

Chapter 2.114

HISTORIC PRESERVATION ADVISORY COMMISSION*

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* Prior ordinance history: Ord. 2003/13.

2.114.010 Establishment of a system of historic preservation regulations.

A. There is created in and for the borough of Freehold a commission to be known as "the historic preservation advisory commission," referred to in this chapter as "the commission." All members shall serve in a voluntary capacity without compensation.

B. It is the intention of the Freehold Borough council that the commission will work with and advise the planning board and the zoning board on the effect of devel-

opment applications on any improvements located in a historic district or designated historic properties. In addition, the commission shall review all projects affecting the exterior of any improvement located in a historic district or a historic property.

C. This chapter does not require or prohibit any particular architectural style; rather its purpose is to preserve the past by making the past compatible with and relevant to the present. To that end, new construction within a historic district or upon or near a historic property should not necessarily duplicate an exact historic style; however, it must be compatible with and not detract from the historic district or the historic property.

D. The boundaries of the "Freehold Center historic district" including those improvements located therein are established as an overlay zoning district to the borough of Freehold zoning map. Other historic districts or historic properties may be established from time to time according to the criteria enacted by this chapter. (Ord. 2005/29 § 1)

2.114.020 Purposes.

These historic preservation regulations are intended to effect and accomplish the protection, enhancement and perpetuation of especially noteworthy examples or elements of the borough's environment in order:

A. To safeguard the heritage of the borough of Freehold by preserving resources within the borough which reflect elements of its cultural, social, economic and architectural history;

B. To encourage the continued use of historic properties and to facilitate their appropriate use;

C. To maintain and develop an appropriate and harmonious setting for the his-

toric and architecturally significant buildings, structures, sites, objects, or districts within the borough of Freehold;

D. To stabilize and improve property values within the historic district and foster civic pride in the built environment;

E. To promote appreciation of historic properties for education, pleasure and the welfare of the local population;

F. To encourage beautification and private investment;

G. To manage change by preventing alteration or new construction not in keeping with the historic district;

H. To discourage the unnecessary demolition of historic resources;

I. To recognize the importance of resources located outside of a historic district by designating individual historic properties;

J. To urge property owners and tenants to maintain their properties in keeping with the requirements and standards of this chapter;

K. To encourage the proper maintenance and preservation of historic settings and landscapes;

L. To discourage inappropriate alterations of historic properties;

M. To enhance the visual and aesthetic character, diversity, continuity and interest in the borough;

N. To promote the conservation of historic properties and historic districts and to invite and encourage voluntary compliance for all historic resources within Freehold Borough. (Ord. 2005/29 § 2)

2.114.030 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

"Addition" means the construction of a new improvement as part of an existing improvement when such new improvement

changes the exterior architectural appearance of any improvement located in a historic district or a historic property.

"Administrative officer" means the person designated by the borough council to handle the administration of historic project review applications as well as the coordination of building permit applications as referenced in this chapter.

"Affecting a historic property or historic district" means any activity, other than painting, which alters the exterior architectural appearance of any improvement or structure located in a historic district or a historic property, including but not limited to demolition, additions, alterations and new construction.

"Alteration" means any work done on any improvement located in a historic district or a historic property which (1) is not an addition to a property or improvement, and (2) constitutes a change in the exterior architectural appearance of any improvement in a historic district or a historic property by addition or removal or replacement.

"Building" means a structure created to shelter human activity and any outbuildings or accessory structures associated with a principal structure.

"Demolition" means partial or total razing or destruction of any improvement located in a historic district or of any historic property.

"Design guidelines" means a set of written and graphic standards that govern alterations or additions to any improvement located in a historic district or a historic property including the construction of new structures in a historic district.

"Development" means any man-made or man-caused change to real estate, including but not limited to buildings and other structures.

"Development application" means any application to the planning board, zoning

board of adjustment, building department, zoning officer, code office affecting any improvement located in a historic district or a historic property.

"Disrepair" means the condition of being in need of repairs; a structure or building in disrepair.

"Historic district" means a geographically definable area, urban or rural, small or large, possessing a significant concentration, linkage, or continuity of sites, buildings, structures and/or objects which, viewed collectively:

1. Represent a significant period(s) in the development of the borough; or
2. Have a distinctive character resulting from their architectural style; or
3. Because of their distinctive character can readily be viewed as an area or neighborhood distinct from surrounding portions of the borough.

Resources within a historic district shall be classified as key, contributing, or non-contributing, which are defined as:

1. "Key" means any improvements, buildings, structures, accessory structures, sites or objects which, due to their significance, would individually qualify as a historic property.

2. "Contributing" means any improvements, buildings, structures, accessory structures, sites or objects which are integral components of a historic district either because they date from a time period for which the historic district is significant, or because they represent an architectural style, period, or construction method for which the historic district is significant.

3. "Noncontributing" means any improvements, buildings, structures, accessory structures, sites or objects which are not integral components of a historic district because they neither date from a time period for which the historic district is sig-

nificant, nor represent an architectural style, period, or construction method for which the historic district is significant.

"Historic preservation advisory commission" means the body which, for the purposes of this chapter, acts as the historic preservation commission as cited in the Municipal Land Use Law NJSA 40:55D-1, et seq.

"Historic property(s)" means any improvements, buildings, structures, accessory structures, sites, areas, objects or districts which possess integrity of location, design, setting, materials, workmanship, and association and which have been determined, pursuant to the terms of this chapter to be:

1. Of particular historic significance to the borough of Freehold by reflecting or exemplifying the broad cultural, political, economic, or social history of the nation, state or community; or

2. Associated with the historic personages important in national, state or local history; or

3. The site of a historic event which had a significant effect on the development of the nation, state or community; or

4. An embodiment of the distinctive characteristics of a type, period, architectural style, method of construction or engineering; or

5. Representative of the work or works of a locally, regionally or nationally important or recognized builder, designer, artist or architect; or

6. Significant for containing elements of design, detail, materials, or craftsmanship which represent a significant innovation; or

7. Able or likely to yield information important in prehistory or history.

"Improvement" means any structure or any part thereof installed upon real property by human endeavor and intended to be



kept at the location of such construction of installation for a period of not less than one hundred twenty (120) continuous days.

"Object" means a thing of functional, aesthetic, cultural, historic, or scientific value that may be, by nature of design, movable yet related to a specific setting or environment.

"Ordinary maintenance" means repairing any deterioration, wear or damage to a structure, or any part thereof, in order to return the same as nearly practicable to its condition prior to the occurrence of such deterioration, wear or damage. Ordinary maintenance shall further include replacement of exterior elements or accessory hardware, including signs, using the same materials and having the same appearance.

"Overlay zone district" means a zoning district made up of underlying zone districts or parts of zone districts as shown on the borough zoning map. An overlay zone district controls certain standards with the exception of bulk and use requirements, which are controlled by the underlying zone district(s).

"Removal" means to partially or completely cause an improvement, building, or object or portion of same to change to another location, position, station or residence.

"Repair" means any work done on any improvement located in a historic district or a historic property which:

1. Is not an addition to the property or improvement; and
2. Does not change the exterior architectural appearance of the property or any improvement.

"Replacement" means repairs affecting the exterior architectural appearance of any improvement located in a historic district or a historic property.

"Site" means the place where a significant event or pattern of events occurred. It

may be the location of prehistoric or historic occupations or activities that may be marked by physical remains; or it may be the symbolic focus of a significant event or pattern of events that may not have been actively occupied. A site may also be the location of a ruined building, structure, or object if the location itself possesses historic, cultural, or archeological significance.

"Structure" means any man-made work arranged in a definite pattern of organization, including but not limited to rooftop structures, communication towers, antennas, satellite dishes and mechanicals.

"Underlying zone district" means a zoning district which forms a constituent part of an overlay zone district. Underlying zone districts control bulk and use requirements. (Ord. 2005/29 § 3)

2.114.040 Application of provisions.

The following regulations shall apply to all improvements located in a historic district and to all historic properties which are designated in accordance with the procedures outlined in Section 2.114.060 herein.

A. Permitted Uses. All uses permitted for any improvements located in a historic district or for a historic property or shall be those designated by the official zoning map and zoning ordinance. Such uses shall not be altered by further designation as a historic district or historic property.

B. Area and Height Regulations. The maximum building height, minimum lot size, maximum coverage, etc., shall be as provided in the zoning ordinance for the respective zones, except that the planning board or zoning board may grant variances and waivers from such regulations where necessary to preserve historic characteristics. (Ord. 2005/29 § 4)

2.114.050 Historic preservation advisory commission.

A. The historic preservation advisory commission shall consist of nine members

and two alternates who shall serve without compensation, except that the commission members shall be reimbursed for reasonable and necessary expenses incurred in the performance of official business, including attendance at annual training sessions and/or programs that relate to historic preservation, within the guidelines of the budget established by the borough council for the commission.

B. The commission positions shall be filled by people who are interested in and qualified to contribute to the preservation of historic buildings, structures, sites, objects and districts. The commission shall represent the following categories:

Class A - Persons who are knowledgeable in building design and construction or in architectural history.

Class B - Persons who are knowledgeable or have a demonstrated interest in local history.

Class C - Persons who are residents of the borough and who hold no other municipal office, position, or employment except for membership on the planning board or zoning board.

There shall be at least one member from each class A and class B; these members may reside outside the municipality. Alternate members shall meet the qualifications of class C members. In making appointments to the commission, recognition should be given to the desirability of having participation from owners of property in the district.

A member of the Freehold Borough Council shall be designated as liaison between the historic preservation advisory commission and the council.

C. Commission members shall be appointed by the mayor and shall serve for three-year terms, except that of the first members appointed, two members shall

serve for one year, two members shall serve for two years, and three other members shall serve for three years. The alternate members shall initially serve two-year terms. The mayor shall designate at the time of appointment the regular members by class and the alternate members as Alternate No. 1 and Alternate No. 2. All members may, at the expiration of their terms, be eligible for appointment to three-year terms. If a commission member is also a planning board or zoning board member, the term of office as a commission member is the same length as the other board position. Vacancies shall be filled in the same manner in which the previous incumbent was appointed and such vacancy appointment shall be only for the balance of the unexpired term.

D. The commission shall adopt internal rules and procedures for the transaction of its business, subject to the following:

1. The commission shall annually elect from its members a chair and vice-chairperson.

2. A quorum for the transaction of all business shall be four members.

3. All commission minutes and records are public records and all commission meetings shall comply with the Open Public Meetings Act, N.J.S.A. 10:4-7, et seq.

4. The commission may employ, designate or elect a secretary who need not be a member of the commission. The secretary shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations and decisions. All such material shall be made public record.

5. Commission meetings shall be scheduled at least once every month or as often as required to fulfill its obligations to advise the planning board, zoning board or borough council.

6. No commission member shall be permitted to act on any matter in which he or she has either directly or indirectly any personal or financial interest.

7. A member of the commission may, after public hearing if he or she requests it, be removed by the borough council for cause.

E. The commission's responsibilities include:

1. To review the Freehold Borough historic sites inventory and, as needed, to update said material to incorporate any newly acquired documentation and to reflect changes to the integrity or condition of a historic resource;

2. To recommend to the planning board and the borough council any additional sites to be designated as historic properties in accordance with the procedures established in Section 2.114.060 herein;

3. To recommend to the planning board and the borough council any additional areas to be designated as historic districts in accordance with the procedures established herein;

4. To conduct research on and, as needed, to nominate any significant historic resources to the state and national register of historic places;

5. To recommend to the planning board criteria to be used to identify historic properties and to assist in the review of projects affecting the exterior of any improvement in a historic district or a historic property. The planning board may recommend modifications to the criteria and shall make the final decision as to their adoption;

6. To advise the planning board and zoning board on how development and zoning applications affect historic properties or a historic district in accordance with the procedure established herein;

7. To review all major actions, including those involving building permit applications, which affect the exterior architectural

appearance of any improvements in a historic district or a historic property; to advise the planning board on the determination of said requests in accordance with the procedure established herein;

8. To review all major actions and applications for actions affecting the exterior architectural appearance of any improvement in a historic district or a historic property and to make recommendations to the planning board, zoning board, building department and code officer in accordance with the criteria outlined herein;

9. To collect and disseminate material on the importance of historic preservation and techniques for achieving same; to advise all municipal agencies regarding the goals and techniques of historic preservation;

10. To assist other public bodies in aiding the public in understanding the significance of historic resources and methods of historic preservation;

11. To advise the borough council on the relative merits of proposals involving public lands to restore, preserve and protect historic buildings, places and structures, including the preparation of a long range plan; therefore securing state, federal and other grants in aid to assist therein and monitoring such projects once underway;

12. To secure the voluntary assistance of the public, and within the limits of the budget established by the borough council for the historic preservation advisory commission's operation, to retain consultants and experts and incur expenses to assist the historic preservation advisory commission in its work;

13. To cooperate with local, county, state or national historic societies, governmental bodies and organizations to maximize their contributions to the intent and purposes of this chapter;

14. To request the borough council to seek, on its own motion or otherwise, injunctive relief for violations of this chapter or other actions contrary to the intent and purposes of this chapter;

15. To advise and assist the planning board during the preparation and/or update of the historic preservation element of the master plan;

16. To prepare and distribute design guidelines to be utilized for application reviews and to foster appropriate rehabilitation of any improvements in a historic district and historic properties;

17. To advise and assist property owners and other persons and groups, including neighborhood organizations which are interested in historic preservation;

18. To undertake educational programs, including the preparation of publications aimed at stimulating interest in historic preservation and fostering sensitivity towards historic resources, and the placing of historic markers on places of historic interest;

19. To report at least annually to the borough council on the state of historic preservation in the borough, and recommend measures to improve same;

20. To adopt and promulgate such regulations and procedures, consistent with this chapter as are necessary and proper for the effective and efficient performance of the duties herein assigned;

21. To perform any other lawful activities which shall be deemed necessary to further the purposes of this chapter;

22. To provide the above responsibilities, in an advisory capacity, for historic resources listed in the historic sites inventory, which are located outside of the historic district and are not officially designated as historic properties.

23. To sponsor, promote, coordinate, participate in community events that high-

light or promote the historic resources, historic preservation and techniques and the historic significance of the structures and buildings in Freehold Borough. In furtherance of this purpose, the commission may raise funds and charge fees for such events to offset the costs thereof, and to raise funds to achieve the goals of the commission. All fees charged and funds raised by the commission shall be paid to the borough, which shall be earmarked for the use of the commission in furtherance of its goals and purposes. The fee structure for each event must be reviewed and approved by the governing body by resolution.

24. To provide grants for the preservation of historic structures, sites, buildings within the historic district or of significant historical significance, whether within or without the historic district. The commission shall, by resolution, adopt procedures, criteria and guidelines for the issuance of such grants, which procedures, criteria and guidelines must be approved by the governing body by resolution. The procedures, criteria and guidelines shall be kept on file in the borough clerk's office. (Ord. 2007/21 § 1: Ord. 2005/29 § 5)
(Ord. No. 2012/6, § 1, 3-19-12)

2.114.060 Designation of historic properties, historic districts.

A. There is established the Freehold Center Historic District as set forth on the map attached hereto and made a part hereof, a copy of which shall be on file in the borough clerk's office. This chapter affects all nonresidential property, all residential rental property and all improvements and buildings located in the district. Non-income-producing residential property shall not be subject to the provisions of the chapter. The Freehold Center Historical District is significant for the reasons set forth in the introduction to the ordinance codified in this chapter.

B. In addition to the improvements, buildings, structures, objects and sites identified as within the Freehold Center historic district, the commission shall recommend additional districts and at the request of the owner, consider for historic property designation, any individual improvements, buildings, structures, objects, and sites within the borough which merit historic property designation and protection, possessing integrity of location, design, setting, materials, workmanship of association and being:

1. Of particular historic significance to the borough of Freehold by exemplifying the broad cultural, political, economic, or social history of the nation, state, or community; or

2. Associated with historic personages important in national, state, or local history; or

3. The site of a historic event which had a significant effect on the development of the nation, state, or community; or

4. An embodiment of the distinctive characteristics of a type, period, architectural style, method of construction or engineering; or

5. Representative of the work or works of a locally, regionally or nationally important or recognized builder, designer, artist or architect; or

6. Significant for containing elements of design, detail, materials, or craftsmanship which represent a significant innovation; or

7. Able or likely to yield information important in prehistory or history.

C. Based on its review or upon the recommendation of other municipal bodies or of concerned citizens, the commission may make a list of additional historic resources recommended for historic property designation. For each historic property, there shall be a brief description of the historic property, of the historic property's signifi-

cance pursuant to criteria in subsection B of this section, a description of the historic property's location and boundaries, and a map siting. The commission shall, by certified mail:

1. Notify each owner that his or her property is being considered for historic property designation and the reasons therefor;

2. Advise each owner of the significance and consequences of such designation, and advise him or her of his or her opportunities and rights to challenge or contest such a designation;

3. Notify each owner of the public meeting to be held in accordance with this chapter.

D. The list of potential additional historic properties as well as the descriptions, significance, location, boundaries, and map siting of each shall be subject to a review at a commission public hearing. At least ten (10) days before such a hearing, a preliminary list and map showing proposed additional historic properties shall be published, together with notice of the hearing, in an official newspaper of the municipality. At the hearing, interested persons shall be entitled to present their opinions, suggestions and objections on the proposed recommendations for historic property designation. The commission shall then prepare a concise report, including a map and a list of its recommendations for sites to be designated as historic properties. Copies of the report shall be delivered to the borough business administrator, the borough council, the planning board and the borough clerk and a notice of the action published by the commission secretary in an official newspaper of the borough. The published notice shall state the commission's recommendations and also that final designation shall be made by the borough council at a public meeting specified on a date not less than fifteen (15)

nor more than forty-five (45) days from the date of publication. The borough council shall then consider the designation list and map, and may approve, reject or modify same by ordinance. Once adopted, the designation list and map may be amended in the same manner it was adopted. Upon adoption, the designation list and map shall also be incorporated by reference into the municipal master plan and zoning or ordinance as required by state enabling legislation.

E. Copies of the designation list and official map as adopted shall be made public and distributed to all municipal agencies reviewing development applications and building permits. A certificate of designation shall be served by certified and regular mail upon each owner included on the list. (Ord. 2005/29 § 6)
(Ord. No. 2012/6, § 1, 3-19-12)

2.114.070 Actions requiring review by the historic preservation advisory commission.

A. All permits and development applications involving all development activities that affect any improvement in a historic district or a historic property shall be reviewed by the commission, except as set forth in subsection B of this section. Such review shall be required for, but not limited to, the following actions:

1. Demolition of any improvement located in a historic district or of a historic property;
2. Relocation of any improvement located in a historic district or of a historic property;
3. All changes, other than paint, in the exterior architectural appearance of any improvement located in a historic district or of any historic property by addition, alteration or replacement;

4. Any new construction of an improvement in a historic district;

5. Site plans or subdivisions affecting any improvement located in a historic district or a historic property;

6. Zoning variances affecting any improvement located in a historic district or a historic property.

B. Review by the commission is not required:

1. When an improvement within a historic district or a historic property requires immediate emergency repair to preserve the continued habitability of the property and/or health and safety of its occupants or others. Emergency repairs may be performed in accordance with the borough codes, without the necessity of first obtaining the commission's review. Under such circumstances, the repairs performed shall only be such that are necessary to maintain the habitability of the building. A request for the commission's review shall be made as soon as possible and no additional work shall be performed upon the building until a historic project review application is made and approved in accordance with the procedures set forth in this chapter. All work done under this section shall conform to the criteria set forth herein and the guidelines for review of applications as adopted by the planning board in accordance with this chapter;

2. For changes to the interior of buildings;

3. For ordinary repairs and maintenance which do not constitute a change to the appearance of the building. The following are the only activities which do not require commission review according to this criteria:

a. Repair of existing windows, doors and shutters, using the same materials and design, which will not alter the exterior architectural appearance of the building. In-



stallation of storm windows which are compatible with the architectural period or design of the subject building,

b. Maintenance and repair of existing roof material, involving no change in design, scale, material or appearance of the building,

c. Repair of existing roof structures, such as cupolas, dormers, and chimneys, using the same materials and design, which will not alter the exterior architectural appearance of the building,

d. Replacement in kind of existing shingles, clapboards, or other siding maintaining the architectural integrity of the building,

e. Maintenance and repair of existing shingles, clapboards or other siding, using the same materials that are being repaired or maintained,

f. Exterior painting of exiting buildings,

g. Repairs to existing signs, outdoor displays, fences, walls, street furniture, awnings, off-street driveway and parking materials and sidewalks, using the same materials and design of those items noted above being repaired,

h. Development activities other than demolition, alterations, or changes in the exterior architectural appearance of owner-occupied residential improvements.

C. In the event that the zoning officer or the construction official of the borough of Freehold shall determine that a building permit and/or development application involving any development activity that would affect any improvement in a historic district or a historic property is not needed, then the property owner and/or tenant of the property on which changes, alterations or improvements are proposed to be made shall

make application directly to the commission. Such applications shall be made to the commission regarding:

1. All changes in the exterior architectural appearance of any improvement in a historic district or of any historic property by addition, alteration or replacement;

2. For all changes in the exterior architectural appearance of any improvement in a historic district or of any historic property, the owner or contractor shall submit a historic project review application.

The commission shall hear such applications, employing its procedures used for all other applications, and will render its findings in accordance with those procedures. The findings of the commission, in such cases, shall be enforceable by the municipal construction official. (Ord. 2005/29 § 7)

2.114.080 Procedure for commission's review.

A. Procedure for the Commission's Review of Development and Zoning Applications.

1. For all applications presented to the planning board and/or zoning board which affect any improvement within a historic district or a historic property, the property owner shall submit a "historic project review application" to either the planning board or zoning board, as appropriate, along with the request for either board's approval. Such an application shall pertain solely to the proposed site review or zoning request. If building permits are required, these actions will be reviewed separately by the commission in accordance with the procedures outlined herein.

2. The planning board or zoning board will forward to the commission a complete set of all application materials as well as the historic project review application. The commission shall be allowed at least fourteen

(14) days from the day it receives a complete application to prepare its recommendations to either the planning board or zoning board. Said recommendations shall be in the form of a written report which shall be forwarded to the appropriate board. A representative of the commission may also be present at any hearing to provide testimony regarding the application and the commission's recommendations.

3. The commission's recommendations shall focus on how the proposed undertaking would affect the historic or architectural significance of the subject property as outlined herein. In considering the commission's recommendations, the planning board and zoning board shall be guided by the review criteria established herein.

4. The commission, through its administrative officer, shall recommend to the planning board or zoning board either the approval with or without conditions or denial of the application and shall explain in writing the reasons for its recommendations. The commission's recommendations shall focus on how the proposed undertaking would affect the historic or architectural significance of the subject property as outlined herein.

5. In considering the commission's recommendations, the planning board or zoning board shall be guided by the review criteria established herein and shall follow the recommendations of the commission unless for good cause its opinion shall differ. In such a case, the planning board or zoning board shall state its reasons in writing.

6. Pursuant to N.J.S.A. 40:55D-111, in the case of a minor application for the issuance of a permit pertaining to any improvement in a historic district or a historic property, as defined in the zoning ordinance, the chair of the historic preservation advisory commission may act in place of the full

commission for purposes of this section; and, if the ordinance specifies the submission to the planning board of a commission report on a minor application, the ordinance may authorize the chair or a subcommittee of the planning board to act in place of the full board.

B. Procedure for the Commission's Review of Building Permits and Alterations.

1. Prior to undertaking any action affecting the exterior architectural appearance of any improvement in a historic district or a historic property, the property owner shall complete and submit to the commission's administrative officer a "historic project review application."

2. If the proposed undertaking requires a building permit, the administrative officer shall notify the applicant that he or she must submit a historic project review application to the historic preservation advisory commission. This includes, but is not limited to, permits for new construction, demolition, alterations, additions, or replacements affecting the exterior architectural appearance of any improvement in a historic district or a historic property.

3. The commission's administrative officer shall review the application for technical completeness. Any application found to be incomplete shall be returned to the applicant within ten (10) days of receipt of the application.

4. When an application is found to be technically complete, the administrative officer shall schedule the application to be reviewed at the commission's next regularly scheduled meeting. The applicant shall be notified of the meeting date and shall be allowed all opportunity to speak at the meeting. The commission shall be allowed at least fourteen (14) days from the day it receives a complete application to prepare its recommendations to the construction official. The commission, through its adminis-

trative officer, shall recommend to the construction official either the approval with or without conditions or denial of the application and shall explain in writing the reasons for their recommendations. The commission's recommendations shall focus on how the proposed undertaking would affect the historic or architectural significance of the subject property as outlined above in this chapter.

5. In considering the commission's recommendations, the construction official shall be guided by the review criteria established in this ordinance and shall follow the recommendations of the commission unless for good cause his or her opinion shall differ. In such case, the construction official shall state his or her reasons in writing.

6. If the proposed undertaking will change the exterior architectural appearance of any improvement in a historic district or of any historic property by addition, alteration, or replacement, but does not require a building permit and/or zoning board or planning board review, the property owner or designated representative shall complete and submit to the commission's administrative officer a historic project review application and the above guidelines shall apply.

C. In making a recommendation on an application, the commission shall be aware of the importance of considering the current needs of the applicant. The commission shall also recognize the importance of making recommendations that will be reasonable for this applicant to carry out. Before an applicant prepares his or her plans, he or she may bring a tentative proposal to the commission for informal review and comment.

D. Design Standards. The historic preservation advisory committee shall be guided by the following design standards in reviewing all types of applications:

1. Every reasonable effort should be made to provide a compatible use for buildings which will require minimum alteration to the building.

2. Rehabilitation should not destroy the distinguishing qualities or character of the building. The removal or alteration of any historic 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.

4. Distinctive stylistic features or examples of skilled craftsmanship which characterize older buildings and which often predate the mass production of building material should be retained wherever possible.

5. All buildings should be recognized as products of their own time. Authorization to create an appearance inconsistent with the original character of the building should be discouraged.

6. Contemporary design for new construction in historic districts and additions to existing buildings or landscaping should not be discouraged if such design is compatible with the size, scale, color, material and character of the historic district, building or environment. It is not the intent of this chapter to encourage new construction which imitates existing buildings of historic or architectural interest or of a certain period or architectural style; but rather to

preserve the integrity and authenticity of a historic district and to insure the compatibility of new structures therein.

7. Consideration shall be given to detrimental impact and the financial hardship on the applicant affected by the application of historic preservation standards, and considering less expensive alternatives when undertaking an alteration, improvement, rehabilitation or restoration of a structure.

8. Most properties change over time; those changes that have acquired historic significance in their own right should be preserved.

9. The committee shall be guided by the "Secretary of the Interior's Standards for the Treatment of Historic Properties," United States Department of the Interior, Washington, D.C., as amended and supplemented.

E. Criteria for Review of Applications. In reviewing an application for its affect on any improvement on a historic district or a historic property, the following criteria shall be used by the historic preservation advisory commission, the planning board and the zoning board.

1. In regard to all applications affecting any improvement in a historic district or a historic property, the following factors shall be considered:

a. The impact of the proposed change on the historic and architectural significance of the subject property.

b. The property's importance to the municipality and the extent to which its historic or architectural interest would be adversely affected to the detriment of the public interest.

c. The use of any property involved.

d. The extent to which the proposed action would adversely affect the public's view of an improvement within a historic district or the public's view of a historic property.

e. The impact the proposed change would have on the district's architectural or historic significance and the project's visual compatibility with the buildings, places and structures to which it would be visually related in terms of the visual compatibility factors set forth herein.

f. The extent to which there would be involvement of textures and materials that could not be reproduced or could be reproduced only with great difficulty or great expense.

2. In regard to an application for new construction, alterations, additions, or replacements affecting any improvement in a historic district or a historic property, the following factors, in addition to subsection (E)(1) above, shall be considered:

a. Height. The height of the proposed building or structure shall be visually compatible with adjacent buildings.

b. Proportion of the Building's Front Facade. The relationship of the width of the building to the height of the front elevations shall be visually compatible with the buildings and places to which it is visually related.

c. Proportion of Openings Within the Facade. 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.

d. 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 buildings and places to which it is visually related.

e. Rhythm of Solids to Voids on Facades Fronting on Public Places. The relationship of solids to voids in such facades of a building shall be visually compatible with buildings and places to which it is visually related.

f. 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 building to which it is visually related.

g. Walls of Continuity. Appurtenances of a building such as walls, open-type fencing, evergreens, landscape masses, serving as cohesive walls of enclosure along a street shall be visually compatible with the main building and places to which it is visually related.

h. Exterior Features. A structure's related exterior features such as lighting, fences, signs, sidewalks, driveways, and parking areas shall be compatible with the features of those structures to which it is visually related and shall be appropriate for the historic period for which the structure is significant. New signage shall also abide by any supplemental historic design graphic standards that may be developed by the commission for the district.

3. In regard to an application to demolish any improvement in a historic district or any historic property, the following matters shall be considered:

a. Its historic, architectural, cultural or scenic significance in relation to the criteria established herein;

b. If it is within a historic district, the significance of the building in relation to the historic character of the district and the probable impact of its removal on the district;

c. Its potential for use for those purposes currently permitted by the zoning ordinance;

d. Its structural condition and the economic feasibility of alternatives to the proposal;

e. 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's interest;

f. The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could be reproduced only with great difficulty and expense;

g. The extent to which its retention would promote the general welfare by maintaining and increasing the real estate value, generating business, attracting tourists, attracting new residents, stimulating interest and study in architecture and design, or making the municipality an attractive and desirable place in which to live;

h. If it is within a historic district, the probable impact of its removal upon the ambiance of the district.

4. In regard to an application to move any improvement located in a historic district, or to move any historic property, the following matters, in addition to the above, shall be considered:

a. The loss of the historic significance of the original site and the effect on the historic district as a whole;

b. The reasons for not retaining the improvement or property at its present site;

c. The compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the protection of interest and values referred to in this chapter;

d. If the proposed new location is within a historic district, visual compatibility factors as set forth herein;

e. The probability of significant damage to the improvement or property itself;

f. If it is to be removed from the borough of Freehold, the proximity of the proposed new location to the borough, including the accessibility to the residents of the borough and other citizens.

F. Effect of Project Approval, Denial, Appeal.

1. Approval of an application by the construction official, planning board, zoning board or commission in accordance with the procedures set forth herein shall be deemed to be final approval pursuant to this chapter. 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 concerning the property or improvement in an historic district.

2. Denial of approval for a development application, a demolition permit or of a building permit shall be deemed to bar the applicant from undertaking the activity which would affect the improvement located in a historic district or historic property which was the subject of the denied application. (Ord. 2005/29 § 8)
(Ord. No. 2012/6, § 1, 3-19-12)

2.114.090 Historic preservation advisory commission procedures.

A. Office. The office of the commission shall be located in the borough of Freehold municipal building, 51 West Main St. Freehold, NJ 07728-2195. The office shall be open for the transaction of business from eight-thirty a.m. to four-thirty p.m. each weekday, except Saturdays, Sundays and public holidays.

B. Meetings and Hearings.

1. All meetings and hearings of the commission shall be open to the public, except where otherwise provided by law. All public meetings and hearings shall be held at times and places specified by the chair, agreed to by the commission, and in accordance with law.

2. Public notices shall be given of the schedule of regular meetings at the begin-

ning of each calendar year and shall state the regular dates, times, and places of such meetings. Public notice of any special meeting, or of any rescheduled regular meeting, or any reconvened meeting shall be given at least twenty-four (24) hours before each meeting, unless reconvened within twenty-four (24) hours; provided, however, no additional public notice of reconvened meetings need be made where announcement of the time and place of the reconvened meeting is made at the original meeting, and where there is no change in the agenda.

3. Public notice of meetings and hearings shall be given by posting a copy of the notice at the office of the borough clerk, and the commission shall supply copies of the notice of its regular meetings and of any special, rescheduled, or reconvened meeting to such local newspapers of general circulation or local radio or television stations that file an annual request for such notice.

4. In the event a change is made in a regular meeting date, notice of such change shall be given, according to law, by publication in a newspaper of general circulation in the Freehold area, and notice of such change shall also be posted at the office of the borough clerk.

C. Records. The commission shall keep minutes of all its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. All records of the commission shall be kept by the secretary at the office of the commission. Public records shall be made available for inspection, but in no instance shall any record be removed from the office unless so directed by court order and accompanied by a representative of the secretary. Photostatic copies of public records may be obtained pursuant to the Open Public Records Act.

D. Public Meetings.

1. Representation of Parties. Any owner or owners and all persons having a legal and equitable interest in any improvement in a historic district or any property which has been proposed for designation, or is designated, as a historic property, or for which a development application or application for a building permit, has been made to the municipality, may appear in person or be represented by an authorized agent or attorney at any public hearing scheduled by the borough of Freehold historic preservation advisory commission.

2. Order of Procedure. The order of procedure at all public hearings of the borough of Freehold historic preservation advisory commission shall be as follows:

- a. Opening of the hearing by the chair;
- b. Incorporation in the record of the notice of hearing, in accordance with the Open Public Meeting Act of the state of New Jersey;
- c. Statement by the chair summarizing the items on the agenda for the meeting;
- d. Approval of minutes of previous meetings;
- e. Review and approval of resolutions memorializing decisions reached on application at previous meetings;
- f. Applications that were heard by the commission and carried to the next hearing date shall be heard under "old business";
- g. Applications not previously heard by the commission shall be heard under "new business":
 - i. Upon calling the case of a new application, the applicant, or the authorized agent or attorney, shall indicate to the commission who will be representing the applicant at the hearing and who will be offering testimony regarding that application,
 - ii. An opening statement will be made by the chair of the commission regarding

the application; specifically, what documents and evidence have been submitted to the commission prior to the hearing date,

iii. An opening statement will be made by the owner, authorized agent or attorney representing the applicant, setting forth the overall intent of the proposed activities to undertaken on the property in question,

iv. Following the opening statement, presentations will be made by the identified witnesses and evidence will be given in support of the proposed activities that directly relate to the property which is the subject of the hearing. Documents and other physical evidence that will be submitted to the commission shall be appropriately designated by the commission secretary, using a consecutive numbering system,

v. The opportunity to cross-examine such witnesses as may appear in support of the application shall be offered first to members of the commission, and then to members of the public attending the hearing,

vi. The presentation of evidence in support of the application, and the cross-examination of any witnesses, statements, if any, of other interested persons, either for or against the proposed activities, will be heard by the commission. Such statements shall be limited to such length of time as the commission shall designate,

vii. Following the submission of statements by other parties, relating to the proposed activities, the applicant, authorized agent or attorney for the applicant, shall deliver an oral summation to the commission,

viii. Following the presentation of the oral summation, the commission shall enter into deliberations regarding the testimony offered, evidence submitted, and any issues raised by the public or the commission members relating to the activities proposed to be undertaken by the applicant. Based upon these deliberations, the com-

mission shall render a decision either approving or denying the application. In the case of approval, conditions for that approval can be made as a part of the record. In either case, the commission shall, at the following meeting, pass a resolution memorializing its decision and setting forth the testimony offered, evidence entered in the record, findings of fact, and the conclusions reached on the application;

h. Following the conclusion of all new business to come before the commission, the commission shall take up such other business as may require its attention, including but not limited to: new grant applications, existing grant application projects, seminars, consideration of ordinance changes, consideration of additional historic districts or properties for designation as historic properties, etc.;

i. Following the discussion of such additional business as noted above, the commission shall open the meeting to receive any comments or questions from the general public as may be in attendance at the meeting;

j. Following the presentation to the commission by any members of the public, the chair shall declare, upon a motion duly made and seconded, that the meeting be adjourned.

The historic preservation advisory commission may, in its discretion, impose reasonable time limits upon the presentation of evidence and statements. The chair of the commission, at his or her discretion, may alter the order of procedure as circumstances may require and warrant.

3. Witnesses. All testimony offered by witnesses shall be given under oath of affirmation and said testimony may be given by question and answer method or, at the chair's discretion, in statement form. Persons wishing merely to state a position for or against

a proposed application need not be placed under oath or affirmation, except as may be directed by the commission chair.

4. Exhibits. Exhibits shall be marked for identification and shall be offered in an orderly fashion. They shall be made available for examination by any and all parties of interest. Leave to file post-hearing exhibits or information may be sought at the hearings, or thereafter in writing, which may be granted by the chair. In the event leave to file post-hearing exhibits or information is granted, copies shall be served upon interested parties or representatives in person, or by United States mail, postage free paid, and by certified return receipt, together with a signed statement that this rule has been complied with, which shall be attached to, or shall accompany, such documents submitted.

5. Evidence. Hearings shall be conducted in such a manner as shall result in a just and lawful determination of the issues as promptly as circumstances shall permit. The commission shall make determinations as the relevance and materiality of evidence. The commission may require a preliminary statement of the nature of the evidence proposed to be elicited from any witness.

6. Continuances of Hearing. Continuances of hearing shall be granted upon application made in conformity with the provisions and with the period of time set forth in the historic preservation ordinance. Application for continuation of a hearing shall be made by the applicant, authorized agent or attorney representing the applicant, based upon the need to have additional time to sufficiently present evidence offered by witnesses and exhibits submitted to the commission. Additionally, an application for a continuation of hearing shall be considered by the commission if the commission is found to need additional time in which to

conduct the deliberations regarding the evidence offered and exhibits submitted by the applicant. Applications for continuation of hearing shall be granted solely at the discretion of the commission hearing the case.

7. Transcript of Hearing. Any party may arrange for the attendance at a hearing of a duly qualified court reporter who shall be in his or her place, prepared to record the proceedings, when the hearing is called to order. Copies of the transcripts of the commission's tape recordings of the proceedings may also be secured from the commission upon payment of the costs and reasonable handling charges, as established by the municipality.

8. Briefs and Oral Arguments. The commission may request the filing of briefs or oral argument, or both, at the conclusion of the hearing or thereafter, on matters of law or fact. Copies thereof, and replies thereto, if requested, shall be served upon all parties. A signed original and ten (10) conformed copies shall be filed with the commission. (Ord. 2005/29 § 9)

2.114.100 Appeals.

Whenever the commission shall make a final decision pursuant to this chapter, the decision shall be subject to appeal as follows:

A. To the planning board in matters involving development applications to the planning board;

B. To the zoning board of adjustment in matters involving applications for demolition, building permits, matters not requiring permits but which affect the exterior architectural appearance of any improvement in a historic district or a historic property, and development applications to the zoning board. (Ord. 2005/29 § 10)

2.114.110 Penalties.

Any person or entity who violates any provision of this chapter shall, upon conviction thereof, be punished by a fine not to exceed one thousand two hundred fifty dollars (\$1,250.00), or by a term of imprisonment not to exceed thirty (30) days, or both. Each day that a violation occurred or is committed or continues may constitute a separate offense. (Ord. 2005/29 § 11)

2.114.120 Check list.

A. The applicant shall comply with the following checklist:

1. Required Submittals. The following documents/plans shall be required:

a. For site plan/subdivision:

- () 8 copies of planning board/zoning board materials
- () Photographs of site and adjacent structures/lots
- () Proposed building elevations
Minimum scale 1/8"=1'
- () Proposed wall sections
Minimum scale 3/4" = 1'
- () Property deed

b. For variance:

- () 8 copies of zoning board materials
- () Photographs of existing structures/site and adjacent structures/lots
- () Proposed structure elevations
Minimum scale 1/8"=1'
- () Proposed wall sections
Minimum scale 3/4" =1'
- () Property deed

c. For building permit:

- () Photograph of existing structure

- () Description of materials to be used (samples or support literature required)
- () Property deed
- () Sketch of proposed alteration, except where: 10% or more of the building facade is proposed to be altered or when a significant architectural element of the main facade is to be altered or concealed. Significant architectural elements include, but are not limited to: windows, doors, porches, stoops, porticos, cornices, chimneys

In case of the above, the following will be required:

- () Building elevation(s)
Minimum scale $\frac{1}{8}'' = 1'$
- () Wall section detail
Minimum scale $\frac{3}{4}'' = 1'$

B. The above-required information, along with a completed historic project review application, should be returned to the borough of Freehold municipal building, 51 West Main Street no later than ten (10) days prior to the commission's regularly scheduled meetings. Incomplete applications will not be considered.

C. A waiver of requirement may be made to the commission by the applicant. Applicant must appear before the commission for formal request of waiver. A majority vote of commission members is required to grant waiver. In the event waiver is not granted, application will be deemed incomplete and will not be heard. (Ord. 2005/29 § 12)