed complete. No public notice other than that required for the meeting of the Commission pursuant to § 4.E.1 and §4.E.9, hereof, shall be required. The Commission Secretary shall consult with the applicant regarding scheduling. The applicant need not be present for the application to be considered and acted upon, however, should the applicant wish to attend the meeting, every effort shall be made, within the time limits prescribed for Commission action on the application (pursuant to N.J.S.A. 40:55D-111 and Sections 6.C and 7.I, hereof) to accommodate the applicant's schedule.
2. **Major applications.** Major applications shall be considered and acted upon by the Commission only during the course of a duly-noticed public hearing at which any interested party may ask questions and be heard on the application. The Commission Secretary shall consult with the applicant

regarding scheduling of such hearing since the applicant or his/her duly authorized representative must attend such hearing to present and answer questions on the application. The Secretary shall make every effort, within the time limits prescribed for Commission action on the matter (pursuant to N.J.S.A. 40:55D-111 and Sections 6.C and 7.I, hereof), to accommodate the applicant's schedule.

At least ten (10) days prior to the agreed upon hearing date or in the absence of such agreement, the date the Commission sets to conduct a hearing upon the application:

- a. The applicant shall provide public notice of the hearing by certified mail or personal service to all the owners of property located within 200 feet of the lot lines of the landmark property, and by publication in the official newspaper.
- b. Said notice shall include the date, time, and place of the hearing, the name of the applicant, the intent and purpose of the hearing, identification by street address and Tax Block and Lot numbering of the lot or lots that are the subject of the hearing, and the business hours and location of the Town Clerk's Office where the application package will be available for public inspection.
- c. The applicant shall submit the required additional copies of the full application package required for Commission review pursuant to Section 7.G hereof, to the Commission Secretary or in the event of his/her unavailability to the Administrative Officer.

At least three (3) days prior to the public hearing:

- a. The applicant shall provide the Administrative Officer with an affidavit of proof of service properly acknowledged in accordance with applicable New Jersey law, certifying that all property owners within two hundred (200) feet of the lot lines of the landmark property have been sent a notice of the application by personal service or certified mail within the required time frame; and
- b. The applicant shall provide the Administrative Officer with proof of publication of the notice of the application in the official newspaper of the Town of Westfield.

J. **Time of decision.** The Commission shall be guided in its review and decision on any application for a certificate of appropriateness by the standards for review as set forth in

Section 8 hereof. The Commission shall render a decision on any application for a certificate of appropriateness within forty-five (45) days of the date on which it is deemed complete and compliance with the notice provisions of Section H hereof; otherwise such applications shall be deemed to have been approved. In the event of a referral by the Administrative Officer pursuant to Section 6.C, above, the Commission must provide its report to the Administrative Officer within the same 45-day period, and must therefore schedule such application for a public hearing to allow sufficient time to meet the forty-five (45) day requirement. Nothing herein shall prohibit an extension of time by mutual agreement of the applicant and the Commission.

**K. Report and resolution.**

1. After the Commission has rendered its decision on a certificate of appropriateness (pursuant to Section 7.H hereof), the Secretary of the Commission shall provide the Commission's Report of Decision to the applicant and to the Administrative Officer within the 45-day review period if referred by the Officer pursuant to §6.C, above, but in no event later than ten (10) days after the date of decision.
2. Thereafter, the Commission shall prepare a memorializing resolution setting forth its findings and incorporating its Report of Decision, which shall be adopted within thirty-five (35) days of the date of decision.
3. The Secretary shall notify the applicant in writing of such resolution, and provide the applicant with a certified copy thereof. A summary of the Commission's actions shall be published in the official newspaper of the Town of Westfield.
4. In the event of a mutually agreed upon extension of the 45-day time period, the Commission Secretary shall, in the case of a referral by the Administrative Officer, provide a status report on the application to the Officer not later than the 45<sup>th</sup> day after the application has been deemed complete.

**L. Informal review.**

1. Nothing in this Section shall preclude an applicant from requesting an informal review of a concept plan concerning any proposed project affecting a landmark or located within an historic district. The Commission shall provide for such informal review during a regularly scheduled meeting and shall offer its advice, comments, and any recommendations on the basis of the information provided. Neither the applicant nor the Commission shall be bound by an informal review, and an informal review shall not relieve the

applicant from the necessity to obtain a certificate of appropriateness, if required.

2. If during the course of an informal review, the Commission determines that the proposed plan is of such an insignificant nature that it will have negligible impact on the historic site or district in which it is located; that it clearly complies with the applicable standards of review; that no public hearing is otherwise required pursuant to § 7.H, hereof; and that the information presented is sufficient in and of itself to make such determinations; then it may, by affirmative majority vote, waive the requirement for submission of a formal application for a certificate of appropriateness in accordance with this Section, and forthwith grant a certificate of appropriateness for the project as proposed. The Commission shall adopt a resolution in the matter and provide it, along with a Report of Decision to the applicant in the manner prescribed at § 7.J, above.

#### **§ 8. STANDARDS OF CONSIDERATION.**

A. **Demolitions.** In regard to any application to demolish an historic landmark or any improvement or any other proposed action set forth in Section 6.A hereof within an historic district, the following matters shall be considered:

1. its historic, architectural and aesthetic significance;
2. its use, however, this consideration shall not be construed to supersede or interfere in any way with the uses permitted within any zoning district in the Town of Westfield, as set forth by the Land Use Ordinance, or otherwise permitted under the provisions of N.J.S.A. 40:55D-1 et seq;
3. its importance to the municipality and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest;
4. 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;
5. the extent to which its retention would promote the general welfare by maintaining and increasing real estate values; generating business; creating new jobs; attracting tourists, students, writers, historians, artists and artisans; attracting new residents; encouraging study and interest in American history; stimulating interest and study in architecture and design; educating citizens in

American culture and heritage; or making the municipality a more attractive and desirable place in which to live;

6. if it is within an historic district, the probable impact of its removal upon the ambience of the historic district; and
7. whether, in the case of an historic landmark, the landmark is of such significance that it would be feasible and appropriate to raise funds through grants, gifts, foundations or other sources to enable its acquisition and preservation by the Town of Westfield or other agency dedicated to historic preservation, and should thus be considered by the Planning Board for reservation for up to a one-year period to enable such acquisition, with appropriate compensation provided to the owner, under the Board's authority granted pursuant to N.J.S.A. 40:55D-44.

**B. Relocation out of the Town of Westfield.** In regard to an application to move an historic landmark or improvement within a historic district to a location outside the Town of Westfield, the following matters shall be considered along with any other factors the Commission considers relevant:

1. the possible historic loss to the site of original location;
2. the reasons for not retaining the landmark or structure at its present site;
3. the proximity of the proposed new location to the Town of Westfield, including the accessibility to the residents of the Town of Westfield and other citizens;
4. the probability of significant damage to the landmark or structure itself during relocation; and
5. the applicable matters listed in § 8.A.

**C. Relocation within the municipality.** In regard to an application to move an historic landmark or any improvements in an historic district to a new location within the Town of Westfield, the following matters shall be considered in addition to the factors listed in § 8.B:

1. the compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the intent and purposes of this ordinance; and
2. if the proposed new location is within an historic district, the visual compatibility factors as set forth in § 8.E. hereof.

D. **Subdivisions, Site Plans, Variances.** Notwithstanding the provisions of the Land Use Ordinance applicable to subdivisions, a designated historic site shall be subdivided only when:

1. the proposed subdivision would not adversely impact the architectural or historic character of the structure or structures on the designated historic site, its surrounding grounds, or the designated historic district in which it is located; or
2. the reviewing Board finds that any adverse impact to the site or district resulting from the subdivision, will be satisfactorily mitigated by the imposition of conditions upon any approval requiring that specific measures be taken such as, but not limited to, installation of screening, buffering, and/or landscaping; or
3. denial of subdivision approval would result in undue economic or other hardship.

These standards shall not be considered satisfied merely because subdivision and development of the property may be more profitable than the existing lot configuration. If a subdivision requires one or more variances from the zoning regulations, the decision on such variance request(s) shall give specific consideration to the historic preservation standards of this Ordinance.

If a subdivision is approved consistent with these provisions, all new construction on any resulting lot shall be subject to the requirements of § 8.E., F., G., and H., below. The resulting lot on which the existing principal structure is located shall be deemed a designated historic site. Any/all other lots shall be deemed non-designated sites. All powers exercised pursuant to this subsection shall be within the jurisdiction of the Planning Board or Zoning Board of Adjustment, as applicable under the provisions of the N.J.S.A. 40:55D-1 et seq.

E. **Visual compatibility considered for new construction, additions, removals, or rehabilitations.** In regard to an application to move a landmark or improvement into, or to construct a new structure or add to, alter or rehabilitate an existing improvement within an historic district, or a landmark, the visual compatibility of the proposed improvement with the structures and surroundings to which it would be visually related shall be considered in terms of the visual compatibility factors as set forth in § 8.H. hereof.

F. **Consideration on other actions.** In regard to an application for other approval of any proposed action set forth in § 6. hereof, the following matters shall be considered:

1. if an historic landmark or an improvement in an historic district is involved:
  - a. the impact of the proposed change on its historic and architectural character;
  - b. its importance to the Town of Westfield and the extent to which its historic or architectural interests would be adversely affected to the detriment of the public interest; and
  - c. the extent to which there would be involvement of textures and materials that could be reproduced or could be reproduced only with great difficulty;
2. the use of any structure involved, however, this consideration shall not be construed to supersede or interfere in any way with the uses permitted within any zoning district in the Town of Westfield, as set forth by the Land Use Ordinance, or otherwise permitted under the provisions of N.J.S.A. 40:55D-1 et seq;
3. the extent to which the proposed action would adversely affect the public's view of a landmark or improvement within an historic district from a public street; and
4. if the application deals with an improvement or other proposed action set forth in Section 6.A hereof within an historic district, the impact the proposed change would have on the character and ambience of the historic district and the improvement's visual compatibility with the spaces and structures to which it would be visually related in terms of the visual compatibility factors set forth in §8.H. hereof.

G. **Additional matters considered.** In regard to all applications, additional pertinent matters may be considered. These additional matters may include the following standards and objectives of the ordinance:

1. Every reasonable effort should be made to provide a compatible use for buildings that will require minimum alterations to the building and its environment. This objective shall not be construed to supersede or interfere in any way with the uses permitted within any zoning district in the Town of Westfield, as set forth by the Land Use Ordinance, or otherwise permitted under the provisions of N.J.S.A. 40:55D-1 et seq.
2. Rehabilitation work should not destroy the distinguishing qualities or character of the property and its environment. The removal or alteration of any historical material or

architectural features should be held to a minimum consistent with the proposed use.

3. Deteriorated architectural features should be repaired rather than replaced wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of original features, substantiated by physical or pictorial evidence rather than on conjectural designs, or the availability of different architectural features from other buildings.
4. Distinctive stylistic features or examples of craftsmanship which characterize older buildings should be treated with sensitivity.
5. Many changes to buildings and environments are evidence of the history of the building and the neighborhood. These changes may have developed significance in their own right and this significance should be recognized.
6. All buildings should be recognized as products of their own time. Alterations which may be inconsistent with the actual character of the building should be discouraged.
7. Contemporary designs for new buildings in old neighborhoods and additions to existing buildings or landscaping should not be discouraged if such design is compatible with the character of the neighborhood, building or its environment.
8. Wherever possible, new additions or alterations to buildings should be done in such a manner that if they were to be removed in the future, the essential form and integrity of the original building would be unimpaired.
9. The Historic Preservation Commission shall also be guided by the standards and criteria of the "Secretary of Interior Standards for Historic Preservation Projects" prepared by the Office of Archaeology and Historic Preservation, Heritage Conservation and Recreation Service, U.S. Department of Interior, Washington, D.C., as same may be amended from time to time.

H. **Visual compatibility factors.** In assessing the effect of any proposed change contained in an application, the following "visual compatibility" factors shall be used to analyze the effect that the change would have on the landmark and those structures to which the landmark is visually related, or on the district in which the structure is located.

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

it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.

**§ 9. EFFECT OF CERTIFICATE OF APPROPRIATENESS APPROVAL, DENIAL, APPEAL.**

- A. **Approval.** Approval by the Administrative Officer, the Planning Board, or the Zoning Board of Adjustment in accordance with the procedures set forth herein shall be deemed to be final approval pursuant to this Ordinance. Such approval shall neither cause nor eliminate any requirement for the filing of collateral application(s) or other proceeding(s), as may be required by other municipal ordinance(s) or other applicable law or regulations prior to undertaking the action requested concerning the historic site or district.
- B. **Expiration of approval.** A certificate shall be valid for two (2) years from the date of its issue. Reasonable extensions thereof may be approved as the Commission may deem to be in the public interest to grant. If a separate permit or approval is also required for the action approved and is obtained prior to expiration of said two (2) year period, then the certificate of appropriateness shall continue to be valid through the life of such other permit or approval, inclusive of any extensions thereof.
- C. **Denial.** Denial of a certificate of appropriateness by the Commission shall preclude the applicant from undertaking the activity for which approval was sought.
1. Denial of an application for development by the Planning Board or Zoning Board of Adjustment involving a designated historic landmark or district shall be deemed to preclude the applicant from undertaking the activity which would affect the landmark or historic district that was the subject of such application.
  2. Denial of a permit by the Administrative Officer based on recommendation made by the Commission to such Officer shall be deemed to preclude the applicant from undertaking the activity for which approval was sought.
  3. Denial by the Commission of a certificate of appropriateness application for landmark demolition, which denial includes recommendations for referral to the Planning Board for consideration of historic site reservation pursuant to N.J.S.A 40:55D-44, shall preclude issuance of a permit for the proposed demolition and shall require that the Administrative Officer forward the application to the Planning Board for such consideration.

- D. **Appeals.** An appeal of the decision of the Administrative Officer concerning grant or denial of a permit application pursuant to this Ordinance, shall be made to the Zoning Board of Adjustment as provided under N.J.S.A. 40:55D-70. An appeal from the decision of the Planning Board or Zoning Board of Adjustment shall be made in the same manner as permitted and prescribed by law for appeals from any other decisions made by such Boards in accordance with applicable law.

**§ 10. SPECIAL REQUIREMENTS FOR DEMOLITION.**

If the Commission approves a certificate of appropriateness for a demolition, the applicant shall be required to apply for, and receive a permit from the Town Council pursuant to the Town Code after fulfilling all requirements therefor.

**§ 11. PENALTIES.**

- A. If any person shall undertake any activity upon a landmark or improvement within an historic district, requiring a certificate of appropriateness without first having obtained such certificate, such person shall be deemed to be in violation of this ordinance.
- B. Upon learning of the violation, the Zoning Officer shall personally serve upon the owner of the lot, wherein the violation has occurred or is occurring, a notice describing the violation in detail and giving the owner ten (10) days to abate the violation by restoring the landmark or improvement to its status quo ante. If the owner cannot be personally served within the municipality with said notice, a copy shall be posted upon the landmark or other improvement located in an historic district, and a copy shall be sent by both regular mail and certified mail, return receipt requested, to the owner at his, her, or its last known address as it appears on the municipal tax rolls. Copies of all such notices shall be sent to the Chairperson of the Historic Preservation Commission.
- C. In the event that the violation is not abated within ten (10) days of service or posting upon the landmark or other improvement located in an historic district, 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. The Zoning Officer shall also notify the Chairperson of the Historic Preservation Commission of this action.
- D. If a violation involves ongoing unauthorized construction or demolition work, the Construction Official shall immediately issue a stop work order in accordance with the Uniform Construction Code, N.J.S.A. 52:27D-119 et seq.
- E. The penalty for violations shall be as follows:

1. for each day, up to ten (10) days: not more than one hundred (\$100.00) per day;
2. for each day, eleven (11) to (25) days: not more than one hundred-fifty dollars (\$150.00) per day;
3. for each day beyond twenty-five (25) days: not more than two hundred dollars (\$200.00) per day;
4. In the case of a demolition without a permit therefor, a violation shall be punishable by a one thousand dollar \$1,000.00 fine and up to thirty (30) days in jail.

F. In the event that the Zoning Officer or Construction Official is made aware that demolition or removal of a landmark building or structure is about to occur without a certificate of appropriateness having been issued, s/he is hereby authorized to apply to the Superior Court of New Jersey for such injunctive relief as is necessary to prevent the destruction or removal of any landmark or other improvement located in an historic district. The Chairperson of the Historic Preservation Commission shall be informed immediately of this action.

## **§ 12. PREVENTIVE MAINTENANCE.**

Recognizing the need for preventive maintenance to insure the continued useful life of landmarks and improvements in historic districts, the Town Council hereby declares that code enforcement as relates to landmarks and improvements in historic districts is a high priority of the Town of Westfield.

- A. In the event that any landmark or improvement in an historic district deteriorates to the point that, in the best estimate of the Administrative Officer, the cost of correcting the conditions of the property or outstanding code violation equals more than twenty-five percent (25%) of the cost of replacing the entire improvement on which the violations occur, said officer shall serve personally or by certified mail, return receipt requested, a notice on the owner of the landmark 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 said officer shall for good cause grant, the Town of Westfield may, at the expiration of such ninety (90) days, enter upon the property and abate such violations itself and cause the cost thereof to become a lien upon the property.
- B. Upon receipt of such notice the owner may, within ten (10) days after such receipt, notify the Administrative Officer of his or her or its wish to have a hearing as to the allegations and estimates set forth in the notice. Such hearing shall be conducted by the Town Attorney and shall, so far as possible, be

a formal adversary proceeding in which the Administrative Officer 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 the notice prescribed at § 12.A, above, shall apply. If a hearing is requested, the Town Attorney will within ten (10) days following the hearing serve on the owner an opinion in writing setting forth his or her conclusions and the reasons therefore. Such opinion shall deem to be first notice pursuant to § 12.A hereof.

- C. Thereafter, if the owner does not comply, the Administrative Officer with the prior approval of the Town Council by resolution or ordinance as may be required 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.
- D. The Administrative Officer shall then certify to the Town Council the cost of such work, plus all administrative, clerical and legal costs and overhead attributable thereto and shall present same to the Town Council.
- E. The Town Council may, by resolution, vote to cause the sum so certified to become a lien upon the landmark property, payable with the next quarter's real property taxes and, if not paid then, bearing interest at the same rate as delinquent taxes.

### **§ 13. PERMIT REVIEW.**

It shall be the duty of all municipal officials reviewing all permit applications involving real property or improvements thereon to determine whether such application involves any activity which should also be the subject of an application for a certificate of appropriateness, and if it should, to inform both the Secretary of the Commission and the applicant.

### **§ 14. DESIGNATED HISTORIC LANDMARKS.**

The following properties, recommended by the Historic Preservation Commission and by the Planning Board to be designated as historic landmarks, are hereby designated as historic landmarks by virtue of this (or previously adopted) ordinance(s):

- A. The World War I monument located at the Plaza at the intersection of North Avenue and East Broad Street to include the vertical column, its base and the surrounding grounds extending to the existing street lines bordering the monument and statuary atop the column and any inscriptions or plaques thereon and being located on Lot 1, Block 2507 on the tax maps of the Town of Westfield.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- B. The Westfield Fire Headquarters #1 located at 401-405 North Avenue West, Westfield, New Jersey and designated as Lot 6, Block 3103 on the tax maps of the Town of Westfield.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- C. The private residence owned at the time of its designation by Earl Frawley and Patricia Frawley, h/w, located at 522 Elm Street, Westfield, New Jersey, known as Lot 4, Block 1102 on the tax maps, being the property formerly occupied as a childhood residence by the deceased cartoonist and humorist Charles Addams.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- D. Mindowaskin Park, known as Lot 12, Block 2403, it being the intention to exclude from such designation the property owned by the Town of Westfield known as Lot 10, Block 2403, also known as the Reeve House.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- E. The private residence owned at the time of its designation by Hugh Platt located at 526 Wychwood Road, Westfield, New Jersey, known as Lot 1, Block 1410 on the tax maps, being also known as the Ball-Platt house, the Joseph Ball house and the Amzi Ball house originally built in 1741 and located in what is now Maplewood, New Jersey. The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- F. The private residence owned at the time of its designation by Allen R. Malcolm and Florence J. Malcolm located at 841 East Broad Street, Westfield, New Jersey known as Lot 33, Block 2101 on the tax maps, being also known as the Scudder Farm House originally built about 1790 and originally the residence of John Scudder, a member of one of the pioneer families of Westfield.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- G. The private residence owned at the time of its designation by Charles L. Whedon and Viola M. Whedon located at 667 Fourth Avenue, Westfield, New Jersey, known as Lot 6, Block 3303 on the tax maps, being also known as the Matthias Sayre House originally built about 1760 and originally the residence of Matthias Sayre, a member of one of the pioneer families who fought in the Revolutionary War.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- H. The private residence owned at the time of its designation by Mr. and Mrs. Theodore Alley located at 500 Salter Place, Westfield, New Jersey, known as Lot 12.021, Block 3408 on the tax maps, being also known as the Charles Marsh House originally built around 1775 and originally the residence of Charles Marsh, a soldier in the Revolutionary War, it being the intention to exclude from such designation that portion of said lot seventy (70) feet in width abutting the easterly side lot line and extending from the front lot line to the rear lot line.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- I. The Miller-Cory House museum owned and operated at the time of its designation by the Westfield Historic Society, located at 14 Mountain Avenue, Westfield, New Jersey, known as Lot 40 in Block 1203 on the Town Tax Map, built circa 1740 by Samuel Miller, purchased by Joseph Cory in the 1780s and owned by the Cory family until 1921, an authentically restored 18<sup>th</sup> Century vernacular farmhouse.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- J. The Well House structure owned at the time of its designation by Charles & Patricia Lea Woodward located at 200 Woodland Avenue, Westfield, New Jersey, known as Lot 57 in Block 2003 on the Town Tax Map, together with property extending from the Well House, ten (10) feet to the east, west, and north, and five (5) feet to the south, dating from the 1700's.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

- K. The Burial Grounds of the Presbyterian Church in the West Fields of Elizabethtown, owned at the time of its designation by the Presbyterian Church in Westfield, located at 125 Mountain Avenue,

Westfield, New Jersey, known as Lot 14 in Block 2405 on the Town Tax Map; its period of significance dating from 1724-1850, containing well-preserved, carved gravestones, some 386 with unusual epitaphs, graves of important persons, veterans of the Revolutionary War, War of 1812, and Civil War, and ordinary citizens, said site having been nominated for listing on State and National Registers of Historic Places.

The Historic Preservation Commission shall be permitted to place an appropriate notation and plaque on said property indicating its historic landmark status.

**§ 15. DESIGNATED HISTORIC DISTRICTS.**

The following properties, recommended by the Historic Preservation Commission and by the Planning Board to be designated as historic districts, are hereby designated as historic districts by virtue of this ordinance:

- A. Kimball Avenue District. This district includes the properties described hereafter, all currently in single-family residential use:

<u>Address</u>	<u>Block</u>	<u>Lot</u>	<u>Historic Description</u>
216 Kimball Avenue	2401	2	Embree House
222 Kimball Avenue	2401	3	
230 Kimball Avenue	2401	4	Robert A. Fairbairn House
231 Kimball Avenue	1101	16	Faircroft
237 Kimball Avenue	1101	15	Fairbairn-Pierson House
242 Kimball Avenue	2401	5	Dohrman-Ludwig House
243 Kimball Avenue	1101	14	Reverend Patton House
248 Kimball Avenue	2401	6	Faulkner House
249 Kimball Avenue	1101	13	Alpers-Cowperthwaite House
256 Kimball Avenue	2401	7	
257 Kimball Avenue	1101	12	Baker-Evans House
265 Kimball Avenue	1101	11	Alpers-Sanborn House
266 Kimball Avenue	2401	8	Platt House
322 Lawrence Avenue	2402	1	Putnam-Crammer House
404 Lawrence Avenue	1113	1	Douglas House

The Historic Preservation Commission shall be permitted to place appropriate plaques in said district indicating its historic status and individual property owners shall be permitted to include a plaque on their individual houses showing the date of construction, architectural style and/or historic description; provided, however, that such individual plaques not exceed one (1) square foot in area.

**§ 16. REPEALER.**

All ordinances or parts of ordinances in conflict or inconsistent with any part of the terms of this ordinance are hereby repealed to the extent that they are in such conflict or inconsistent, specifically the current appendix to the Land Use Ordinance dealing with Historic Designation and Preservation is repealed in its entirety.

**§ 17. SEVERABILITY.**

In the event that any section, part, or provision of this ordinance shall be held to be unconstitutional or invalid by any court, such holding shall not affect the validity of this ordinance as a whole, or any part thereof other than the part so held unconstitutional or invalid.

**§ 18. EFFECTIVE DATE.**

This ordinance shall take effect after passage and publication, as soon as and in the manner permitted by law.