



AGENDA
May 9, 2023
Council Conference Meeting
7:00 p.m.

APPOINTMENTS

PRESENTATION

BIDS

RESOLUTIONS

Finance Policy Committee

1. Resolution authorizing the Chief Financial Officer to draw warrant for dog licenses for April 2023
2. Resolution authorizing the Chief Financial Officer to refund Recreation Department Fees
3. Resolution authorizing the Chief Financial Officer to refund dumpster security payment
4. Resolution authorizing the Chief Financial Officer to draw a warrant to refund street opening cash bond
5. Resolution authorizing the Chief Financial Officer to draw warrants for overpaid taxes for 2023

Public Safety, Transportation and Parking Committee

1. Resolution to amend an award of contract with Flock Safety for ALPR equipment

Code Review & Town Property Committee

1. Resolution to approve Amusement Device License

Public Works Committee

ORDINANCES

SPECIAL ORDINANCE NO. 2023-03

A BOND ORDINANCE TO AUTHORIZE THE UNDERTAKING OF THE EDISON SCHOOL MULTIPURPOSE FIELDS PROJECT IN, BY AND FOR THE TOWN OF WESTFIELD, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$11,800,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.

GENERAL BUSINESS

COMMITTEE REPORTS

OPEN DISCUSSION BY CITIZENS

EXECUTIVE SESSION



**TOWN OF WESTFIELD
TOWN COUNCIL
REGULAR MEETING
Tuesday, May 9, 2023
8:00 PM**

PROPOSED AGENDA

This agenda is prepared for the information of the public. It is the order of the meeting; however, if changes in order, deletions or additions are made, they will be noted at the time.

1. Roll Call
2. Invocation
3. Salute to the flag
4. Appointments
5. Presentations
 - Proclamations
 - Mental Health Awareness Month
 - Better Hearing & Speech Month
6. Advertised Hearings
 1. GENERAL ORDINANCE NO. 2023-12
AN ORDINANCE BY THE TOWN COUNCIL AMENDING THE TOWN CODE OF THE TOWN OF WESTFIELD TO REPEAL AND REPLACE CHAPTER 8, ARTICLE IV, "STORM WATER CONTROL AND FLOOD PLAIN"; TO ADOPT FLOOD HAZARD MAPS; AND TO DESIGNATE A FLOODPLAIN ADMINISTRATOR
 2. GENERAL ORDINANCE NO. 2023-13
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
 3. GENERAL ORDINANCE NO. 2023-14
AN ORDINANCE DESIGNATING 3 STONELEIGH PARK, SHOWN ON THE TOWN OF WESTFIELD TAX MAP AS BLOCK 4207, LOT 20, AS A HISTORIC LANDMARK AND MODIFYING THE ZONING MAP
 4. GENERAL ORDINANCE NO. 2023-15
AN ORDINANCE DESIGNATING 5 STONELEIGH PARK, SHOWN ON THE TOWN OF WESTFIELD TAX MAP AS BLOCK 4207, LOT 18 AS A HISTORIC LANDMARK AND MODIFYING THE ZONING MAP
 5. GENERAL ORDINANCE NO. 2023-16
AN ORDINANCE DESIGNATING 18 STONELEIGH PARK, SHOWN ON THE TOWN OF WESTFIELD TAX MAP AS BLOCK 4209, LOT 7 AS A HISTORIC LANDMARK AND MODIFYING THE ZONING MAP

6. GENERAL ORDINANCE NO 2023-17
AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD IN REGARD TO THE DEFINITION OF BAY WINDOW
7. GENERAL ORDINANCE NO. 2023-18
AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD IN REGARD TO THE DEFINITION OF BUILDING EAVE HEIGHT
8. GENERAL ORDINANCE NO. 2023-19
AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD IN REGARD TO THE DEFINITION OF SWIMMING POOL
9. GENERAL ORDINANCE NO 2023-20
AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD IN REGARD TO CONDITIONAL USES
10. GENERAL ORDINANCE NO. 2023-21
AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD IN REGARD TO RETAINING WALLS
11. GENERAL ORDINANCE NO. 2023-22
AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD IN REGARD TO BUILDING DESIGN STANDARDS

7. Approval of Minutes from Town Council Conference Session held April 25, 2023
Approval of Minutes from Town Council Regular Meeting held April 25, 2023
8. Petitions and Communications
9. Open discussion by citizens
10. Bills and Claims in the amount of \$405,023.49
11. Reports of Standing Committees

Finance Policy Committee

6. Resolution authorizing the Chief Financial Officer to draw warrant for dog licenses for April 2023
7. Resolution authorizing the Chief Financial Officer to refund Recreation Department Fees
8. Resolution authorizing the Chief Financial Officer to refund dumpster security payment
9. Resolution authorizing the Chief Financial Officer to draw a warrant to refund street opening cash bond
10. Resolution authorizing the Chief Financial Officer to draw warrants for overpaid taxes for 2023
11. SPECIAL ORDINANCE NO. 2023-03

A BOND ORDINANCE TO AUTHORIZE THE UNDERTAKING OF THE EDISON SCHOOL MULTIPURPOSE FIELDS PROJECT IN, BY AND FOR THE TOWN OF WESTFIELD, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$11,800,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.

Public Safety, Transportation and Parking Committee

1. Resolution to amend an award of contract with Flock Safety for ALPR equipment

Code Review & Town Property Committee

1. Resolution to approve Amusement Device License

Public Works Committee

12. Reports of Department Heads

**TOWN OF WESTFIELD
GENERAL ORDINANCE NO. 2023-12**

AN ORDINANCE BY THE TOWN COUNCIL AMENDING THE TOWN CODE OF THE TOWN OF WESTFIELD TO REPEAL AND REPLACE CHAPTER 8, ARTICLE IV, “STORM WATER CONTROL AND FLOOD PLAIN”; TO ADOPT FLOOD HAZARD MAPS; AND TO DESIGNATE A FLOODPLAIN ADMINISTRATOR

WHEREAS, the Legislature of the State of New Jersey has, in N.J.S.A. 40:48, et seq. and N.J.S.A. 40:55D, et seq., conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of Town of Westfield and such areas may be subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

WHEREAS, the Town of Westfield was accepted for participation in the National Flood Insurance Program on December 18, 1979 and the Town Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59, 60, 65 and 70 necessary for such participation; and

WHEREAS, the Town of Westfield is required, pursuant to N.J.A.C. 5:23, et seq., to administer and enforce the State building codes, and such building codes contain certain provisions that apply to the design and construction of buildings and structures in flood hazard areas; and

WHEREAS, the Town of Westfield is required, pursuant to N.J.S.A. 40:49-5, to enforce zoning codes that secure safety from floods and contain certain provisions that apply to the development of lands; and

WHEREAS, the Town of Westfield is required, pursuant to N.J.S.A. 58:16A-57, within 12 months after the delineation of any flood hazard area, to adopt rules and regulations concerning the development and use of land in the flood fringe area which at least conform to the standards promulgated by the New Jersey Department of Environmental Protection (“NJDEP”).

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Town of Westfield, that the following floodplain management regulations are hereby adopted:

SECTION 1. RECITALS. The foregoing whereas clauses are incorporated herein by reference and made a part hereof.

SECTION 2. Chapter 8, Article IV, “Storm Water Control and Flood Plain” of the Town Code is hereby REPEALED in its entirety and REPLACED as follows

SECTION 101 SCOPE AND ADMINISTRATION

101.1 Title. These regulations, in combination with the flood provisions of the Uniform Construction Code (UCC) N.J.A.C. 5:23 (hereinafter “Uniform Construction Code,” consisting of the Building Code, Residential Code, Rehabilitation Subcode, and related codes, and the New Jersey Flood Hazard Area Control Act (hereinafter “FHACA”), N.J.A.C. 7:13, shall be known as the *Floodplain Management Regulations* of Town of Westfield (hereinafter “these regulations”).

101.2 Scope. These regulations, in combination with the flood provisions of the Uniform Construction Code and FHACA shall apply to all proposed development in flood hazard areas established in Section 102 of these regulations.

101.3 Purposes and objectives. The purposes and objectives of these regulations are to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific flood hazard areas through the establishment of comprehensive regulations for management of flood hazard areas, designed to:

- (1) Protect human life and health.
- (2) Prevent unnecessary disruption of commerce, access, and public service during times of flooding.
- (3) Manage the alteration of natural floodplains, stream channels and shorelines;
- (4) Manage filling, grading, dredging and other development which may increase flood damage or erosion potential.
- (5) Prevent or regulate the construction of flood barriers which will divert floodwater or increase flood hazards.
- (6) Contribute to improved construction techniques in the floodplain.
- (7) Minimize damage to public and private facilities and utilities.
- (8) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas.
- (9) Minimize the need for rescue and relief efforts associated with flooding.
- (10) Ensure that property owners, occupants, and potential owners are aware of property located in flood hazard areas.
- (11) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events.
- (12) Meet the requirements of the National Flood Insurance Program for community participation set forth in Title 44 Code of Federal Regulations, Section 59.22.

101.4 Coordination with Building Codes. Pursuant to the requirement established in N.J.A.C. 5:23, the Uniform Construction Code, that the Town of Westfield administer and enforce the State building codes, the Town Council of Town of Westfield does hereby acknowledge that the Uniform Construction Code contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, these regulations are intended to be administered and enforced in conjunction with the Uniform Construction Code.

101.5 Ordinary Building Maintenance and Minor Work. Improvements defined as ordinary building maintenance and minor work projects by the Uniform Construction Code including non-structural replacement-in-kind of windows, doors, cabinets, plumbing fixtures, decks, walls, partitions, new flooring materials, roofing, etc. shall be evaluated by the Floodplain Administrator through the floodplain development permit to ensure compliance with the Substantial Damage and Substantial Improvement Section 103.14 of this ordinance.

101.6 Warning. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. Enforcement of these regulations does not imply that land outside the special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.

101.7 Other laws. The provisions of these regulations shall not be deemed to nullify any provisions of local, State, or Federal law.

101.8 Violations and Penalties for Noncompliance. No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation under N.J.S.A. 40:49-5. Any person who violates this ordinance or fails to comply with any of its requirements shall be subject to one (1) or more of the following: a fine of not more than \$1,250, imprisonment for a term not exceeding ninety(90) days or a period of community service not exceeding 90 days.

Each day in which a violation of an ordinance exists shall be considered to be a separate and distinct violation subject to the imposition of a separate penalty for each day of the violation as the Court may determine except that the owner will be afforded the opportunity to cure or abate the condition during a 30 day period and shall be afforded the opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the

30 day period, a fine greater than \$1,250 up to \$2,000 maximum under N.J.S.A 40:49-5 may be imposed if the court has not determined otherwise, or if upon reinspection of the property, it is determined that the abatement has not been substantially completed.

Any person who is convicted of violating an ordinance within one year of the date of a previous violation of the same ordinance and who was fined for the previous violation, shall be sentenced by a court to an additional fine as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall not be less than the minimum or exceed the maximum fine fixed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the violation of the ordinance.

101.8.1 Solid Waste Disposal in a Flood Hazard Area. Any person who has unlawfully disposed of solid waste in a floodway or floodplain who fails to comply with this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2500 or up to a maximum penalty by a fine not exceeding \$10,000 under N.J.S.A. 40:49-5.

101.9 Abrogation and greater restrictions. These regulations supersede any ordinance in effect in flood hazard areas. However, these regulations are not intended to repeal or abrogate any existing ordinances including land development regulations, subdivision regulations, zoning ordinances, stormwater management regulations, or building codes. In the event of a conflict between these regulations and any other ordinance, code, or regulation, the more restrictive shall govern.

SECTION 102 APPLICABILITY

102.1 General. These regulations, in conjunction with the Uniform Construction Code, provide minimum requirements for development located in flood hazard areas, including the subdivision of land and other developments; site improvements and installation of utilities; placement and replacement of manufactured homes; placement of recreational vehicles; new construction and alterations, repair, reconstruction, rehabilitation or additions of existing buildings and structures; substantial improvement of existing buildings and structures, including repair of substantial damage; installation of tanks; temporary structures and temporary or permanent storage; utility and miscellaneous Group U buildings and structures; and certain building work exempt from permit under the Uniform Construction Code; and other buildings and development activities.

102.2 Establishment of Flood Hazard Areas. The Town of Westfield was accepted for participation in the National Flood Insurance Program with the adoption of its first floodplain management ordinance on December 18, 1979.

The National Flood Insurance Program (NFIP) floodplain management regulations encourage that all Federal, State, and Local regulations that are more stringent than the minimum NFIP standards take precedence in permitting decisions. The FHACA requires that the effective Flood Insurance Rate Map, most recent preliminary FEMA mapping and flood studies, and Department delineations be compared to determine the most restrictive mapping. The FHACA also regulates unstudied flood hazard areas in watersheds measuring 50 acres or greater in size and most riparian zones in New Jersey. Because of these higher standards, the regulated flood hazard area in New Jersey may be more expansive and more restrictive than the FEMA Special Flood Hazard Area. Maps and studies that establish flood hazard areas are on file at the Town Engineer's Office located at 959 North Avenue, Westfield, New Jersey, 07090.

The following sources identify flood hazard areas in this jurisdiction and must be considered when determining the Best Available Flood Hazard Data Area:

- 1) **Effective Flood Insurance Study.** Special Flood Hazard Areas (SFHAs) identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study, Union County, New Jersey (All Jurisdictions)" dated September 20,2006 and the accompanying Flood Insurance Rate Maps (FIRM) identified in Table 102.2(1) whose effective date is 09/20/2006 are hereby adopted by reference.

Table 102.2(1)

Map Panel #	Effective Date	Suffix	Map Panel #	Effective Date	Suffix
34039C0018	09/20/2006	F	34039C0030	09/20/2006	F
34039C0019	09/20/2006	F	34039C0031	09/20/2006	F
34039C0020	09/20/2006	F	34039C0042	09/20/2006	F

- 2) **Federal Best Available Information.** Town of Westfield shall utilize Federal flood information as listed in the table below that provides more detailed hazard information, higher flood elevations, larger flood hazard areas, and results in more restrictive regulations. This information may include but is not limited to preliminary flood elevation guidance from FEMA (such as Advisory Flood Hazard Area Maps, Work Maps or Preliminary FIS and FIRM). Additional Federal Best Available studies issued after the date of this ordinance must also be considered. These studies are listed on FEMA’s Map Service Center. This information shall be used for floodplain regulation purposes only.

Table 102.2(2)

Map Panel #	Preliminary Date	Map Panel #	Preliminary Date
34039C0018G	04/18/2016	34039C0030G	04/18/2016
34039C0019G	04/18/2016	34039C0031G	04/18/2016
34039C0020G	04/18/2016	34039C0042G	04/18/2016

- 3) **Other Best Available Data.** The Town of Westfield shall utilize high water elevations from flood events, groundwater flooding areas, studies by federal or state agencies, or other information deemed appropriate by the Town of Westfield. Other “best available information” may not be used which results in less restrictive flood elevations, design standards, or smaller flood hazard areas than the sources described in Section 102.2 (1) and (2), above. This information shall be used for floodplain regulation purposes only. As such information becomes available it shall be recorded and incorporated within this section.

Table 102.2(3) {Reserved}

Map Description	Ordinance Number	Date Effective	Date Withdrawn and Ordinance Number

- 4) **State Regulated Flood Hazard Areas.** For State regulated waters, the NJ Department of Environmental Protection (NJDEP) identifies the flood hazard area as the land, and the space above that land, which lies below the “Flood Hazard Area Control Act Design Flood Elevation”, as defined in Section 201, and as described in the New Jersey Flood Hazard Area Control Act at N.J.A.C. 7:13. A FHACA flood hazard area exists along every regulated water that has a drainage area of 50 acres or greater. Such area may extend beyond the boundaries of the Special Flood Hazard Areas (SFHAs) as identified by FEMA. The following is a list of New Jersey State studied waters in this community under the FHACA.

Table 102.2(4) List of State Studied Waters

Name of Studied Water	File Name	Map Number
Nomahegan Brook	C0000001	2
Nomahegan Brook	C0000002	1
Trib to Rahway River	C0000004	1
Robinsons Branch 15-2	C0000006	4

Robinsons Branch 15-1	C0000007	3
Robinsons Branch 15	C0000008	2
Robinsons Branch 15	C0000009	1
Rahway River, Drainage Ditch, Stream 10-30, 10-30-1	GGEW0015	4
College Branch	GGEW0016	3
Robinsons Branch, Pumpkin Patch Branch Brook	GGEW0031	5
Robinsons Branch	GGEW0032	4
Rahway River	GGEW0042	1
Ash Bk Swamp	SUPPX001	ASH-1
Nomahegan Brook	SUPPX014	N-1
Nomahegan Brook	SUPPX015	N-2
Robinsons Branch	SUPPX017	RB-1
Robinsons Branch	SUPPX018	RB-2
Winding Brook	SUPPX023	W-1
Winding Brook	SUPPX024	W-2
Winding Brook	SUPPX025	W-3
Gallows Hill Road Branch	GGEW0013p	6

102.3 Establishing the Local Design Flood Elevation (LDFE).

The Local Design Flood Elevation (LDFE) is established in the flood hazard areas determined in Section 102.2, above, using the best available flood hazard data sources, and the Flood Hazard Area Control Act minimum Statewide elevation requirements for lowest floors in A, Coastal A, and V zones, ASCE 24 requirements for critical facilities as specified by the building code, plus additional freeboard as specified by this ordinance.

At a minimum, the Local Design Flood Elevation shall be as follows:

- 1) For a delineated watercourse, the elevation associated with the Best Available Flood Hazard Data Area determined in Section 102.2, above plus one foot or as described by N.J.A.C. 7:13 of freeboard; or
- 2) For any undelineated watercourse (where mapping or studies described in 102.2 (1) and (2) above are not available) that has a contributory drainage area of 50 acres or more, the applicants must provide one of the following to determine the Local Design Flood Elevation:
 - a. A copy of an unexpired NJDEP Flood Hazard Area Verification plus one foot of freeboard and any additional freeboard as required by ASCE 24; or
 - b. A determination of the Flood Hazard Area Design Flood Elevation using Method 5 or Method 6 (as described in N.J.A.C. 7:13) plus one foot of freeboard and any additional freeboard as required by ASCE 24. Any determination using these methods must be sealed and submitted according to Section 105.2-3.
- 3) AO Zones – For Zone AO areas on the municipality’s FIRM (or on preliminary flood elevation guidance from FEMA), the Local Design Flood Elevation is determined from the FIRM panel as the highest adjacent grade plus the depth number specified plus one foot of freeboard. If no depth number is specified, the Local Design Flood Elevation is three (3) feet above the highest adjacent grade.
- 4) Class IV Critical Facilities - For any proposed development of new and substantially improved Flood Design Class IV Critical Facilities, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 2 feet of freeboard in accordance with ASCE 24.

- 5) Class III Critical Facilities - For proposed development of new and substantially improved Flood Design Class III Critical Facilities in coastal high hazard areas, the Local Design Flood Elevation must be the higher of the 0.2% annual chance (500 year) flood elevation or the Flood Hazard Area Design Flood Elevation with an additional 1 foot of freeboard in accordance with ASCE 24.

SECTION 103 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

103.1 Floodplain Administrator Designation. The Town Engineer is designated the Floodplain Administrator. The Floodplain Administrator shall have the authority to delegate performance of certain duties to other employees.

103.2 General. The Floodplain Administrator is authorized and directed to administer the provisions of these regulations. The Floodplain Administrator shall have the authority to render interpretations of these regulations consistent with the intent and purpose of these regulations and to establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be consistent with the intent and purpose of these regulations and the flood provisions of the building code and shall not have the effect of waiving specific requirements without the granting of a variance pursuant to Section 107 of these regulations.

103.3 Coordination. The Floodplain Administrator shall coordinate with the Construction Official to administer and enforce the flood provisions of the Uniform Construction Code.

103.4 Duties. The duties of the Floodplain Administrator shall include but are not limited to:

- (1) Review all permit applications to determine whether proposed development is located in flood hazard areas established in Section 102 of these regulations.
- (2) Require development in flood hazard areas to be reasonably safe from flooding and to be designed and constructed with methods, practices and materials that minimize flood damage.
- (3) Interpret flood hazard area boundaries and provide available flood elevation and flood hazard information.
- (4) Determine whether additional flood hazard data shall be obtained or developed.
- (5) Review required certifications and documentation specified by these regulations and the building code to determine that such certifications and documentations are complete.
- (6) Establish, in coordination with the Construction Official, written procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 103.14 of these regulations.
- (7) Coordinate with the Construction Official and others to identify and investigate damaged buildings located in flood hazard areas and inform owners of the requirement to obtain permits for repairs.
- (8) Review requests submitted to the Construction Official seeking approval to modify the strict application of the flood load and flood resistant construction requirements of the Uniform Construction code to determine whether such requests require consideration as a variance pursuant to Section 107 of these regulations.
- (9) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps when the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available.
- (10) Require applicants who propose alteration of a watercourse to notify adjacent jurisdictions and the NJDEP Bureau of Flood Engineering, and to submit copies of such notifications to the Federal Emergency Management Agency (FEMA).
- (11) Inspect development in accordance with Section 106 of these regulations and inspect flood hazard areas to determine if development is undertaken without issuance of permits.
- (12) Prepare comments and recommendations for consideration when applicants seek variances in accordance with Section 107 of these regulations.
- (13) Cite violations in accordance with Section 108 of these regulations.
- (14) Notify the Federal Emergency Management Agency when the corporate boundaries of Town of Westfield have been modified.
- (15) Permit Ordinary Maintenance and Minor Work in the regulated areas discussed in Section 102.2.

103.5 Use of changed technical data. The Floodplain Administrator and the applicant shall not use changed flood hazard area boundaries or base flood elevations for proposed buildings or developments unless the Floodplain Administrator or

applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) revision and has received the approval of the Federal Emergency Management Agency. A revision of the effective FIRM does not remove the related feature(s) on a flood hazard area delineation that has been promulgated by the NJDEP. A separate application must be made to the State pursuant to N.J.A.C. 7:13 for revision of a flood hazard design flood elevation, flood hazard area limit, floodway limit, and/or other related feature.

103.6 Other permits. It shall be the responsibility of the Floodplain Administrator to assure that approval of a proposed development shall not be given until proof that necessary permits have been granted by Federal or State agencies having jurisdiction over such development, including section 404 of the Clean Water Act. In the event of conflicting permit requirements, the Floodplain Administrator must ensure that the most restrictive floodplain management standards are reflected in permit approvals.

103.7 Determination of Local Design Flood Elevations. If design flood elevations are not specified, the Floodplain Administrator is authorized to require the applicant to:

- (1) Obtain, review, and reasonably utilize data available from a Federal, State, or other source, or
- (2) Determine the design flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Such analyses shall be performed and sealed by a licensed professional engineer. Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator. The

accuracy of data submitted for such determination shall be the responsibility of the applicant.

It shall be the responsibility of the Floodplain Administrator to verify that the applicant's proposed Best Available Flood Hazard Data Area and the Local Design Flood Elevation in any development permit accurately applies the best available flood hazard data and methodologies for determining flood hazard areas and design elevations described in 102.2 and 102.3 respectively. This information shall be provided to the Construction Official and documented according to Section 103.15.

103.8 Requirement to submit new technical data. Base Flood Elevations may increase or decrease resulting from natural changes (e.g. erosion, accretion, channel migration, subsidence, uplift) or man-made physical changes (e.g. dredging, filling, excavation) affecting flooding conditions. As soon as practicable, but not later than six months after the date of a man-made change or when information about a natural change becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

103.9 Activities in riverine flood hazard areas. In riverine flood hazard areas where design flood elevations are specified but floodways have not been designated, the Floodplain Administrator shall not permit any new construction, substantial improvement or other development, including the placement of fill, unless the applicant submits an engineering analysis prepared by a licensed professional engineer that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachment, will not increase the design flood elevation more than 0.2 feet at any point within the community.

103.10 Floodway encroachment. Prior to issuing a permit for any floodway encroachment, including fill, new construction, substantial improvements and other development or land-disturbing-activity, the Floodplain Administrator shall require submission of a certification prepared by a licensed professional engineer, along with supporting technical data, that demonstrates that such development will not cause any increase in the base flood level.

103.10.1 Floodway revisions. A floodway encroachment that increases the level of the base flood is authorized if the applicant has applied for a Conditional Letter of Map Revision (CLOMR) to the Flood Insurance Rate Map (FIRM) and has received the approval of FEMA.

103.11 Watercourse alteration. Prior to issuing a permit for any alteration or relocation of any watercourse, the Floodplain Administrator shall require the applicant to provide notification of the proposal to the appropriate authorities of all adjacent government jurisdictions, as well as the NJDEP Bureau of Flood Engineering and the Division of Land Resource

Protection. A copy of the notification shall be maintained in the permit records and submitted to FEMA.

103.11.1 Engineering analysis. The Floodplain Administrator shall require submission of an engineering analysis prepared by a licensed professional engineer, demonstrating that the flood-carrying capacity of the altered or relocated portion of the watercourse will be maintained, neither increased nor decreased. Such watercourses shall be maintained in a manner that preserves the channel's flood-carrying capacity.

103.12 Alterations in coastal areas. The excavation or alteration of sand dunes is governed by the New Jersey Coastal Zone Management (CZM) rules, N.J.A.C. 7:7. Prior to issuing a flood damage prevention permit for any alteration of sand dunes in coastal high hazard areas and Coastal A Zones, the Floodplain Administrator shall require that a New Jersey CZM permit be obtained and included in the flood damage prevention permit application. The applicant shall also provide documentation of any engineering analysis, prepared by a licensed professional engineer, that demonstrates that the proposed alteration will not increase the potential for flood damage.

103.13 Development in riparian zones All development in Riparian Zones as described in N.J.A.C. 7:13 is prohibited by this ordinance unless the applicant has received an individual or general permit or has complied with the requirements of a permit by rule or permit by certification from NJDEP Division of Land Resource Protection prior to application for a floodplain development permit and the project is compliant with all other Floodplain Development provisions of this ordinance. The width of the riparian zone can range between 50 and 300 feet and is determined by the attributes of the waterbody and designated in the New Jersey Surface Water Quality Standards, N.J.A.C. 7:9B. The portion of the riparian zone located outside of a regulated water is measured landward from the top of bank. Applicants can request a verification of the riparian zone limits or a permit applicability determination to determine State permit requirements under N.J.A.C. 7:13 from the NJDEP Division of Land Resource Protection.

103.14 Substantial improvement and substantial damage determinations. When buildings and structures are damaged due to any cause including but not limited to man-made, structural, electrical, mechanical, or natural hazard events, or are determined to be unsafe as described in N.J.A.C. 5:23; and for applications for building permits to improve buildings and structures, including alterations, movement, repair, additions, rehabilitations, renovations, ordinary maintenance and minor work, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Construction Official, shall:

- (1) Estimate the market value, or require the applicant to obtain a professional appraisal prepared by a qualified independent appraiser, of the market value of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- (2) Determine and include the costs of all ordinary maintenance and minor work, as discussed in Section 101.5, performed in the floodplain regulated by this ordinance in addition to the costs of those improvements regulated by the Construction Official in substantial damage and substantial improvement calculations.
- (3) Compare the cost to perform the improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, where applicable, to the market value of the building or structure.
- (4) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage. This determination requires the evaluation of previous permits issued for improvements and repairs over a period of 1 year prior to the permit application or substantial damage determination as specified in the definition of substantial improvement. This determination shall also include the evaluation of flood related damages over a 10 year period to determine if the costs of repairs at the times of each flood constitutes a repetitive loss as defined by this ordinance.
- (5) Notify the applicant in writing when it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the building code is required and notify the applicant in writing when it is determined that work does not constitute substantial improvement or repair of substantial damage. The Floodplain Administrator shall also provide all letters documenting substantial damage and compliance with flood resistant construction requirements of the building code to the NJDEP Bureau of Flood Engineering.

103.15 Department records. In addition to the requirements of the building code and these regulations, and regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and

permanently keep and make available for public inspection all records that are necessary for the administration of these regulations and the flood provisions of the Uniform Construction Code, including Flood Insurance Studies, Flood Insurance Rate Maps; documents from FEMA that amend or revise FIRMs; NJDEP delineations, records of issuance of permits and denial of permits; records of ordinary maintenance and minor work, determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required certifications and documentation specified by the Uniform Construction Code and these regulations including as-built Elevation Certificates; notifications to adjacent communities, FEMA, and the State related to alterations of watercourses; assurance that the flood carrying capacity of altered waterways will be maintained; documentation related to variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to these regulations and the flood resistant provisions of the Uniform Construction Code. The Floodplain Administrator shall also record the required elevation, determination method, and base flood elevation source used to determine the Local Design Flood Elevation in the floodplain development permit.

103.16 Liability. The Floodplain Administrator and any employee charged with the enforcement of these regulations, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by these regulations or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The Floodplain Administrator and any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of these regulations.

SECTION 104 PERMITS

104.1 Permits Required. Any person, owner or authorized agent who intends to conduct any development in a flood hazard area shall first make application to the Floodplain Administrator and shall obtain the required permit. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

104.2 Application for permit. The applicant shall file an application in writing on a form furnished by the Floodplain Administrator. Such application shall:

- (1) Identify and describe the development to be covered by the permit.
- (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (3) Indicate the use and occupancy for which the proposed development is intended.
- (4) Be accompanied by a site plan and construction documents as specified in Section 105 of these regulations, grading and filling plans and other information deemed appropriate by the Floodplain Administrator.
- (5) State the valuation of the proposed work, including the valuation of ordinary maintenance and minor work.
- (6) Be signed by the applicant or the applicant's authorized agent.

104.3 Validity of permit. The issuance of a permit under these regulations or the Uniform Construction Code shall not be construed to be a permit for, or approval of, any violation of this appendix or any other ordinance of the jurisdiction. The issuance of a permit based on submitted documents and information shall not prevent the Floodplain Administrator from requiring the correction of errors. The Floodplain Administrator is authorized to prevent occupancy or use of a structure or site which is in violation of these regulations or other ordinances of this jurisdiction.

104.4 Expiration. A permit shall become invalid when the proposed development is not commenced within 180 days after its issuance, or when the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions shall be requested in writing and justifiable cause demonstrated. The Floodplain Administrator is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each.

104.5 Suspension or revocation. The Floodplain Administrator is authorized to suspend or revoke a permit issued under these regulations wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or code of this jurisdiction.

SECTION 105 SITE PLANS AND CONSTRUCTION DOCUMENTS

105.1 Information for development in flood hazard areas. The site plan or construction documents for any development subject to the requirements of these regulations shall be drawn to scale and shall include, as applicable to the proposed development:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations when necessary for review of the proposed development. For buildings that are located in more than one flood hazard area, the elevation and provisions associated with the most restrictive flood hazard area shall apply.
- (2) Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 105.2.
- (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 105.2(3) of these regulations.
- (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas and Coastal A zones, new buildings shall be located landward of the reach of mean high tide.
- (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose. The applicant shall provide an engineering certification confirming that the proposal meets the flood storage displacement limitations of N.J.A.C. 7:13.
- (7) Extent of any proposed alteration of sand dunes.
- (8) Existing and proposed alignment of any proposed alteration of a watercourse.
- (9) Floodproofing certifications, V Zone and Breakaway Wall Certifications, Operations and Maintenance Plans, Warning and Evacuation Plans and other documentation required pursuant to FEMA publications.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by these regulations but that are not required to be prepared by a registered design professional when it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance.

105.2 Information in flood hazard areas without base flood elevations (approximate Zone A). Where flood hazard areas are delineated on the effective or preliminary FIRM and base flood elevation data have not been provided, the applicant shall consult with the Floodplain Administrator to determine whether to:

- (1) Use the Approximation Method (Method 5) described in N.J.A.C. 7:13 in conjunction with Appendix 1 of the FHACA to determine the required flood elevation.
- (2) Obtain, review, and reasonably utilize data available from a Federal, State or other source when those data are deemed acceptable to the Floodplain Administrator to reasonably reflect flooding conditions.
- (3) Determine the base flood elevation in accordance with accepted hydrologic and hydraulic engineering techniques according to Method 6 as described in N.J.A.C. 7:13. Such analyses shall be performed and sealed by a licensed professional engineer.

Studies, analyses, and computations shall be submitted in sufficient detail to allow review and approval by the Floodplain Administrator prior to floodplain development permit issuance. The accuracy of data submitted for such determination shall be the responsibility of the applicant. Where the data are to be used to support a Letter of Map Change (LOMC) from FEMA, the applicant shall be responsible for satisfying the submittal requirements and pay the processing fees.

105.3 Analyses and certifications by a Licensed Professional Engineer. As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a licensed professional engineer for submission with the site plan and construction documents:

- (1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood

elevations, the applicant shall submit such analysis to FEMA as specified in Section 105.4 of these regulations and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.

- (2) For development activities proposed to be located in a riverine flood hazard area where base flood elevations are included in the FIS or FIRM but floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments will not increase the base flood elevation more than 0.2 feet at any point within the jurisdiction. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
- (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained, neither increasing nor decreasing the channel's flood-carrying capacity. The applicant shall submit the analysis to FEMA as specified in Section 105.4 of these regulations. The applicant shall notify the chief executive officer of all affected adjacent jurisdictions, the NJDEP's Bureau of Flood Engineering and the Division of Land Resource Protection; and shall provide documentation of such notifications.
- (4) For activities that propose to alter sand dunes in coastal high hazard areas (Zone V) and Coastal A Zones, an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage and documentation of the issuance of a New Jersey Coastal Zone Management permit under N.J.A.C. 7:7.
- (5) For analyses performed using Methods 5 and 6 (as described in N.J.A.C. 7:13) in flood hazard zones without base flood elevations (approximate A zones).

105.4 Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change (LOMC) from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

SECTION 106 INSPECTIONS

106.1 General. Development for which a permit is required shall be subject to inspection. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of these regulations or the building code. Inspections presuming to give authority to violate or cancel the provisions of these regulations or the building code or other ordinances shall not be valid.

106.2 Inspections of development. The Floodplain Administrator shall inspect all development in flood hazard areas authorized by issuance of permits under these regulations. The Floodplain Administrator shall inspect flood hazard areas from time to time to determine if development is undertaken without issuance of a permit.

106.3 Buildings and structures. The Construction Official shall make or cause to be made, inspections for buildings and structures in flood hazard areas authorized by permit in accordance with the Uniform Construction Code, N.J.A.C. 5:23.

- 1) **Lowest floor elevation.** Upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 801.2 shall be submitted to the Construction Official on an Elevation Certificate.
- 2) **Lowest horizontal structural member.** In V zones and Coastal A zones, upon placement of the lowest floor, including the basement, and prior to further vertical construction, certification of the elevation required in Section 801.2 shall be submitted to the Construction Official on an Elevation Certificate.
- 3) **Installation of attendant utilities** (electrical, heating, ventilating, air-conditioning, and other service equipment) and sanitary facilities elevated as discussed in Section 801.2.
- 4) **Final inspection.** Prior to the final inspection, certification of the elevation required in Section 801.2 shall be submitted to the Construction Official on an Elevation Certificate.

106.4 Manufactured homes. The Floodplain Administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of these regulations and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted on an Elevation Certificate to the Floodplain Administrator prior to the final inspection.

SECTION 107 VARIANCES

107.1 General. The Planning Board shall hear and decide requests for variances. The Planning Board shall base its determination on technical justifications submitted by applicants, the considerations for issuance in Section 107.5, the conditions of issuance set forth in Section 107.6, and the comments and recommendations of the Floodplain Administrator and, as applicable, the Construction Official. The Planning Board has the right to attach such conditions to variances as it deems necessary to further the purposes and objectives of these regulations.

107.2 Historic structures. A variance to the substantial improvement requirements of this ordinance is authorized provided that the repair or rehabilitation of a historic structure is completed according to N.J.A.C. 5:23-6.33, Section 1612 of the International Building Code and R322 of the International Residential Code, the repair or rehabilitation will not preclude the structure's continued designation as a historic structure, the structure meets the definition of the historic structure as described by this ordinance, and the variance is the minimum necessary to preserve the historic character and design of the structure.

107.3 Functionally dependent uses. A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use provided the variance is the minimum necessary to allow the construction or substantial improvement, and that all due consideration has been given to use of methods and materials that minimize flood damage during the base flood and create no additional threats to public safety.

107.4 Restrictions in floodways. A variance shall not be issued for any proposed development in a floodway when any increase in flood levels would result during the base flood discharge, as evidenced by the applicable analysis and certification required in Section 105.3(1) of these regulations.

107.5 Considerations. In reviewing requests for variances, all technical evaluations, all relevant factors, all other portions of these regulations, and the following shall be considered:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
- (2) The danger to life and property due to flooding or erosion damage.
- (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
- (4) The importance of the services provided by the proposed development to the community.
- (5) The availability of alternate locations for the proposed development that are not subject to flooding or erosion and the necessity of a waterfront location, where applicable.
- (6) The compatibility of the proposed development with existing and anticipated development.
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for that area.
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwater and the effects of wave action, where applicable, expected at the site.
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.

107.6 Conditions for issuance. Variances shall only be issued upon:

- (1) Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site limit compliance with any provision of these regulations or renders the elevation standards of the building code inappropriate.
- (2) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable.
- (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict

with existing local laws or ordinances.

- (4) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Notification to the applicant in writing over the signature of the Floodplain Administrator that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and that such construction below the base flood level increases risks to life and property.

SECTION 108 VIOLATIONS

108.1 Violations. Any development in any flood hazard area that is being performed without an issued permit or that is in conflict with an issued permit shall be deemed a violation. A building or structure without the documentation of elevation of the lowest floor, the lowest horizontal structural member if in a V or Coastal A Zone, other required design certifications, or other evidence of compliance required by the building code is presumed to be a violation until such time as that documentation is provided.

108.2 Authority. The Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of property involved, to the owner's agent, or to the person or persons doing the work for development that is not within the scope of the Uniform Construction Code, but is regulated by these regulations and that is determined to be a violation.

108.3 Unlawful continuance. Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by N.J.S.A. 40:49-5 as appropriate.

108.4 Review Period to Correct Violations. A 30-day period shall be given to the property owner as an opportunity to cure or abate the condition. The property owner shall also be afforded an opportunity for a hearing before the court for an independent determination concerning the violation. Subsequent to the expiration of the 30-day period, a fine greater than \$1,250 up to \$2,000 maximum under N.J.S.A 40:49-5 may be imposed if a court has not determined otherwise or, upon reinspection of the property, it is determined that the abatement has not been substantially completed.

SECTION 201 DEFINITIONS

201.1 General. The following words and terms shall, for the purposes of these regulations, have the meanings shown herein. Other terms are defined in the Uniform Construction Code N.J.A.C. 5:23 and terms are defined where used in the International Residential Code and International Building Code (rather than in the definitions section). Where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies.

201.2 Definitions

30 DAY PERIOD – The period of time prescribed by N.J.S.A. 40:49-5 in which a property owner is afforded the opportunity to correct zoning and solid waste disposal after a notice of violation pertaining to this ordinance has been issued.

100 YEAR FLOOD ELEVATION – Elevation of flooding having a 1% annual chance of being equaled or exceeded in a given year which is also referred to as the Base Flood Elevation.

500 YEAR FLOOD ELEVATION – Elevation of flooding having a 0.2% annual chance of being equaled or exceeded in a given year.

A ZONES – Areas of 'Special Flood Hazard in which the elevation of the surface water resulting from a flood that has a 1% annual chance of equaling or exceeding the Base Flood Elevation (BFE) in any given year shown on the Flood

Insurance Rate Map (FIRM) zones A, AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1–A30, AR/AH, and AR/AO. When used in reference to the development of a structure in this ordinance, A Zones are not inclusive of Coastal A Zones because of the higher building code requirements for Coastal A Zones.

AH ZONES– Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone.

AO ZONES – Areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

ACCESSORY STRUCTURE – Accessory structures are also referred to as appurtenant structures. An accessory structure is a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For example, a residential structure may have a detached garage or storage shed for garden tools as accessory structures. Other examples of accessory structures include gazebos, picnic pavilions, boathouses, small pole barns, storage sheds, and similar buildings.

AGRICULTURAL STRUCTURE - A structure used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Communities must require that new construction or substantial improvements of agricultural structures be elevated or floodproofed to or above the Base Flood Elevation (BFE) as any other nonresidential building. Under some circumstances it may be appropriate to wet-floodproof certain types of agricultural structures when located in wide, expansive floodplains through issuance of a variance. This should only be done for structures used for temporary storage of equipment or crops or temporary shelter for livestock and only in circumstances where it can be demonstrated that agricultural structures can be designed in such a manner that results in minimal damage to the structure and its contents and will create no additional threats to public safety. New construction or substantial improvement of livestock confinement buildings, poultry houses, dairy operations, similar livestock operations and any structure that represents more than a minimal investment must meet the elevation or dry-floodproofing requirements of 44 CFR 60.3(c)(3).

AREA OF SHALLOW FLOODING – A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. **AREA OF SPECIAL FLOOD HAZARD** – see **SPECIAL FLOOD HAZARD AREA**

ALTERATION OF A WATERCOURSE – A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

ASCE 7 – The standard for the Minimum Design Loads for Buildings and Other Structures, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. which includes but is not limited to methodology and equations necessary for determining structural and flood-related design requirements and determining the design requirements for structures that may experience a combination of loads including those from

natural hazards. Flood related equations include those for determining erosion, scour, lateral, vertical, hydrostatic, hydrodynamic, buoyancy, breaking wave, and debris impact.

ASCE 24 – The standard for Flood Resistant Design and Construction, referenced by the building code and developed and published by the American Society of Civil Engineers, Reston, VA. References to ASCE 24 shall mean ASCE 24-14 or the most recent version of ASCE 24 adopted in the UCC Code [N.J.A.C. 5:23].

BASE FLOOD ELEVATION (BFE) – The water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year, as shown on a published Flood Insurance Study (FIS), or preliminary flood elevation guidance from FEMA. May also be referred to as the “100-year flood elevation”.

BASEMENT – Any area of the building having its floor subgrade (below ground level) on all sides.

BEST AVAILABLE FLOOD HAZARD DATA - The most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA AREA- The areal mapped extent associated with the most recent available preliminary flood risk guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BEST AVAILABLE FLOOD HAZARD DATA ELEVATION - The most recent available preliminary flood elevation guidance FEMA has provided. The Best Available Flood Hazard Data may be depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM.

BREAKAWAY WALLS – Any type of wall subject to flooding that is not required to provide structural support to a building or other structure and that is designed and constructed such that, below the Local Design Flood Elevation, it will collapse under specific lateral loads such that (1) it allows the free passage of floodwaters, and (2) it does not damage the structure or supporting foundation system. Certification in the V Zone Certificate of the design, plans, and specifications by a licensed design professional that these walls are in accordance with accepted standards of practice is required as part of the permit application for new and substantially improved V Zone and Coastal A Zone structures. A completed certification must be submitted at permit application.

BUILDING – Per the FHACA, “Building” means a structure enclosed with exterior walls or fire walls, erected and framed of component structural parts, designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind. A building may have a temporary or permanent foundation. A building that is intended for regular human occupation and/or residence is considered a habitable building.

CONDITIONAL LETTER OF MAP REVISION - A Conditional Letter of Map Revision (CLOMR) is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The letter does not revise an effective NFIP map, it indicates whether

the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CONDITIONAL LETTER OF MAP REVISION - FILL -- A Conditional Letter of Map Revision - Fill (CLOMR-F) is FEMA's comment on a proposed project involving the placement of fill outside of the regulatory floodway that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The letter does not revise an effective NFIP map, it indicates whether the project, if built as proposed, would be recognized by FEMA. FEMA charges a fee for processing a CLOMR to recover the costs associated with the review that is described in the Letter of Map Change (LOMC) process. Building permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

CRITICAL BUILDING – Per the FHACA, “Critical Building” means that:

- a. It is essential to maintaining continuity of vital government operations and/or supporting emergency response, sheltering, and medical care functions before, during, and after a flood, such as a hospital, medical clinic, police station, fire station, emergency response center, or public shelter; or
- b. It serves large numbers of people who may be unable to leave the facility through their own efforts, thereby hindering or preventing safe evacuation of the building during a flood event, such as a school, college, dormitory, jail or detention facility, day care center, assisted living facility, or nursing home.

DEVELOPMENT – Any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of materials, mining, dredging, filling, grading, paving, excavations, drilling operations and other land-disturbing activities.

DRY FLOODPROOFING – A combination of measures that results in a non-residential structure, including the attendant utilities and equipment as described in the latest version of ASCE 24, being watertight with all elements substantially impermeable and with structural components having the capacity to resist flood loads.

ELEVATED BUILDING – A building that has no basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns. Solid perimeter foundations walls are not an acceptable means of elevating buildings in V and VE Zones.

ELEVATION CERTIFICATE – An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support an application for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

ENCROACHMENT – The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

FEMA PUBLICATIONS – Any publication authored or referenced by FEMA related to building science, building safety, or floodplain management related to the National Flood Insurance Program. Publications shall include but are not limited

to technical bulletins, desk references, and American Society of Civil Engineers Standards documents including ASCE 24.

FLOOD OR FLOODING

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
 3. Mudslides (I.e. mudflows) which are proximately caused by flooding as defined in (a) (2) of this definition and are akin to a river or liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

FLOOD HAZARD AREA DESIGN FLOOD ELEVATION – Per the FHACA, the peak water surface elevation that will occur in a water during the flood hazard area design flood. This elevation is determined via available flood mapping adopted by the State, flood mapping published by FEMA (including effective flood mapping dated on or after January 31, 1980, or any more recent advisory, preliminary, or pending flood mapping; whichever results in higher flood elevations, wider floodway limits, greater flow rates, or indicates a change from an A zone to a V zone or coastal A zone), approximation, or calculation pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-3.1 – 3.6 and is typically higher than FEMA's base flood elevation. A water that has a drainage area measuring less than 50 acres does not possess, and is not assigned, a flood hazard area design flood elevation.

FLOOD INSURANCE RATE MAP (FIRM) – The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) – The official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

FLOODPLAIN OR FLOOD PRONE AREA – Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

FLOODPLAIN MANAGEMENT REGULATIONS – Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING – Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

FLOODPROOFING CERTIFICATE – Certification by a licensed design professional that the design and methods of construction for floodproofing a non-residential structure are in accordance with accepted standards of practice to a proposed height above the structure’s lowest adjacent grade that meets or exceeds the Local Design Flood Elevation. A completed floodproofing certificate is required at permit application.

FLOODWAY – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

FREEBOARD – A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE – A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities necessary for the loading or unloading of cargo or passengers, and shipbuilding and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

HABITABLE BUILDING– Pursuant to the FHACA Rules (N.J.A.C. 7:13), means a building that is intended for regular human occupation and/or residence. Examples of a habitable building include a single-family home, duplex, multi-residence building, or critical building; a commercial building such as a retail store, restaurant, office building, or gymnasium; an accessory structure that is regularly occupied, such as a garage, barn, or workshop; mobile and manufactured homes, and trailers intended for human residence, which are set on a foundation and/or connected to utilities, such as in a mobile home park (not including campers and recreational vehicles); and any other building that is regularly occupied, such as a house of worship, community center, or meeting hall, or animal shelter that includes regular human access and occupation. Examples of a non-habitable building include a bus stop shelter, utility building, storage shed, self-storage unit, construction trailer, or an individual shelter for animals such as a doghouse or outdoor kennel.

HARDSHIP – As related to Section 107 of this ordinance, meaning the exceptional hardship that would result from a failure to grant the requested variance. The Town Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

HISTORIC STRUCTURE – Any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved State program as determined by the Secretary of the Interior; or
 - 2. Directly by the Secretary of the Interior in States without approved programs.

LAWFULLY EXISTING – Per the FHACA, means an existing fill, structure and/or use, which meets all Federal, State, and local laws, and which is not in violation of the FHACA because it was established:

- a. Prior to January 31, 1980; or
- b. On or after January 31, 1980, in accordance with the requirements of the FHACA as it existed at the time the fill, structure and/or use was established.

Note: Substantially damaged properties and substantially improved properties that have not been elevated are not considered “lawfully existing” for the purposes of the NFIP. This definition is included in this ordinance to clarify the applicability of any more stringent statewide floodplain management standards required under the FHACA.

LETTER OF MAP AMENDMENT - A Letter of Map Amendment (LOMA) is an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map that is requested through the Letter of Map Change (LOMC) process. A LOMA establishes a property's location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation. Because a LOMA officially amends the effective NFIP map, it is a public record that the community must maintain. Any LOMA should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP CHANGE – The Letter of Map Change (LOMC) process is a service provided by FEMA for a fee that allows the public to request a change in flood zone designation in an Area of Special Flood Hazard on an Flood Insurance Rate Map (FIRM). Conditional Letters of Map Revision, Conditional Letters of Map Revision – Fill, Letters of Map Revision, Letters of Map Revision-Fill, and Letters of Map Amendment are requested through the Letter of Map Change (LOMC) process.

LETTER OF MAP REVISION - A Letter of Map Revision (LOMR) is FEMA's modification to an effective Flood Insurance Rate Map (FIRM). Letter of Map Revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM or FIS report. Because a LOMR officially revises the effective NFIP map, it is a public record that the community must maintain. Any LOMR should be noted on the community's master flood map and filed by panel number in an accessible location.

LETTER OF MAP REVISION – FILL -- A Letter of Map Revision Based on Fill (LOMR-F) is FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway may be initiated through the Letter of Map Change (LOMC) Process. Because a LOMR-F officially revises the effective Flood Insurance Rate Map (FIRM) map, it is a public record that the community

must maintain. Any LOMR-F should be noted on the community's master flood map and filed by panel number in an accessible location.

LICENSED DESIGN PROFESSIONAL – Licensed design professional shall refer to either a New Jersey Licensed Professional Engineer, licensed by the New Jersey State Board of Professional Engineers and Land Surveyors or a New Jersey Licensed Architect, licensed by the New Jersey State Board of Architects.

LICENSED PROFESSIONAL ENGINEER - A licensed professional engineer shall refer to individuals licensed by the New Jersey State Board of Professional Engineers and Land Surveyors.

LOCAL DESIGN FLOOD ELEVATION (LDFE) – The elevation reflective of the most recent available preliminary flood elevation guidance FEMA has provided as depicted on but not limited to Advisory Flood Hazard Area Maps, Work Maps, or Preliminary FIS and FIRM which is also inclusive of freeboard specified by the New Jersey Flood Hazard Area Control Act and Uniform Construction Codes and any additional freeboard specified in a community's ordinance. In no circumstances shall a project's LDFE be lower than a permit-specified Flood Hazard Area Design Flood Elevation or a valid NJDEP Flood Hazard Area Verification Letter plus the freeboard as required in ASCE 24 and the effective FEMA Base Flood Elevation.

LOWEST ADJACENT GRADE – The lowest point of ground, patio, or sidewalk slab immediately next a structure, except in AO Zones where it is the natural grade elevation.

LOWEST FLOOR – In A Zones, the lowest floor is the top surface of the lowest floor of the lowest enclosed area (including basement). In V Zones and coastal A Zones, the bottom of the lowest horizontal structural member of a building is the lowest floor. An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of other applicable non-elevation design requirements of these regulations.

MANUFACTURED HOME – A structure that is transportable in one or more sections, eight (8) feet or more in width and greater than four hundred (400) square feet, built on a permanent chassis, designed for use with or without a permanent foundation when attached to the required utilities, and constructed to the Federal Manufactured Home Construction and Safety Standards and rules and regulations promulgated by the U.S. Department of Housing and Urban Development. The term also includes mobile homes, park trailers, travel trailers and similar transportable structures that are placed on a site for 180 consecutive days or longer.

MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKET VALUE – The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in these regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value shall be determined by one of the following methods (1) Actual Cash Value

(replacement cost depreciated for age and quality of construction), (2) tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser, or (3) established by a qualified independent appraiser.

NEW CONSTRUCTION – Structures for which the start of construction commenced on or after the effective date of the first floodplain regulation adopted by a community; includes any subsequent improvements to such structures. New construction includes work determined to be a substantial improvement.

NON-RESIDENTIAL – Pursuant to ASCE 24, any building or structure or portion thereof that is not classified as residential.

ORDINARY MAINTENANCE AND MINOR WORK – This term refers to types of work excluded from construction permitting under N.J.A.C. 5:23 in the March 5, 2018 New Jersey Register. Some of these types of work must be considered in determinations of substantial improvement and substantial damage in regulated floodplains under 44 CFR 59.1. These types of work include but are not limited to replacements of roofing, siding, interior finishes, kitchen cabinets, plumbing fixtures and piping, HVAC and air conditioning equipment, exhaust fans, built in appliances, electrical wiring, etc. Improvements necessary to correct existing violations of State or local health, sanitation, or code enforcement officials which are the minimum necessary to assure safe living conditions and improvements of historic structures as discussed in 44 CFR 59.1 shall not be included in the determination of ordinary maintenance and minor work.

RECREATIONAL VEHICLE – A vehicle that is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

REPETITIVE LOSS – any flood-related damage sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

RESIDENTIAL – Pursuant to the ASCE 24:

- a. Buildings and structures and portions thereof where people live or that are used for sleeping purposes on a transient or non-transient basis;
- b. Structures including but not limited to one- and two-family dwellings, townhouses, condominiums, multi-family dwellings, apartments, congregate residences, boarding houses, lodging houses, rooming houses, hotels, motels, apartment buildings, convents, monasteries, dormitories, fraternity houses, sorority houses, vacation time-share properties; and
- c. institutional facilities where people are cared for or live on a 24-hour basis in a supervised environment, including but not limited to board and care facilities, assisted living facilities, halfway houses, group homes, congregate care facilities, social rehabilitation facilities, alcohol and drug centers, convalescent facilities, hospitals, nursing homes, mental hospitals, detoxification facilities, prisons, jails, reformatories, detention centers, correctional centers, and prerelease centers.

SOLID WASTE DISPOSAL – "Solid Waste Disposal" shall mean the storage, treatment, utilization, processing or final disposition of solid waste as described in N.J.A.C. 7:26-1.6 or the storage of unsecured materials as described in

N.J.A.C. 7:13-2.3 for a period of greater than 6 months as specified in N.J.A.C. 7:26 which have been discharged, deposited, injected, dumped, spilled, leaked, or placed into any land or water such that such solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

SPECIAL FLOOD HAZARD AREA – The greater of the following: (1) Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, shown on the FIRM as Zone V, VE, V1-3-, A, AO, A1-30, AE, A99, or AH; (2) Land and the space above that land, which lies below the peak water surface elevation of the flood hazard area design flood for a particular water, as determined using the methods set forth in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13; (3) Riparian Buffers as determined in the New Jersey Flood Hazard Area Control Act in N.J.A.C. 7:13. Also referred to as the **AREA OF SPECIAL FLOOD HAZARD**.

START OF CONSTRUCTION – The **Start of Construction is as follows:**

- a. **For other than new construction or substantial improvements, under the Coastal Barrier Resources Act (CBRA)**, this is the date the building permit was issued, provided that the actual start of construction, repair, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- b. For the purposes of determining whether proposed construction must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change, the Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. Such development must also be permitted and must meet new requirements when National Flood Insurance Program (NFIP) maps are issued or revised and Base Flood Elevation's (BFEs) increase or zones change.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

For determining if new construction and substantial improvements within the Coastal Barrier Resources System (CBRS) can obtain flood insurance, a different definition applies.

STRUCTURE – A walled and roofed building, a manufactured home, or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any reconstruction, rehabilitation, addition, or other improvement of a structure taking place over a 1 year period or relative to the duration of an approved Building Permit from permit approval through Certificate of Occupancy if the permit duration exceeds 1 year, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. The period of accumulation includes the first improvement or repair of each structure that is permanent subsequent to May 9, 2023. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. This term also includes structures which have incurred “repetitive loss” or “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

UTILITY AND MISCELLANEOUS GROUP U BUILDINGS AND STRUCTURES – Buildings and structures of an accessory character and miscellaneous structures not classified in any special occupancy, as described in ASCE 24.

VARIANCE – A grant of relief from the requirements of this section which permits construction in a manner otherwise prohibited by this section where specific enforcement would result in unnecessary hardship.

VIOLATION – A development that is not fully compliant with these regulations or the flood provisions of the building code. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION – the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

WATERCOURSE. A river, creek, stream, channel, or other topographic feature in, on, through, or over which water flows at least periodically.

WET FLOODPROOFING – Floodproofing method that relies on the use of flood damage resistant materials and construction techniques in areas of a structure that are below the Local Design Flood Elevation by intentionally allowing them to flood. The application of wet floodproofing as a flood protection technique under the National Flood Insurance Program (NFIP) is limited to enclosures below elevated residential and non-residential structures and to accessory and agricultural structures that have been issued variances by the community.

SECTION 301 SUBDIVISIONS AND OTHER DEVELOPMENTS

301.1 General. Any subdivision proposal, including proposals for manufactured home parks and subdivisions, or other proposed new development in a flood hazard area shall be reviewed to assure that:

- (1) All such proposals are consistent with the need to minimize flood damage.

- (2) All public utilities and facilities, such as sewer, gas, electric and water systems are located and constructed to minimize or eliminate flood damage.
- (3) Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwater around and away from structures.

301.2 Subdivision requirements. Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

- (1) The flood hazard area, including floodways, coastal high hazard areas, and Coastal A Zones, and base flood elevations, as appropriate, shall be delineated on tentative subdivision plats.
- (2) Residential building lots shall be provided with adequate buildable area outside the floodway.
- (3) The design criteria for utilities and facilities set forth in these regulations and appropriate codes shall be met.

SECTION 401 SITE IMPROVEMENT

401.1 Encroachment in floodways. Development, land disturbing activity, and encroachments in floodways shall not be authorized unless it has been demonstrated through hydrologic and hydraulic analyses required in accordance with Section 105.3(1) of these regulations, that the proposed encroachment will not result in any increase in the base flood level during occurrence of the base flood discharge. If Section 105.3(1) is satisfied, proposed elevation, addition, or reconstruction of a lawfully existing structure within a floodway shall also be in accordance with Section 801.2 of this ordinance and the floodway requirements of N.J.A.C. 7:13.

401.1.1 Prohibited in floodways. The following are prohibited activities:

- (1) The storage of unsecured materials is prohibited within a floodway pursuant to N.J.A.C. 7:13.
- (2) Fill and new structures are prohibited in floodways per N.J.A.C. 7:13.

401.2 Sewer facilities. All new and replaced sanitary sewer facilities, private sewage treatment plants (including all pumping stations and collector systems) and on-site waste disposal systems shall be designed in accordance with the New Jersey septic system regulations contained in N.J.A.C. 14A and N.J.A.C. 7:9A, the UCC Plumbing Subcode (N.J.A.C. 5:23) and Chapter 7, ASCE 24, to minimize or eliminate infiltration of floodwater into the facilities and discharge from the facilities into flood waters, or impairment of the facilities and systems.

401.3 Water facilities. All new and replacement water facilities shall be designed in accordance with the New Jersey Safe Drinking Water Act (N.J.A.C. 7:10) and the provisions of Chapter 7 ASCE 24, to minimize or eliminate infiltration of floodwater into the systems.

401.4 Storm drainage. Storm drainage shall be designed to convey the flow of surface waters to minimize or eliminate damage to persons or property.

401.5 Streets and sidewalks. Streets and sidewalks shall be designed to minimize potential for increasing or aggravating flood levels.

401.6 Limitations on placement of fill. Subject to the limitations of these regulations, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwater, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, when intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the UCC (N.J.A.C. 5:23). Proposed fill and encroachments in flood hazard areas shall comply with the flood storage displacement limitations of N.J.A.C. 7:13.

401.7 Hazardous Materials. The placement or storage of any containers holding hazardous substances in a flood hazard area is prohibited unless the provisions of N.J.A.C. 7:13 which cover the placement of hazardous substances and solid waste is met.

SECTION 501 MANUFACTURED HOMES

501.1 General. All manufactured homes installed in flood hazard areas shall be installed pursuant to the Nationally Preemptive Manufactured Home Construction and Safety Standards Program (24 CFR 3280).

501.2 Elevation. All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be elevated such that the bottom of the frame is elevated to or above the elevation specified in Section 801.2.

501.3 Foundations. All new, relocated, and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on foundations as specified by the manufacturer only if the manufacturer's installation instructions specify that the home has been designed for flood-resistant considerations and provides the conditions of applicability for velocities, depths, or wave action as required by 24 CFR Part 3285-302. The Floodplain Administrator is authorized to determine whether the design meets or exceeds the performance necessary based upon the proposed site location conditions as a precondition of issuing a flood damage prevention permit. If the Floodplain Administrator determines that the home's performance standards will not withstand the flood loads in the proposed location, the applicant must propose a design certified by a New Jersey licensed design professional and in accordance with 24 CFR 3285.301 (c) and (d) which conforms with ASCE 24, the accepted standard of engineering practice for flood resistant design and construction.

501.4 Anchoring. All new, relocated, and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

501.5 Enclosures. Fully enclosed areas below elevated manufactured homes shall comply with the requirements of Section 801.2.

501.6 Protection of mechanical equipment and outside appliances. Mechanical equipment and outside appliances shall be elevated to or above the elevation of the bottom of the frame required in Section 801.2 of these regulations.

Exception. Where such equipment and appliances are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding up to the elevation required by Section 801.2, the systems and equipment shall be permitted to be located below that elevation. Electrical wiring systems shall be permitted below the design flood elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

SECTION 601 RECREATIONAL VEHICLES

601.1 Placement prohibited. The placement of recreational vehicles shall not be authorized in coastal high hazard areas and in floodways.

601.2 Temporary placement. Recreational vehicles in flood hazard areas shall be fully licensed and ready for highway use and shall be placed on a site for less than 180 consecutive days.

601.3 Permanent placement. Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of Section 801.2 for habitable buildings and Section 501.3.

SECTION 701 TANKS

701.1 Tanks. Underground and above-ground tanks shall be designed, constructed, installed, and anchored in accordance with ASCE 24 and N.J.A.C. 7:13.

SECTION 801 OTHER DEVELOPMENT AND BUILDING WORK

801.1 General requirements for other development and building work. All development and building work, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in these regulations or the Uniform Construction Code (N.J.A.C. 5:23), shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Meet the limitations of Section 105.3(1) of this ordinance when located in a regulated floodway;
- (3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic and hydrodynamic loads, including the effects of buoyancy, during the conditions of flooding up to the Local Design Flood Elevation determined according to Section 102.3;
- (4) Be constructed of flood damage-resistant materials as described in ASCE 24 Chapter 5;
- (5) Have mechanical, plumbing, and electrical systems above the Local Design Flood Elevation determined according to Section 102.3 or meet the requirements of ASCE 24 Chapter 7 which requires that attendant utilities are located above the Local Design Flood Elevation unless the attendant utilities and equipment are:
 - i. Specifically allowed below the Local Design Flood Elevation; and
 - ii. Designed, constructed, and installed to prevent floodwaters, including any backflow through the system from entering or accumulating within the components.
- (6) Not exceed the flood storage displacement limitations in fluvial flood hazard areas in accordance with N.J.A.C. 7:13; and
- (7) Not exceed the impacts to frequency or depth of offsite flooding as required by N.J.A.C. 7:13 in floodways.

801.2 Requirements for Habitable Buildings and Structures.

- 1) Construction and Elevation in A Zones not including Coastal A Zones.
 - a. No portion of a building is located within a V Zone.
 - b. No portion of a building is located within a Coastal A Zone, unless a licensed design professional certifies that the building's foundation is designed in accordance with ASCE 24, Chapter 4.
 - c. All new construction and substantial improvement of any habitable building (as defined in Section 201) located in flood hazard areas shall have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 102.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate.
 - d. All new construction and substantial improvements of non-residential structures shall:
 - i. Have the lowest floor, including basement, together with the attendant utilities (including all electrical, heating, ventilating, air-conditioning and other service equipment) and sanitary facilities, elevated to or above the Local Design Flood Elevation as determined in Section 102.3, be in conformance with ASCE Chapter 7, and be confirmed by an Elevation Certificate; or
 - ii. Together with the attendant utility and sanitary facilities, be designed so that below the Local Design Flood Elevation, the structure:
 1. Meets the requirements of ASCE 24 Chapters 2 and 7; and
 2. Is constructed according to the design plans and specifications provided at permit application and signed by a licensed design professional, is certified by that individual in a Floodproofing Certificate, and is confirmed by an Elevation Certificate.
 - e. All new construction and substantial improvements with fully enclosed areas below the lowest floor shall be used solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding. Enclosures shall:
 - iii. For habitable structures, be situated at or above the adjoining exterior grade along at least one entire exterior wall, in order to provide positive drainage of the enclosed area in accordance with N.J.A.C. 7:13; enclosures (including crawlspaces and basements) which are below grade on all sides are prohibited;

- iv. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters unless the structure is non-residential and the requirements of 801.2.1(d)ii are met;
- v. Be constructed to meet the requirements of ASCE 24 Chapter 2;
- vi. Have openings documented on an Elevation Certificate; and
- vii. Have documentation that a deed restriction has been obtained for the lot if the enclosure is greater than six feet in height. This deed restriction shall be recorded in the Office of the County Clerk or the Registrar of Deeds and Mortgages in which the building is located, shall conform to the requirements in N.J.A.C. 7:13, and shall be recorded within 90 days of receiving a Flood Hazard Area Control Act permit or prior to the start of any site disturbance (including pre-construction earth movement, removal of vegetation and structures, or construction of the project), whichever is sooner. Deed restrictions must explain and disclose that:
 - 1. The enclosure is likely to be inundated by floodwaters which may result in damage and/or inconvenience.
 - 2. The depth of flooding that the enclosure would experience to the Flood Hazard Area Design Flood Elevation;
 - 3. The deed restriction prohibits habitation of the enclosure and explains that converting the enclosure into a habitable area may subject the property owner to enforcement;
- f. For new construction or substantial improvements, enclosures shall be less than 295 square feet in size.

801.3 Garages and accessory storage structures. Garages and accessory storage structures shall be designed and constructed in accordance with the Uniform Construction Code.

801.4 Fences. Fences in floodways that have the potential to block the passage of floodwater, such as stockade fences and wire mesh fences, shall meet the requirements of Section 105.3(1) of these regulations. Pursuant to N.J.A.C. 7:13, any fence located in a floodway shall have sufficiently large openings so as not to catch debris during a flood and thereby obstruct floodwaters, such as barbed-wire, split-rail, or strand fence. A fence with little or no open area, such as a chain link, lattice, or picket fence, does not meet this requirement. Foundations for fences greater than 6 feet in height must conform with the Uniform Construction Code. Fences for pool enclosures having openings not in conformance with this section but in conformance with the Uniform Construction Code to limit climbing require a variance as described in Section 107 of this ordinance.

801.5 Retaining walls, sidewalks, and driveways. Retaining walls, sidewalks and driveways that involve placement of fill in floodways shall meet the requirements of Section 105.3(1) of these regulations and N.J.A.C. 7:13.

801.6 Swimming pools. Swimming pools shall be designed and constructed in accordance with the Uniform Construction Code. Above-ground swimming pools and below-ground swimming pools that involve placement of fill in floodways shall also meet the requirements of Section 105.3(1) of these regulations. Above-ground swimming pools are prohibited in floodways by N.J.A.C. 7:13.

801.7 Roads and watercourse crossings.

- (1) For any railroad, roadway, or parking area proposed in a flood hazard area, the travel surface shall be constructed at least one foot above the Flood Hazard Area Design Elevation in accordance with N.J.A.C. 7:13.
- (2) Roads and watercourse crossings that encroach into regulated floodways or riverine waterways with base flood elevations where floodways have not been designated, including roads, bridges, culverts, low- water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, shall meet the requirements of Section 105.3(1) of these regulations.

SECTION 901 TEMPORARY STRUCTURES AND TEMPORARY STORAGE

901.1 Temporary structures. Temporary structures shall be erected for a period of less than 180 days. Temporary structures shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood. Fully enclosed temporary structures shall have flood openings that are in accordance with ASCE 24 to allow for the automatic entry and exit of flood waters.

901.2 Temporary storage. Temporary storage includes storage of goods and materials for a period of less than 180 days. Stored materials shall not include hazardous materials.

901.3 Floodway encroachment. Temporary structures and temporary storage in floodways shall meet the requirements of Section 105.3(1) of these regulations.

SECTION 1001 UTILITY AND MISCELLANEOUS GROUP U

1001.1 Utility and Miscellaneous Group U. In accordance with Section 312 of the International Building Code, Utility and Miscellaneous Group U includes buildings and structures that are accessory in character and miscellaneous structures not classified in any specific occupancy in the Building Code, including, but not limited to, agricultural buildings, aircraft hangars (accessory to a one- or two-family residence), barns, carports, communication equipment structures (gross floor area less than 1,500 sq. ft.), fences more than 6 feet (1829 mm) high, grain silos (accessory to a residential occupancy), livestock shelters, private garages, retaining walls, sheds, stables, tanks and towers.

1001.2 Flood loads. Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be anchored to prevent flotation, collapse or lateral movement resulting from flood loads, including the effects of buoyancy, during conditions up to the Local Design Flood Elevation as determined in Section 102.3.

1001.3 Elevation. Utility and miscellaneous Group U buildings and structures, including substantial improvement of such buildings and structures, shall be elevated such that the lowest floor, including basement, is elevated to or above the Local Design Flood Elevation as determined in Section 102.3 and in accordance with ASCE 24. Utility lines shall be designed and elevated in accordance with N.J.A.C. 7:13.

1001.4 Enclosures below base flood elevation. Fully enclosed areas below the design flood elevation shall be constructed in accordance with Section 801.2 and with ASCE 24 for new construction and substantial improvements. Existing enclosures such as a basement or crawlspace having a floor that is below grade along all adjoining exterior walls shall be abandoned, filled-in, and/or otherwise modified to conform with the requirements of N.J.A.C. 7:13 when the project has been determined to be a substantial improvement by the Floodplain Administrator.

1001.5 Flood-damage resistant materials. Flood-damage-resistant materials shall be used below the Local Design Flood Elevation determined in Section 102.3.

1001.6 Protection of mechanical, plumbing, and electrical systems. Mechanical, plumbing, and electrical systems, equipment and components, heating, ventilation, air conditioning, plumbing fixtures, duct systems, and other service equipment, shall be elevated to or above the Local Design Flood Elevation determined in Section 102.3.

Exception: Electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall be permitted to be located below the Local Design Flood Elevation provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the Local Design Flood Elevation in compliance with the flood-resistant construction requirements of ASCE 24. Electrical wiring systems shall be permitted to be located below the Local Design Flood Elevation provided they conform to the provisions of NFPA 70 (National Electric Code).

SECTION II. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION III. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION IV. This Ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY
GENERAL ORDINANCE NO. 2023-13**

**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**

§ 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.

Short Title and Index
Findings, Purpose, and Policy
Definitions
Historic Preservation Commission
Designation of Landmarks and Historic Districts
Certification of Appropriateness
Procedures for Filing an Application
Standards of Consideration
Effect of Certificate of Appropriateness Approval, Denial, Appeal
Special Requirements for Demolition
Penalties
Preventive Maintenance
Permit Review
Designated Historic Landmarks
Designated Historic Districts
Repeal
Severability
Effective Date

§ 2. FINDINGS, PURPOSE, AND POLICY.

A. The Town Council of the Town of Westfield ("Town") 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;
2. The character, lifestyle, and very quality of life in the Town of Westfield depends in great measure upon the Town protecting this heritage of the past;
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;

4. Such historic districts and landmarks are vital to the education and civic mindedness of the Town's young people;
 5. A number of critical factors such as deterioration, demolition, redevelopment, and re-subdivision threaten such landmarks and districts; and
 6. The welfare of the municipality is enhanced by the preservation of its historic heritage for the reasons set forth above.
- B. The New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-65.1, permits municipalities to adopt a zoning ordinance that designates and regulates historic landmarks or historic districts and provides design criteria and guidelines therefor.
 - C. 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).
 - D. In adopting this Ordinance, it is the intention of the Town Council to designate and regulate historic landmarks 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.*, and to clarify the role of the Historic Preservation Commission’s role on applications for development, particularly as consistent with N.J.S.A 40:55D-111. 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.
 - E. Nothing contained herein shall supersede the powers of other local legislative or regulatory bodies or relieve any property owner from complying with the requirements of any other state statutes or municipal Ordinances or regulations, including the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. (“MLUL”)
 - F. In the event of any inconsistency, ambiguity, and/or overlapping of requirements promulgated by the municipality, the more restrictive requirement shall apply, except where the provisions of this Ordinance are in conflict with the requirements of the MLUL, as existing and as hereafter may be amended, in which case the provisions of the MLUL shall apply.
 - G. 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 on a landmark or in a 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. Otherwise, words and phrases in this Ordinance shall have the meanings set forth under Article 2 of the Land Use Ordinance of the Town of Westfield.

- A. Addition. Any construction on any building located on a historic landmark or within a historic district.
- B. Administrative Officer. Means the town planner, or another individual designated by the Town

Council.

- 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. Building. Any structure created to shelter human activity; examples would include, but not be limited to, houses, barns, schools, railroad stations, theaters, and factories.
- E. Certificate of Appropriateness. The document issued by the Commission, which is required, unless otherwise exempt as set forth in this Ordinance or in the MLUL, before any work may be commenced on any historic landmark or any building, structure, site, object or improvement located within a historic district.
- F. Contributing. Any building, structures, sites, objects or improvements which are integral components of a historic district either because they date from a time period which makes them historically significant or because they represent an architectural type, period or method which is historically significant.
- G. Commission. The Historic Preservation Commission of the Town of Westfield.
- H. Construction Official. The officer in charge of granting building or construction permits in the Town.
- I. Demolition. The partial or total razing, dismantling, or destruction, whether entirely or in significant part, of any building, structure, object, or landmark. "Demolition" includes the removal of a building, structure, or object from its landmark or the removal or destruction of the facade or surface.
- J. Demolition Application. An application to the Zoning Official for a demolition permit.
- K. Demolition Approval. Any approval issued by the Zoning Official which is required by the Westfield General Code and/or Westfield Land Use Regulations and which authorizes the total or partial demolition of a building or structure (excluding interior demolition).
- L. Demolition Permit. Any permit issued by the Construction Official which is required by the State Building Code, and which authorizes the demolition of 75 percent or more of a building or structure (excluding interior demolition), or which authorizes the demolition of 25 percent or more of the façade of a building or structure, regardless of whether such permit is called a "demolition permit," "alteration permit," or "building permit," etc.
- M. Emergency Repairs. Immediate repairs to preserve the continued habitability and/or the health and safety of occupants or others, performed in accordance with Town codes without first obtaining a Certificate of Appropriateness. A consultation with the Commission or its staff is still required.
- N. Facade. The exterior elevation of a building as viewed from any single public vantage point. The facade 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 roof structures.
- O. Historic District.
 - 1. A geographically definable area of historic landmarks that are linked historically or aesthetically by plans or physical development and acknowledged to possess collective importance.
 - 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;
- 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.

- P. Historic Landmark. Any real property, man-made structure, natural object, configuration, or any portion or group of the foregoing which has 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;
 2. is identified with historic personages or with important events in the main current of national, state, or local history;
 3. shows evidence of habitation, activity, culture of Indigenous and/or Pre-Colonial humans, or any evidence of archeologic importance;
 4. embodies a distinguishing characteristic or an architectural type valuable as representative of a period, style, or method of construction;
 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.

A historic landmark can include a building, structure, or site.

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).

Unless otherwise indicated in the adopting ordinance, the designation of a landmark shall not be deemed to include the lot or lots on which it is located.

- Q. Historic Preservation Commission Application Subcommittee. (HPC Application Subcommittee). The HPC Chairperson and two (2) other Commission members previously designated by the HPC Chairperson.
- R. 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 no less than sixty (60) continuous days.
- S. In kind. Construction or construction materials that match construction or construction materials being replaced on a designated structure or object, thereby maintaining historic composition, design, color, texture and other visual qualities.

- T. Major Application. Any application for a Certificate of Appropriateness which is not a minor application, as defined below.
- U. Minor Application. Any application for a Certificate of Appropriateness which:
1. Does not involve demolition, relocation, or removal of a historic landmark or a key or “contributing property” in a historic district; or
 2. Does not involve an addition to a historic landmark or property in a historic district or new construction in a historic district; or
 3. Is a request for approval of fences, signs, awnings, or lighting, which, in the opinion of the HPC Application Committee, will not substantially affect the characteristics or defining features of the historic landmark or the historic district; or
 4. Is a request for a field change (i.e., those changes made in the field which are necessitated by job condition having no material design ramifications not constituting discretionary scope changes) in circumstances in which a Certificate of Appropriateness has already been issued, and such field change which, in the opinion of the Chair of the Commission or his/her designee, does not affect the architectural significance of the historic landmark or district; or
 5. Does not involve a change to the exterior of any building on a historic landmark including the roofline, windows, siding, gutters, porch replacement/addition; or
 6. Involves ten percent (10%) or less of the façade by surface area of any building designated as a historic landmark.
- V. Noncontributing. Any building, structure, site, object or improvement on the site which does not have significant historical value because they neither date from a time period nor represent an architectural type, period, or method which is historically significant.
- W. Object. A material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable, yet related to a specific setting or environment.
- X. Partial Demolition. The pulling down, destruction, or removal of a substantial portion of the exterior of a building or structure or the removal of architectural elements which define or contribute to the historic character of the structure.
- Y. Potentially Historic Building or Structure. Any building or structure which, in whole or in part, was constructed prior to 1930 at the time an application is filed.
- Z. Reconstruction. The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.
- AA. Rehabilitation. The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.
- BB. Repair. Historic site features which have been damaged, are deteriorated, or have missing components, and upon which work is performed in order to reestablish the whole feature and to ensure retention of the integrity of historic material. Repairs may include limited replacement in kind or with a compatible substitute material of those extensively deteriorated or missing parts of site features when there are surviving prototypes, such as railings and other, similar features. Repairs should be physically and visually compatible.

- CC. Replacement. A repair that changes the façade of any structure or improvement.
- DD. 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 that has not gained significance, or by the reconstruction of missing earlier work.
- EE. Site. The location of a significant event, pre-Colonial, or historic activity, or remnant of a building or structure such as a battlefield, landscape, or the ruins of a building or structure.
- FF. Structure. Any construction other than a building; examples would include bridges, lighthouses, water towers, a well house, tunnels, and civil engineering structures such as a canal.
- GG. Total Demolition. The pulling down, razing or destruction of the entire portion of a building or structure which is above ground regardless of whether another building or structure is constructed within the original footprint of the destroyed building or structure.

§ 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 § 6.0 hereof and to provide advisory reports regarding applications for development pending before the planning board or board of adjustment pursuant to N.J.S.A. 40:55D-110 and 111.
- 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.
 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. Alternate members may participate in discussions of the proceedings but may not vote, except in the absence or disqualification of a regular member. A vote shall not be delayed so 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.
 5. Town Historian. The Town Historian shall be one of those persons appointed as a Class A or Class B member.
 6. Planning Board Member. 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. The Planning Board member shall be a regular voting member of the Commission.
 7. All Commission members shall have demonstrated interest, competence, and/or knowledge in historic preservation.
 8. 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, and/or currently owns a property in a designated historic district or owns a designated landmark.

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 member 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.
2. Alternate members shall serve a term of two (2) years.
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 contemporaneous 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. Vacancies on the Commission will be filled with qualified members within sixty (60) days.
5. Any member of the Commission may, after public hearing if he or she requests it, be removed by the Town Council for cause. Missing three (3) or more meetings in any calendar year may be deemed cause for removal.
6. Commission members and alternate members shall not receive any 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. With the approval of the Town Administrator, the Commission shall have the power to hire outside counsel as needed.
4. The mayor shall designate a member of the Town Council to act as a liaison between the Historic Preservation Commission and the Council. The Town Council liaison shall not be a voting member of the Commission.
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, with the approval of the Town Administrator, 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 assist 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. 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.
6. All actions to grant, change, or deny a Certificate of Appropriateness shall be memorialized by a formal written resolution, containing findings of fact and conclusions, which shall be adopted within forty-five (45) days of a vote to grant, change, or deny a Certificate of Appropriateness as a memorialization of the action after the action has been taken.
7. The Commission shall annually establish a schedule of regular monthly meetings, which shall be noticed and posted in the 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, objects, 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 landmarks and districts in the Town of Westfield.
4. Adopt design guidelines for historic landmarks and historic districts.
5. 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 landmarks, identified by the Commission's survey identifying same, and on the implications for preservation of historic landmarks upon all other elements of the Master Plan.
6. Recommend to the Town Council landmarks and districts that are qualified for historic designation by a zoning ordinance amendment in accordance with the criteria and procedures set forth in § 5.0 hereof.
7. Hear and decide applications for a Certificate of Appropriateness pursuant to § 6.0 hereof, except that, pursuant to N.J.S.A. 40:55D-111, the Commission shall only hear and decide applications for a Certificate of Appropriateness involving work or improvements that were not approved by either the Planning Board or the Zoning Board, as the case may be, in connection with an application for development filed pursuant to the MLUL.

8. Advise the Planning Board and Board of Adjustment on all applications for development pertaining to historic districts or historic landmarks designated on the zoning map or identified in any component of the Master Plan, pursuant to N.J.S.A. 40:55D-110.
9. Review all permit applications requiring a Certificate of Appropriateness, and pertaining to historic landmarks or property in historic districts, and provide written reports to the Administrative Officer (as such term is defined in § 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.
10. Advise the Planning Board on the inclusion of landmarks and historic districts in a capital improvement program adopted pursuant to N.J.S.A. 40:55D-29, N.J.S.A. 40:55D-30, and N.J.S.A. 40A:4-43.
11. Collect and disseminate material on the importance of historic preservation and techniques for achieving same.
12. Advise all municipal agencies regarding goals and techniques of historic preservation.
13. Advise and assist citizen groups and individuals interested in establishing landmarks and historic districts.
14. 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 of Historic Places Criteria of Eligibility (36 CFR 60.4) and the criteria set forth in this Ordinance. The survey shall be used as a basis for identifying landmarks and districts worthy of designation. The Commission shall consider for designation districts and landmarks 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 Identification characteristics of the Town, State, or Nation;
 2. Identified with a person or persons who significantly enriched the Town, State, or Nation;
 3. Landmark of a 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 landmark architecturally significant or structurally innovative;

7. Unique location of singular physical characteristics that make a district or landmark an established or familiar visual feature; and
 8. Likely to yield information important in Pre-Colonial North America or post-Columbian history.
- B. Procedures for Designation. The Commission shall consider designation of a district or a landmark in accordance with the procedures that follow:
1. Designation by the Town. The Commission or the Planning Board may nominate for designation by the Town Council such landmarks by a simple majority of affirmative votes, if in the Commission's opinion, the criteria for designation set forth in § 5.A above are met. Should the Town Council accept the nomination of the Commission to designate a landmark or district, such designation shall be adopted by ordinance as an amendment to the zoning ordinance. For any nomination by the Commission, the Commission shall prepare a report containing a statement of its recommendations and the reasons therefor with regard to proposed designation. Such report shall be considered and adopted at a duly noticed public meeting of the Commission.
 2. Designation Nomination by the Affected Resident(s). For all districts and landmarks other than those designated pursuant to § 1 above, proposals to designate a landmark or district as historic pursuant to this article may be made by the verified application of the owner(s) of a landmark, or with respect to a proposed district, by any owner within the proposed district.
 - a. Nomination Proposals. The party or parties proposing a landmark or district for designation under this Section may prepare and submit to the Commission a nomination report for each proposed landmark or district. Should a nomination report not be submitted by the party or parties proposing a landmark or district, the Commission or such professional retained by it for that purpose may prepare such a report. For historic district designations, the report shall include a building-by-building inventory of all properties within the district, photographs of representative properties within the district, a property map of the district showing boundaries, and a physical description and statement of significance for the district. For individual landmark designations, the report shall include one or more photographs, the tax lot and block number of the property as designated on the Official Tax Map of the Town and a physical description and statement of significance and proposed utilization of the landmark.
 - b. Notice. The Commission shall schedule a public hearing on the proposed designation of a landmark or district. At least twenty (20) days prior to the hearing, the Commission shall, by personal service or certified mail:
 1. Notify the owner(s) of record of a property that has been proposed for designation or of property within a district that has been proposed for designation that the property is being considered for such designation and the reasons therefor.
 2. Advise the owner(s) of record of the significance and consequences of such designation and of the rights of the owner(s) of record to contest such designation under the provisions of this article.
 3. Notify the owner(s) of record of the date, time and location of the hearing concerning the proposed designation of the property.
 4. Serve any notices further required under the provisions of the Municipal Land Use

Law.

- c. **Public Notice of Hearing.** With respect to the proposed designation of historic districts only, public notice of the hearing shall be given at least twenty (20) days prior to the scheduled hearing date by publication in an official newspaper of the Town. A copy of the nomination report shall also be made available for public inspection in the Municipal Clerk's office at least twenty (20) days prior to the hearing.
- d. **Hearing.** At a public hearing scheduled in accordance with this article, the Commission shall review the nomination report and accompanying documents. Interested persons shall be entitled to comment on the proposed nominations for designation.
 1. **Commission Report.** Upon Commission review and public hearing, the Commission shall forward to the Town Council its report, which shall contain a statement of its recommendations and the reasons therefor with regard to proposed designations considered at the hearing, including a list and map of properties approved for designation.
 2. **Referral to the Planning Board.** The Town Council shall refer the report to the Planning Board, which in turn shall report to the Town Council as soon as possible, but within sixty (60) days. Failure of the Planning Board to transmit its report within the sixty-day period provided herein shall relieve the Town Council of its obligations relating to the referral of such a report to the Planning Board. Town Council action on landmark or district designations shall be otherwise subject to those procedures and statutes which apply to a change of a zoning designation and the adoption, revision or amendment of any development regulation.
 3. **Final Designation.** As soon as possible after its receipt of the report of the Planning Board or the expiration of the period allowed for Planning Board comment on designations pursuant to Subsection B(2)(g) of this Section and if no comments are made by the Planning Board, the Town Council shall act upon the proposed designation list and map and may approve, reject or modify by ordinance the designation recommendations made by the Planning Board or by the Commission. In the event that the Town Council votes to reject or modify any Planning Board recommendations for a proposed designation, the Council shall record in its minutes the reasons for not following such recommendation. All action taken by the Council on proposed designations shall become effective upon a favorable vote of a majority of its full authorized membership, except that in cases in which, pursuant to N.J.S.A. 40:55D-63, a written petition signed by the owners of twenty percent (20%) or more of the area either (1) of the lots or land included in such proposed change, or (2) of the lots or land extending two hundred (200) feet in all directions therefrom inclusive of street space, whether within or without the municipality, is filed with the Clerk of the Town, the vote of the Town Council shall be by a favorable vote of two-thirds (2/3) of all the members of the governing body of the municipality.
- e. **Public Notice of Designation.** Notice of designation shall be made public by publication in the official newspaper of the Town and by distribution to all municipal agencies reviewing development applications and permits. A certificate or letter of designation shall be sent to the owner(s) of record.
- f. **Incorporation of Designated Landmarks or Districts into Town Records.** Upon adoption,

the designation list and map shall be incorporated by reference into the Master Plan and Zoning Ordinance of the Town as required by the provisions of the Municipal Land Use Law. Designated properties shall also be noted as such on the records for those properties maintained by the offices of the Town's Tax Assessor and the Municipal Clerk.

- g. Amendments. Landmark and district designations may be amended in the same manner as they were adopted in accordance with the provisions of this article.
3. 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 landmark 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.
4. Each designated historic district or landmark may be marked by an appropriate plaque. Once an application is approved and the landmark has been designated, the applicant may apply for a historical preservation marker or plaque. Unless such fee is waived by the Commission in its discretion, the applicant will be responsible for any costs associated with the marker or plaque and the placement of the marker or plaque.
5. Once a certificate of designation has been granted, it may only be undesignated by the same process required herein for its designation. If undesignated, a certificate to that effect shall also be filed by the Town of Westfield with the County Recorder of Deeds.
6. All historic landmarks 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 landmarks 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 the designation ordinance and recorded in its minutes (N.J.S.A. 40:55D-65.1).
7. 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 two hundred (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 a favorable vote of two-thirds (2/3) of all members of the Town Council.
8. Pursuant to the provisions of N.J.S.A. 40:55D-65.1, the designation and regulation of historic landmarks and historic districts shall be in addition to such designation and regulation as the zoning ordinance may otherwise require. As required by N.J.S.A. 40:55D-65.1, all historic sites and historic districts designated in the zoning ordinance shall be based on identifications in the historic preservation plan element of the Master Plan. The governing body may, at any time, adopt, by affirmative vote of a majority of its authorized membership, a zoning ordinance designating one or more historic sites or historic districts that are not based on identifications in the historic preservation plan element, the land use plan element or community facilities plan element, provided the reasons for the action of the governing body are set forth in a resolution and recorded in the minutes of the governing body, as contemplated in the procedures set forth in this Section.

§ 6. CERTIFICATION OF APPROPRIATENESS.

- A. Actions requiring a Certificate of Appropriateness. A Certificate of Appropriateness issued by the Administrative Officer under the guidance of the Commission shall be required before the Zoning Officer may issue zoning approval and the Construction Official may issue a permit for any of the following activities on the property of any designated landmark or within any designated historic

district:

1. demolition of a historic landmark or of any façade improvement within any historic district;
 2. relocation or subdivision of any historic landmark or of any facade improvement within any historic district;
 3. changes in the exterior facade of any existing historic landmark or of any improvement within any historic district by addition, alteration, replacement, rehabilitation, restoration, or reconstruction;
 4. changes in, or addition of, new signs, fences 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 a historic landmark or in a historic district visible from any single public vantage point; and
 6. any change in the exterior facade of any improvement within a 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 standards of consideration for that district set forth in § 8 below, 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. At any time in which the Planning Board or the Board of Adjustment grants approval to an applicant to subdivide a historic site, or a property within a historic district, the Commission shall have an obligation to review and advise the Planning Board or Board of Adjustment, as the case may be, with respect to the proposed subdivision in accordance with N.J.S.A. 40:55D-110. The Commission may hear and decide applications for a Certificate of Appropriateness involving work or improvements that were not approved by either the Planning Board or the Zoning Board, as the case may be, in connection with the subdivision application.
- C. Exceptions.
1. Interior Work; Repairs; Exact Reconstruction. With respect to work to be performed in designated districts or designated buildings or structures, a Certificate of Appropriateness shall not be required for: (1) changes to the interior spaces of buildings; (2) changes to a paint color either in the interior or on the exterior of a building; or (3) any façade repair that entirely matches the material and appearance of the repaired elements, If any exterior material, finish, or surface is to be painted that was not previously painted, a Certificate of Appropriateness will be required.
 2. Emergency Repair Procedures.
 - a. When a historic landmark or a historic district resource requires immediate repair to preserve its continued habitability and/or the health and safety of its occupants or others, emergency repairs may be performed in accordance with applicable construction codes immediately upon approval of the construction official, who shall certify that a bona fide emergency of the type referenced herein exists, without first obtaining a Certificate of Appropriateness from the Commission. Under such circumstances, the repairs performed shall be only such as are necessary to preserve the continued habitability of the building or structure and/or the health and safety of its occupants or others. Where feasible, temporary measures to prevent further damage shall be employed, provided these measures are reversible without causing damage to the building or structure.

- b. Simultaneously with the commencement of the emergency work, the property owner shall make a request for a Certificate of Appropriateness from the Commission memorializing the approval for said emergency work. This request shall be made through the administrative officer pursuant to the procedures set forth in § 7.
- c. It should be noted that the procedures outlined in this section should be strictly limited to those circumstances, in the opinion of the Construction Official, rise to the level of a bona fide emergency of the type referenced above. No work in addition to the emergency repairs shall be performed until an appropriate request for approval has been granted by the Administrative Officer and Historic Preservation Commission pursuant to the procedures set forth in subsection § 7.
- d. Emergency reviews will be completed in a timely fashion.

D. Review of Certificate of Appropriateness Applications.

1. The Administrative Officer, in conjunction with the Historic Preservation Application Subcommittee, shall make a determination as to whether or not the application is either a minor or major application. 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 Administrative 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 the Commission Chair, or his or her absence, the Vice-Chair, to be complete, and inclusive of a copy of the Administrative Officer 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. If a Certificate of Appropriateness is required, 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 involving property which was the subject of an application for development approval by the Planning Board or Zoning Board of Adjustment, the Commission's jurisdiction shall be limited to any work or improvements that were not approved by either the Planning Board or the Zoning Board, as the case may be, in connection with the application for development.
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 forty-five (45) days of the Administrative Officer's referral to the Commission.
6. If, by its report to the Administrative Officer within the forty-five (45) day period, the Commission recommends against the issuance of a building permit, the Construction Official shall deny issuance of the building permit.
7. If, in the case of any application with respect to a historic district or historic landmark or any landmark listed within the Town's historic preservation plan, locally designated properties, 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 forty-five (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 forty-five (45) day period, as provided at § 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 written agreement between the applicant and the Commission.

E. 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 zoning districts or on historic landmarks designated on the zoning or official map or identified in any component element of the Master Plan. This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner.
2. Failure to refer the application as required shall not invalidate any hearing or proceeding. The Historic Preservation Commission may provide its advice, which shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.
3. 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 work or improvements not already determined by the reviewing Board in connection with an application for development.

§ 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 § 8 hereof.
- B. All Certificates of Appropriateness issued shall require, as a condition of such approval, that proof be submitted that taxes or assessments for local improvements are not due or delinquent on the property.
- C. Within twenty (20) days of its receipt of an application for a Certificate of Appropriateness, the Administrative Officer in conjunction with the Application Subcommittee, shall:
 1. classify the application as a major or minor application in accordance with the definitions

provided in § 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 twenty (20) day period.

- D. 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.
- E. 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 Chair, or in the absence of the Chair, the Vice-Chair, in conjunction with the Application Subcommittee, at the request of an applicant or on its own, may waive submission of one or more required items in appropriate instances. Any request for such waiver(s) by an applicant must accompany the application and shall include a statement of the reasons for such request.
- F. 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. However, the application shall not be deemed incomplete for lack of any such additional information or corrections.
- G. 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. Photographs depicting existing building(s), structure(s), and conditions on the subject landmark and on immediately adjacent properties.
 3. Specification of materials to be used in completing the project and proposed colors of exterior finishes.
 4. Sketches or drawings illustrating the project, as proposed.
 5. A copy of the Administrative Officer's notice advising the applicant of the need to file if such notice was provided to the applicant.
 6. A copy of any application approved by the Planning Board or Zoning Board of Adjustment, as applicable, along with the Board's memorializing resolution.

7. 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.
- H. Submission Requirements, Major Applications. Major Applications for a Certificate of Appropriateness shall, in addition to the items required for minor applications listed at § 7.G, above, include the following:
1. Scaled drawings prepared by a licensed professional depicting existing and proposed: landmark layout, building elevations, floor plans, roof layout plans, and materials specifications.
 2. A 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. For new buildings, additions to buildings, and/or those affecting ten percent (10%) or more of the facade 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.
 4. For new construction, a streetscape elevation drawn to scale, showing the new structure in the context of neighboring buildings.
- I. All documents submitted in connection with an application to the Commission shall be submitted both in physical paper hardcopy, (five (5) copies)), as well as electronically. Applicants shall submit the electronic version of these materials in Adobe Portable Document Format (PDF) in at least 300 dpi unless the Administrative Officer requests submission of any materials in a different format. All revisions and resubmissions shall likewise be submitted in both hard copy and electronic formats. Electronic version being sent by either email, USB drive, or CD-ROM. The Administrative Officer shall not certify an application as complete until both paper and electronic submissions have been received.
- J. 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.7, 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 § 6.D and this § 7 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 § 6.D and this § 7 hereof), to accommodate the applicant's schedule.
 3. 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 two hundred (200) feet of the lot lines of the landmark, and by publication in the official newspaper.
 - b. Said notice shall include the date, time, 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 § 7.G and H hereof, to the Commission Secretary or in the event of his/her unavailability to the Administrative Officer.
4. At least three (3) days prior to the public hearing:
- a. The applicant shall provide the Town Planner with an affidavit of proof of service properly acknowledged in accordance with N.J.S.A. 40:55D-12 certifying that all property owners within two hundred (200) feet of the lot lines of the landmark 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 an application in the official newspaper of the Town of Westfield.

K. 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 § 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 set forth herein has been met; otherwise, such applications shall be deemed to have been approved. In the event of a referral by the Administrative Officer pursuant to § 6.C, above, the Commission must provide its report to the Administrative Officer within the same forty-five (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.

L. Report and Resolution.

1. The Commission shall prepare a memorializing resolution on each minor or major application setting forth its findings of fact and conclusions based thereon, which shall be adopted within forty-five (45) days of the date of decision.
2. A copy of the decision shall be mailed by the municipal agency within ten (10) days of the date of decision to the applicant or, if represented, then to his or her attorney, without separate charge, and to all who request a copy of the decision, for a reasonable fee. A copy of the decision shall also be filed by the municipal agency in the office of the Administrative Officer. The Administrative Officer shall make a copy of such filed decision available to any interested party for a reasonable fee and available for public inspection at his or her office during reasonable hours.
3. In the event of a mutually agreed upon extension of the forty-five (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 Administrative Officer not later than the forty-fifth (45th) day after the application has been deemed complete.

M. Informal Review.

1. Nothing in this Section shall preclude the owner of a property which has been designated as a historic landmark or which is part of a designated district from requesting an informal review of any exterior façade work or a concept plan concerning any proposed project affecting a landmark or located within a historic district. The Commission shall provide for such informal review during a regularly scheduled, publicly-noticed meeting and shall offer its advice, comments, and any recommendations on the basis of the information provided. Except as set forth in section 7(M)(2) below, 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 conducted during a regularly scheduled, publicly-noticed meeting, the Commission determines that the proposed work or plan is of such an insignificant nature that it will have negligible impact on the historic landmark 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.J, 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. An example of work that may qualify for such immediate approval upon informal review includes, but shall not be limited to, the replacement of exterior elements made of material that is different from that which is being replaced. The Commission shall return to the Administrative Officer its written report granting or denying the work or plan, which report may be stated in resolution form.

§ 8. STANDARDS OF CONSIDERATION.

- A. Design Guidelines for Issuance of a Certificate of Appropriateness. In reviewing any application for a Certification of Appropriateness, the Commission shall be guided by the Town of Westfield, New Jersey Design Guidelines for Historic Landmarks and Districts, as published and amended by the Commission from time to time.
- B. Demolitions. In regard to any application to demolish a historic landmark or any improvement or any other proposed action set forth in § 6.A hereof within a 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. if it is within a historic district, the probable impact of its removal upon the ambience of the

historic district; and

6. whether, in the case of a 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.
 7. The current condition of the property, ascertained by a structural assessment by a licensed professional, which shall be provided by the applicant.
- C. Relocation Out of the Town of Westfield. In regard to an application to move a 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 landmark of original location;
 2. the reasons for not retaining the landmark or structure at its present landmark;
 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.
- D. Relocation Within the Municipality. In regard to an application to move a building located on a historic landmark, or any improvements in a 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 a historic district, the visual compatibility factors as set forth in § 8.I hereof.
 3. If the applicant has met the National Register criteria for moved buildings.
- E. Subdivisions, Landmark Plans, Variances. Notwithstanding the provisions of the Land Use Ordinance applicable to subdivisions, a designated historic landmark 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 landmark, 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 landmark 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.

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.

Consistent with the intent and purpose of the MLUL, this Chapter, and the Land Use Ordinance of the Town of Westfield, the Commission may recommend to the reviewing Board that a historically designated landmark not be subdivided, and, provided that the application does otherwise conform with the zoning ordinance and/or the application provisions of the site plan ordinance, the reviewing board may rely on such a recommendation to deny any subdivision of a historic landmark or the reviewing board may, in its discretion, approve the application notwithstanding the Commission's recommendation. If a subdivision is approved, all new construction on any resulting lot shall be subject to the requirements of §§ 8.E, F, G, and H, below. All designated properties retain their original historic designation. 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.*

- F. 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 a historic district, or a landmark, the visual compatibility of the proposed improvement with the structures and surroundings to which it would be visually relate shall be considered in terms of the visual compatibility factors as set forth in § 8.I hereof.
- G. Consideration on Other Actions. In regard to an application requiring the Commission's approval of any proposed action set forth in § 6 hereof, the following matters shall be considered:
1. If a historic landmark or an improvement in a 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; provided, however, that 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 a historic district from a public street.
 4. If the application deals with an improvement or other proposed action set forth in § 6.A hereof within a 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.I hereof.
- H. Additional matters considered. In regard to all applications requiring the Commission's approval, 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. However, 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 in-kind rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, 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 historic 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 avoided.
 7. Contemporary designs for new buildings in historic districts 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 the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings** 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.
- I. Visual Compatibility/Design Criteria factors. In assessing the effect of any proposed change contained in an application within the jurisdiction of the Commission, 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 landmark or district.
- B. Expiration of approval. A Certificate of Appropriateness shall be valid for two (2) years from the date of its issue. Reasonable extensions thereof may be approved by the Commission in its discretion. 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 landmark preservation 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.

- A. Intent and Purposes. This Section is adopted in furtherance of the policies set forth in this Ordinance to assure the preservation and enhancement of the Town's historical and cultural heritage by preserving, rehabilitating or restoring, whenever possible, buildings or structures which have distinctive architectural features or historical associations that contribute to the historic fabric of the Town.
- B. Procedure.
1. No demolition approval shall be issued by the Zoning Official for a building or structure which is identified within the Historic Preservation Plan Element and/or was originally constructed prior to 1930, except in conformity with the provisions of this Section, the Historic Designation and Preservation Ordinance of the Town of Westfield, and any other applicable law, statute, ordinance or regulation.
 2. Within five (5) business days after the filing of an application for demolition approval, the Zoning Official shall deliver a copy of such application to the Administrative Officer for the purpose of determining whether or not the building, object, landmark, or structure may have historical, cultural, architectural, aesthetic or other significance, pursuant to the criteria for historic designation set forth in the Historic Preservation Ordinance.
 3. Unless otherwise voluntarily agreed to by the applicant, those requirements of Town of Westfield General Code section 8-7, "Requirements to Obtain Permit," relating to insurance liability coverage, utility shut-off, fire prevention inspection and certification, debris removal and fill, proof of rodent baiting, and asbestos certification, need not be initiated until after the historic review contemplated in this section has been completed.
 4. The procedures set forth herein shall not apply to any properties subject to an application for development before the Planning or Zoning Boards.
- C. Review of Application by Administrative Officer
1. The HPO shall, within 10 business days after his or her receipt of an application for demolition approval from the Zoning Officer, make a determination as to whether or not the building or structure proposed for demolition may have historical, cultural, architectural, aesthetic or other significance, in accordance with the criteria for historic designation set forth in Historic Preservation Ordinance of the Town of Westfield. The HPO shall notify the Zoning Official of said determination in writing.
 2. If the HPO determines that the building or structure has no historical, cultural, architectural, aesthetic, or other significance, demolition approval may be issued immediately, provided the application complies with all other applicable laws, ordinances and regulations.

3. If the HPO determines that the building or structure may have historical, cultural, architectural, aesthetic, or other significance in accordance with the criteria for historic designation as set forth in the Historic Designation and Preservation Ordinance of the Town of Westfield, the HPO shall immediately deliver a copy of his or her written determination to the Commission. The Commission shall review said determination at its next regularly scheduled meeting or at a special meeting called for that purpose, but no such review by the Commission shall extend beyond 15 calendar days of receipt of the HPO's written determination. If the Commission concurs with the HPO's determination, the Commission may promptly seek designation of the property pursuant to the procedures set forth in § 5 of the Historic Designation and Preservation Ordinance of the Town of Westfield. If the Commission disagrees with the HPO's determination, the Commission shall, within five calendar days, notify the Zoning Official of its determination, and the Zoning Official may thereafter issue demolition approval immediately, thereafter, provided the application complies with all other applicable laws, ordinances and regulations.
- D. No demolition approval shall be issued by the Zoning Official for a potentially historic building or structure until the requirements of this Section and the Historical Preservation Ordinance, if applicable, have been satisfied.
- E. Notwithstanding the requirements of this Section 10, prior to submitting a demolition application to the Town, a property owner within the Town may request an informal opinion by the Commission as to whether a particular building or structure identified in the Historic Preservation Plan Element and/or originally constructed prior to 1930 both (1) meets the criteria for historic designation and (2) would be nominated for designation by the Commission as permitted in this Section, should a demolition permit application be filed. Said determination by the Commission must be recorded in the Commission's meeting minutes. Should the Commission determine upon motion, after such informal review, that the property in question does not meet the criteria for historic designation and would not be nominated for designation, then no HPO/HPC review shall be required for a period of one year after such determination is made by the Commission.

§ 11. PENALTIES.

- A. If any person shall undertake any activity upon a landmark or improvement within a 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. Any person who demolishes, in whole or in part, a structure that was constructed prior to 1930, without following the procedures set forth above in section 10, shall:
 1. be required to immediately stop the demolition, apply for approval and take any necessary measures to preserve the affected premises pending such approval.
 2. If the permit for demolition is denied, he or she shall immediately restore the affected premises to its condition prior to any demolition. In the event of a threat of imminent action for which the necessary approvals have not been granted and which action would permanently and adversely change a historic or landmark premises, the Zoning Officer is empowered to apply to the Superior Court of New Jersey for injunctive relief as is necessary to prevent such actions.
 3. In addition to the remedies provided above, a person convicted of a violation of this subsection shall be subject to penalties as follows:
 - a. For each day up to ten (10) days: no more than \$500 per day;
 - b. For each day between eleven (11) and twenty-five (25) days: not more than \$1,000 per

day;

- c. For each day beyond twenty-five (25) days : not more than \$2,000 per day and a jail term not to exceed 90 days may be imposed; and
4. If a building subject to the provisions of this Ordinance is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of five (5) years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration, or unless otherwise agreed to by the Commission.
- C. Upon learning of a 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 a 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.
 - D. 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 a 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.
 - E. 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.*
 - F. Except as provided above with respect to demolitions, any person who commits a violation of this article shall, in the discretion of the municipal court judge, be subject to penalties as follows:
 - (1) For each day up to 10 days: a fine of up to one thousand dollars (\$1,000.00);
 - (2) For each day between 11 and 25 days: a fine of up to one thousand two hundred (\$1,200.00) dollars per violation or in the maximum amount then in effect pursuant to state statute; and
 - (3) For each day beyond 25 days: imprisonment for a period not to exceed 90 days, a fine pursuant to section § 11.F.2 above, or both and/or be required to immediately correct, abate and/or restore the premises or property to its previous condition.
 - G. 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, he or she 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 a 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 ensure the continued useful life of historic landmarks and improvements in historic districts, the Town Council hereby declares that code enforcement as relates to historic landmarks and improvements in historic districts is a high priority of the Town of Westfield.

- A. Demolition by Neglect. Neither the owner of nor the person in charge of a historic landmark, or an improvement within a historic district, shall permit such structure, landmark or property to fall into a

state of disrepair which may result in the deterioration of any exterior façade appurtenance or architectural façade feature so as to produce or tend to produce, in the judgment of the Commission, a detrimental effect upon the character of the historic landmark or historic district as a whole, or the life and character of the historic landmark, district, structure or property in question, including but not limited to:

1. The deterioration of exterior walls or other vertical supports;
 2. The deterioration of roofs or other horizontal members;
 3. The deterioration of exterior chimneys;
 4. The deterioration of crumbling of exterior plasters or mortar;
 5. The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors;
 6. The peeling of paint, rotting, holes and other forms of decay;
 7. The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, street signs, accessory structures and landscaping; or
 8. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.
- B. In the event that any historic landmark or improvement in a 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 Administrative Officer shall serve personally or by certified mail, return receipt requested, a notice on the owner of the historic 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 Administrative Officer shall for good cause grant, the Town of Westfield may, at the expiration of such ninety (90) days, assess such fines as are permitted for violations of this Ordinance, or enter upon the property and abate such violations itself and cause the cost thereof to become a lien upon the property.
- C. 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 adversarial 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.B, 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.B hereof.
- D. Thereafter, if the owner does not comply, the Administrative Officer 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. All costs of such work shall be 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). To the extent that any of the properties are publicly owned and are on the New Jersey Register of Historic Places, then a New Jersey Register Review is required before final designation can be completed.

- A. The World War I monument located at the Plaza at the intersection of North Avenue and East Broad Street, including 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. The monument is 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. For each property listed, a plaque may be obtained in accordance with section §5:C-4.

- 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.
- 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, and being the property formerly occupied as a childhood residence by the deceased cartoonist and humorist, Charles Addams.
- D. Mindowaskin Park, known as Lot 12, Block 2403.
- 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, and being also known as the Ball-Platt house, the Joseph Ball house and the Amzi Ball house. The residence was originally built in 1741 and was located in what is now Maplewood, New Jersey.
- 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, and being also known as the Scudder Farmhouse. The residence was originally built in about 1790 and was originally the residence of John Scudder, a member of one of the pioneer families of Westfield.
- 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, and being also known as the Matthias Sayre House. The residence was originally built in about 1760 and was originally the residence of Matthias Sayre, a member of one of the pioneer families who fought in the Revolutionary War.
- 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, and being also known as the Charles Marsh House, and 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 residence was originally built around 1775 and was originally the residence of Charles Marsh, a soldier in the Revolutionary War

- 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, and built circa 1740 by Samuel Miller, purchased by Joseph Cory in the 1780s and owned by the Cory family until 1921. The museum is an authentically restored 18th Century vernacular farmhouse.
- J. The Well House structure, dating from the 1700's, owned at the time of its designation by Charles and Patricia Lea Woodward, located at Two Hundred (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.
- 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 dated from 1724-1850. The property contains well-preserved, carved gravestones; 386 gravestones have unusual epitaphs, including graves of important persons, veterans of the Revolutionary War, the War of 1812, the Civil War, and ordinary citizens. The landmark was nominated for listing on State and National Registers of Historic Places.
- L. The Newell House, located at 603 Clark Street, Westfield, New Jersey 07090, which is located on Block 808, Lot 26 on the Town Tax Map.
- M. Reeve House, located at 314 Mountain Avenue, Westfield, New Jersey 07090, which is located on Block 2403, Lot 10 on the Town Tax Map.
- N. Triangle Park, which is the triangular piece of land between Walnut St., Lawrence Avenue, and Mountain Avenue, in Westfield.
- O. The "Coffee Kiosk," currently located in the vicinity of the South Avenue Train Station.
- P. The private residence owned at the time of its designation by Joyce Goldstein, located at 417 Prospect Street, Westfield, New Jersey, known as Lot 10, Block 1004 on the tax map of the Town of Westfield.
- Q. The private residence owned at the time of its designation by Frank E. and Carol J. Nolde, located at 1737 Nevada Street, Westfield, New Jersey, known as Lot 5, Block 5604, and also known as the John Frazee House.
- R. The private residence owned at the time of its designation by Kenneth Abraham, located at 923 Central Avenue, Westfield, New Jersey, known as Lot 32, Block 4813, and also known as the Cornelius Ludlum Jr. House.
- S. The private residence owned at the time of its designation by Robert and Anastasia Harrison, located at 23 Stoneleigh Park, Westfield, New Jersey, known as Lot 2, Block 4209, and also known as the Jed Smith Foster House.
- T. The private residence owned at the time of its designation by Ferris Prospect Development, LLC, located at 112 Ferris Place, Westfield, New Jersey, known as Lot 14, Block 2504, and also known as the Mills-Ferris-Pearsall House.
- U. The private residence owned at the time of its designation by Marielyce B. Watner, located at 3 Stoneleigh Park, Westfield, New Jersey, known as Lot 20, Block 4207, and also known as the Piercy-Thomas House.
- V. The private residence owned at the time of its designation by Aaron J. Keith and Donna Kenney, located at 5 Stoneleigh Park, Westfield, New Jersey, known as Lot 18, Block 4207, and also known

as the George Davis Beattys House.

- W. The private residence owned the time of its designation by Donald Furrer and Katherine Spikes, located at 18 Stoneleigh Park, Westfield, New Jersey, known as Lot 7, Block 4209.

§ 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:

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

Address	Block	Lot	Historic Description
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. REPEAL.

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 and shall apply to all matters currently pending; approved by either this Commission, the Planning Board, the Zoning Board of Adjustment, or the Town Council; or under construction.

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY**

GENERAL ORDINANCE NO. 2023-14

AN ORDINANCE DESIGNATING 3 STONELEIGH PARK, SHOWN ON THE TOWN OF WESTFIELD TAX MAP AS BLOCK 4207, LOT 20, AS A HISTORIC LANDMARK AND MODIFYING THE ZONING MAP

WHEREAS, pursuant to section 5(B)(1) of the Historic Designation and Preservation Ordinance of the Town of Westfield (the “Ordinance”), the Westfield Historic Preservation Commission considered nominating the real property located at 3 Stoneleigh Park, Block 4207, Lot 20, and also known as the Piercy Thomas House (the “Subject Property”), which includes the tax lot and all existing structures thereon, as a historic landmark, which property has been identified in the Historic Preservation Element of the Town’s Master Plan; and

WHEREAS, Marielyce Watner, property owner of 3 Stoneleigh Park, consents to this proposed nomination, and

WHEREAS, pursuant to the provisions contained within the Ordinance, the Historic Preservation Commission gave full and complete consideration to the request for historic designation of the Subject Property; and

WHEREAS, the Historic Preservation Commission held a duly-noticed public hearing on April 25, 2023, on the proposed historic designation of the Subject Property, where all those who desired to be heard were heard; and

WHEREAS, the Historic Preservation Commission found, based upon a report prepared by the Commission’s Historic Preservation consultant dated November 2022, and upon testimony at the hearing, that the Subject Property meets the criteria for designation set for in Section 5 of the Ordinance, and the Commission voted unanimously to recommend to the Town Council that it designate the Subject Property located at 3 Stoneleigh Park, Block 4207, Lot 20 for local historic preservation; and

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Westfield, in the County of Union and the State of New Jersey, as follows:

SECTION I. The Zoning Map shall be and is hereby amended and supplemented by identifying the following property as shown on the Official Tax Map of the Town of Westfield as a Historic Preservation Designated Landmark:

Block	Lot	Address
4207	20	3 Stoneleigh Park

SECTION II. Appendix III of the Land Use Ordinance, titled 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*, is hereby amended to include a new subsection to read in its entirety as follows:

The private residence owned at the time of its designation by Marielyce Watner, located at 3 Stoneleigh Park, Westfield, New Jersey, known as Lot 20, Block 4207 on the Town of Westfield tax map, being originally built circa 1907.

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

SECTION III. The following conditions shall apply to such designation:

1. The Subject Property shall be subject in perpetuity, as a burden upon and running with the land, binding the current owner in fee, its heirs, successors and assigns, in perpetuity, to all conditions, restrictions, and requirements set forth the in the Ordinance, as adopted and amended.
2. This designation shall include the lot and all improvements on which it is located.
3. The covenants, terms, conditions, restrictions, and purposes imposed herein and by the Ordinance, shall not only be binding upon the current owner in fee of the Subject Property, but to all of her agents, personal representatives, assigns and all other successors to her in interest, and shall continue as a servitude running in perpetuity with the Subject Property.

SECTION IV. The Town Clerk of the Town of Westfield is directed to forward this ordinance to Planning Board of the Town of Westfield, which, pursuant to N.J.S.A. 40:55D-26 and -64, shall review it for consistency with the Historic Preservation Element of the Town Master Plan and the goals and objectives contained within the Master Plan.

SECTION V. All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION VI. In the event that any section, provision, or a part of provision of this ordinance shall be held to be unenforceable 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 unenforceable or invalid.

SECTION VII. This ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY**

GENERAL ORDINANCE NO. 2023-15

AN ORDINANCE DESIGNATING 5 STONELEIGH PARK, SHOWN ON THE TOWN OF WESTFIELD TAX MAP AS BLOCK 4207, LOT 18 AS A HISTORIC LANDMARK AND MODIFYING THE ZONING MAP

WHEREAS, pursuant to section 5(B)(1) of the Historic Designation and Preservation Ordinance of the Town of Westfield (the “Ordinance”), the Westfield Historic Preservation Commission considered nominating the real property located at 5 Stoneleigh Park, Block 4207, Lot 18, and also known as the George Davis Beatty’s House (the “Subject Property”), which includes the tax lot and all existing structures thereon, as a historic landmark; and

WHEREAS, Aaron Keith and Donna Keith, property owners of 5 Stoneleigh Park, consent to this proposed nomination, and

WHEREAS, pursuant to the provisions contained within the Ordinance, the Historic Preservation Commission gave full and complete consideration to the request for historic designation of the Subject Property; and

WHEREAS, the Historic Preservation Commission held a duly-noticed public hearing on February 27, 2023, on the proposed historic designation of the Subject Property, where all those who desired to be heard were heard; and

WHEREAS, the Historic Preservation Commission found, based upon a report prepared by the Commission’s Historic Preservation consultant dated November 2022, and upon testimony at the hearing, that the Subject Property meets the criteria for designation set for in Section 5 of the Ordinance, and the Commission voted unanimously to recommend to the Town Council that it designate the Subject Property located at 5 Stoneleigh Park, Block 4207, Lot 18 for local historic preservation; and

WHEREAS, the Town Council has reviewed the report prepared by the Commission’s Historic Preservation consultant and, notwithstanding the fact that the Subject Property has not been identified in the Historic Preservation Plan Element of the Master Plan, but rather that the Stoneleigh Park neighborhood as a whole has been so identified, the Town Council finds for the reasons set forth in the report that the Subject Property qualifies for local historic designation, for all of the reasons set forth in that report;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Westfield, in the County of Union and the State of New Jersey, as follows:

SECTION I. The Zoning Map shall be and is hereby amended and supplemented by identifying the following property as shown on the Official Tax Map of the Town of Westfield as a Historic Preservation Designated Landmark:

Block	Lot	Address
4207	18	5 Stoneleigh Park

SECTION II. Appendix III of the Land Use Ordinance, titled 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*, is hereby amended to include a new subsection to read in its entirety as follows:

The private residence owned at the time of its designation by Aaron Keith and Donna Keith, located at 5 Stoneleigh Park, Westfield, New Jersey, known as Lot 18, Block 4207 on the Town of Westfield tax map, being originally built circa 1911.

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

SECTION III. The following conditions shall apply to such designation:

1. The Subject Property shall be subject in perpetuity, as a burden upon and running with the land, binding the current owner in fee, its heirs, successors and assigns, in perpetuity, to all conditions, restrictions, and requirements set forth in the Ordinance, as adopted and amended.
2. This designation shall include the lot and all improvements on which it is located.
3. The covenants, terms, conditions, restrictions, and purposes imposed herein and by the Ordinance, shall not only be binding upon the current owner in fee of the Subject Property, but to all of her agents, personal representatives, assigns and all other successors to her in interest, and shall continue as a servitude running in perpetuity with the Subject Property.

SECTION IV. The Town Clerk of the Town of Westfield is directed to forward this ordinance to Planning Board of the Town of Westfield, which, pursuant to N.J.S.A. 40:55D-26 and -64, shall review it for consistency with the Historic Preservation Element of the Town Master Plan and the goals and objectives contained within the Master Plan.

SECTION V. All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION VI. In the event that any section, provision, or a part of provision of this ordinance shall be held to be unenforceable 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 unenforceable or invalid.

SECTION VII. This ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY**

GENERAL ORDINANCE NO. 2023-16

AN ORDINANCE DESIGNATING 18 STONELEIGH PARK, SHOWN ON THE TOWN OF WESTFIELD TAX MAP AS BLOCK 4209, LOT 7 AS A HISTORIC LANDMARK AND MODIFYING THE ZONING MAP

WHEREAS, pursuant to section 5(B)(1) of the Historic Designation and Preservation Ordinance of the Town of Westfield (the “Ordinance”), the Westfield Historic Preservation Commission considered nominating the real property located at 18 Stoneleigh Park, Block 4209, Lot 7.

WHEREAS, Donald R. Furrer and Katherine A. Spikes, property owners of 18 Stoneleigh Park, consent to this proposed nomination, and

WHEREAS, pursuant to the provisions contained within the Ordinance, the Historic Preservation Commission gave full and complete consideration to the request for historic designation of the Subject Property; and

WHEREAS, the Historic Preservation Commission held a duly-noticed public hearing on February 27, 2023, on the proposed historic designation of the Subject Property, where all those who desired to be heard were heard; and

WHEREAS, the Historic Preservation Commission found, based upon a report prepared by the Commission’s Historic Preservation consultant dated November 2022, and upon testimony at the hearing, that the Subject Property meets the criteria for designation set for in Section 5 of the Ordinance, and the Commission voted unanimously to recommend to the Town Council that it designate the Subject Property located at 18 Stoneleigh Park, Block 4209, Lot 7 for local historic preservation; and

WHEREAS, the Town Council has reviewed the report prepared by the Commission’s Historic Preservation consultant and, notwithstanding the fact that the Subject Property has not been identified in the Historic Preservation Plan Element of the Master Plan, but rather that the Stoneleigh Park neighborhood as a whole has been so identified, the Town Council finds for the reasons set forth in the report that the Subject Property qualifies for local historic designation, for all of the reasons set forth in that report;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Westfield, in the County of Union and the State of New Jersey, as follows:

SECTION I. The Zoning Map shall be and is hereby amended and supplemented by identifying the following property as shown on the Official Tax Map of the Town of Westfield as a Historic Preservation Designated Landmark:

Block	Lot	Address
4209	7	18 Stoneleigh Park

SECTION II. Appendix III of the Land Use Ordinance, titled 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*, is hereby amended to include a new subsection to read in its entirety as follows:

The private residence owned at the time of its designation by Donald R. Furrer and Katherine A. Spikes, located at 18 Stoneleigh Park, Westfield, New Jersey, known as Lot 7, Block 4209 on the Town of Westfield tax map, being originally built circa 1928.

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

SECTION III. The following conditions shall apply to such designation:

1. The Subject Property shall be subject in perpetuity, as a burden upon and running with the land, binding the current owner in fee, its heirs, successors and assigns, in perpetuity, to all conditions, restrictions, and requirements set forth in the Ordinance, as adopted and amended.
2. This designation shall include the lot and all improvements on which it is located.
3. The covenants, terms, conditions, restrictions, and purposes imposed herein and by the Ordinance, shall not only be binding upon the current owner in fee of the Subject Property, but to all of her agents, personal representatives, assigns and all other successors to her in interest, and shall continue as a servitude running in perpetuity with the Subject Property.

SECTION IV. The Town Clerk of the Town of Westfield is directed to forward this ordinance to Planning Board of the Town of Westfield, which, pursuant to N.J.S.A. 40:55D-26 and -64, shall review it for consistency with the Historic Preservation Element of the Town Master Plan and the goals and objectives contained within the Master Plan.

SECTION V. All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION VI. In the event that any section, provision, or a part of provision of this ordinance shall be held to be unenforceable 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 unenforceable or invalid.

SECTION VII. This ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD
GENERAL ORDINANCE NO. 2023-17**

**AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD IN
REGARD TO THE DEFINITION OF BAY WINDOW**

BE IT ORDAINED by the Town Council of the Town of Westfield in the County of Union as follows:

SECTION I. The Town Council of the Town of Westfield does hereby find that a recommendation contained within the Master Plan Reexamination Report prepared by H2M Associates and adopted by the Planning Board of the Town of Westfield by Resolution dated January 6, 2020 to redefine the term “bay window” to ensure the definition adequately describes this architectural window feature and doing so will eliminate any “bump-outs” that can result with one window say, under the current definition. The Town Council does hereby further find that the public interest of the Town of Westfield will be served by amending the Land Use Ordinance of the Town of Westfield in the manner set forth herein.

SECTION II. Article 2, Section 2.05 titled “DEFINITIONS; B”, is hereby amended by modifying the existing definition at subsection C for Bay Window, to read as follows:

C. **Bay Window.** A series of windows projecting outward from the main wall of a building and forming a bay or alcove in a room within, usually but not always having a floor.

SECTION III. All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION IV. In the event that any section, provision, or part of provision of this ordinance shall be held to be unenforceable 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 unenforceable or invalid.

SECTION V. This ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD
GENERAL ORDINANCE NO. 2023-18**

**AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD IN
REGARD TO THE DEFINITION OF BUILDING EAVE HEIGHT**

BE IT ORDAINED by the Town Council of the Town of Westfield in the County of Union as follows:

SECTION I. The Town Council of the Town of Westfield does hereby find that a recommendation contained within the Master Plan Reexamination Report prepared by H2M Associates and adopted by the Planning Board of the Town of Westfield by Resolution dated January 6, 2020 to redefine the term “building eave height” as while “building eave height” was added as a definition of the Land Use Ordinance in 2009, in response to an issue identified in the previous Master Plan Reexamination document, the definition should once again be revisited. Since 2009, builders and architects are proposing wider, shed style dormers. Due to the current definition and this recent trend, measuring eave height can be circumvented. The ordinance should be revised to codify the current “rule of thumb”, to measure the height of the eave on the shed dormer, if the shed dormer extends for 50% or greater of the width of the roof structure. The Town Council does hereby further find that the public interest of the Town of Westfield will be served by amending the Land Use Ordinance of the Town of Westfield in the manner set forth herein.

SECTION II. Article 2, Section 2.05 titled “DEFINITIONS; B”, is hereby amended by modifying the existing definition at subsection L for Building eave height, to read as follows:

L. **Building eave height.** The vertical distance from the grade plane to the lowest point of a roof for gable, hip, gambrel, mansard, and flat roof types. The grade plan representing the average of finished ground level adjoining the building at all exterior walls. If a dormer or combination of dormers extends for 50% or greater of the width of the roof structure at each elevation, building eave height shall be measured to the eave(s) of the dormer(s).

SECTION III. All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION IV. In the event that any section, provision, or part of provision of this ordinance shall be held to be unenforceable 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 unenforceable or invalid.

SECTION V. This ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD
GENERAL ORDINANCE NO. 2023-19**

**AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD IN
REGARD TO THE DEFINITION OF SWIMMING POOL**

BE IT ORDAINED by the Town Council of the Town of Westfield in the County of Union as follows:

SECTION I. The Town Council of the Town of Westfield does hereby find that a recommendation contained within the Master Plan Reexamination Report prepared by H2M Associates and adopted by the Planning Board of the Town of Westfield by Resolution dated January 6, 2020 to amend the definition of a “swimming pool” to remove reference to a minimum size, to ensure smaller swimming pools still adhere to the intended setback requirement and to include in the definition that “wading” can be an intended recreational use of a swimming pool. The Town Council does hereby further find that the public interest of the Town of Westfield will be served by amending the Land Use Ordinance of the Town of Westfield in the manner set forth herein.

SECTION II. Article 2, Section 2.16 titled “DEFINITIONS; S”, is hereby amended by modifying the existing definition at subsection J for Swimming Pool, to read as follows:

J. **Swimming Pool.** A structure located either above ground or below ground, and inside or outside of a building and designed for recreational use for swimming, diving, wading, or other aquatic sports and recreation.

SECTION III. Article 13, Section 13.02D5 is hereby amended by removing the existing exclusion for wading pools from swimming pool regulations, to read as follows:

7. Exclusions. Hot tubs, landscape pools and fish pools are not swimming pools and are not required to meet the specific requirements of this subsection, but are considered to be accessory uses and must meet all other applicable requirements of this article.

SECTION IV. All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION V. In the event that any section, provision, or part of provision of this ordinance shall be held to be unenforceable 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 unenforceable or invalid.

SECTION VI. This ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD
GENERAL ORDINANCE NO. 2023-20**

**AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD IN
REGARD TO CONDITIONAL USES**

BE IT ORDAINED by the Town Council of the Town of Westfield in the County of Union as follows:

SECTION I. The Town Council of the Town of Westfield does hereby find that a recommendation contained within the Master Plan Reexamination Report prepared by H2M Associates and adopted by the Planning Board of the Town of Westfield by Resolution dated January 6, 2020 to remove a provision in the Town Land Use Ordinance which prohibits a conditional use and non-conditional use on the same lot. This causes conflict when conditional uses are located in mixed-use buildings. The Town Council does hereby further find that the public interest of the Town of Westfield will be served by amending the Land Use Ordinance of the Town of Westfield in the manner set forth herein.

SECTION II. Article 18, Subsection 18.04F, titled “Conditional use and non-conditional use on the same lot.”, is hereby deleted in its entirety.

SECTION III. All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION IV. In the event that any section, provision, or part of provision of this ordinance shall be held to be unenforceable 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 unenforceable or invalid.

SECTION V. This ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD
GENERAL ORDINANCE NO. 2023-21**

**AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD IN
REGARD TO RETAINING WALLS**

BE IT ORDAINED by the Town Council of the Town of Westfield in the County of Union as follows:

SECTION I. The Town Council of the Town of Westfield does hereby find that a recommendation contained within the Master Plan Reexamination Report prepared by H2M Associates and adopted by the Planning Board of the Town of Westfield by Resolution dated January 6, 2020 to set a distance or measurement from which how far a restraining device on top of a retaining wall must be set back from the top of the retaining wall before it is no longer considered part of the retaining wall, would codify how the present ordinance is enforced. By way of practice, the Town Zoning Officer has historically not considered a restraining device on top of a retaining wall part of the retaining wall when the restraining device is not affixed to, or directly on top of, the retaining wall itself. The Town Council does hereby further find that the public interest of the Town of Westfield will be served by amending the Land Use Ordinance of the Town of Westfield in the manner set forth herein.

SECTION II. Article 12, Section 12.08 titled “RETAINING WALLS”, is hereby amended by modifying the existing language at subsection C., to read as follows:

C. Retaining walls shall not exceed four (4) feet in height. In the event a guard rail or other restraining device is provided at the top of the wall, the wall height shall be measured to the top of said restraining device, except when the restraining device is not affixed to, or directly on top of, the retaining wall itself. For purposes of administering this subsection, terraced retaining walls involving more than one (1) section of wall above or below each other shall be construed as one (1) wall unless the base of the upper wall is separated from the face of the lower wall by at least four (4) feet, measured horizontally.

SECTION III. All ordinances or parts of ordinances in conflict or inconsistent with any part of this ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION IV. In the event that any section, provision, or part of provision of this ordinance shall be held to be unenforceable 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 unenforceable or invalid.

SECTION V. This ordinance shall take effect after passage and publication in the manner provided by law.

**TOWN OF WESTFIELD
GENERAL ORDINANCE NO. 2023-22**

**AN ORDINANCE TO AMEND THE LAND USE ORDINANCE OF THE TOWN OF WESTFIELD IN
REGARD TO BUILDING DESIGN STANDARDS**

WHEREAS, The Town Council of the Town of Westfield does hereby find that recommendations contained within the Unified Land Use and Circulation Element of the Town Master Plan prepared by H2M Associates and adopted by the Planning Board of the Town of Westfield by Resolution dated July 7, 2021 to amend the Land Use Ordinance of the Town of Westfield, are necessary to bring the Land Use Ordinance of the Town of Westfield into conformity with the Town Master Plan;

WHEREAS, The Unified Land Use and Circulation Element of the Town Master Plan recommends that the Town encourage design standards that require building articulation to provide visual interest and discourage monotony and that design standards for residential zones be addressed;

WHEREAS, Striking dissimilarity, visual discord, as well as excessive uniformity or monotonous similarity in the exterior appearance of structures erected in the Town of Westfield can affect the desirability of a community by marring its appearance and thereby impairing its visual character.

WHEREAS, It is the purpose of this amendment to prevent this effect and thus to promote the public health, safety, morals and general welfare of the community and, promote a desirable visual environment through creative development techniques and good civic design and arrangement.

WHEREAS, The Town Council does hereby further find that the public interest of the Town of Westfield will be served by amending the Land Use Ordinance of the Town of Westfield in the manner set forth herein.

THEREFORE, BE IT ORDAINED by the Town Council of the Town of Westfield in the County of Union that Article 10, Section 10.15 titled “Buildings”, subsection A titled “General” is hereby deleted in its entirety and replaced with the following:

§ 10.15. BUILDING DESIGN STANDARDS.

Striking dissimilarity, visual discord, as well as excessive uniformity or monotonous similarity in the exterior appearance of structures erected in the Town of Westfield can affect the desirability of a community by marring its appearance and thereby impairing its visual character. It is the purpose of this section to prevent this effect and thus to promote the public health, safety, morals and general welfare of the community; and, promote a desirable visual environment through creative development techniques and good civic design and arrangement.

Each site plan shall provide for the following:

A. General.

1. All exterior walls of a building shall be designed to be consistent in architectural style, materials, and details.
2. HVAC systems and satellite dishes and telecommunications equipment shall be screened from the public view and from adjacent properties by the use

of walls, fencing or landscaping. If such elements are located on the rooftop, they shall be screened from public view with an architectural feature compatible in design with the style, materials, colors and details found on the building.

3. Transparent windows shall be provided. The use of mirror or reflective glass is not permitted.
4. Existing window and door openings on a façade may not be filled in unless the finished materials and their color are made to match immediately adjacent finishes and color.
5. The use of exposed concrete block is prohibited, unless the same is textured.
6. All exterior walls are to be constructed of durable materials such as brick, stone and cast stone, glass, pre-cast concrete, pretreated wood, and other materials as approved by the reviewing board.

B. Single-Family Residential Uses in Attached Single-Family Residential Structures (Townhouses)

1. Architectural Style. The overall development shall have a consistent architectural style. All exterior walls of a building shall be designed to be consistent in architectural style, materials, and details.

2. Orientation. The principal faces or front elevations and primary entrances of a building shall be oriented to the street upon which the structure is located. Primary entrances shall be emphasized through the use of distinctive architectural treatments.

C. Multifamily Dwellings

1. **Architectural Style.** The overall development shall have a consistent architectural style. All exterior walls of a building shall be designed to be consistent in architectural style, materials, and details.
2. **Orientation.** The principal face or front elevation and primary entrance of a building shall be oriented to the street upon which the structure is located. Primary entrances shall be emphasized through the use of distinctive architectural treatments. The primary building orientation shall not be toward a parking lot or parking structure. In situations where this is not possible, such as when there are multiple principal buildings on a lot, each building shall have a primary front entrance. Primary entrances shall be emphasized through the use of distinctive architectural treatments.
3. **Articulation.** Buildings shall avoid long, monotonous uninterrupted walls. Architectural design shall provide visual interest and variety to relieve the visual effect of a simple, long wall.
 - a. **Vertical Articulation.** Each building facade facing a public street must have elements of vertical articulation examples of which include columns, piers, recessed windows or entry designs, overhangs, ornamental projection of the moulding, different exterior

materials or wall colors, fenestration changes, or recessed or projected portions of the main surface of the wall itself.

- b. Horizontal Articulation.** Each building façade facing a public street must have elements of horizontal articulation examples of which include changes in materials corresponding to changes in façade planes, fenestration changes, recessed or projected portions of the main surface of the wall itself, stepbacks of upper stories from the floor below, and changes in the roofline.
4. **Roofs.** The top floor of all buildings must be capped by a cornice or sloping roof element. Flat roofs shall be enclosed with by parapets or similar architectural feature.
5. **Maximum Continuous Wall Length.** Unless a different requirement exists within the bulk standards for a zone or overlay zone district in which a property is located, the longest horizontal dimension of any continuous exterior wall of a building shall not be greater than fifty (50) feet. For the purpose of administering this provision, any exterior wall that is offset for a depth of four (4) feet or greater shall be construed as a separate wall.
6. **Lots with multiple principal buildings.** A lot with multiple principal buildings shall be organized around site design features such as courtyards accessible to pedestrians to encourage pedestrian activity and social interaction.

E. Mixed-Non-Residential/Residential Development and Non-Residential Development

1. **Architectural Style.** The overall development shall have a consistent architectural style. All exterior walls of a building shall be designed to be consistent in architectural style, materials, and details. Storefronts and upper floors shall be compatible in design with the overall architectural character of a building.
2. **Orientation.** Buildings shall be oriented with a primary entrance facing at least one(1) adjacent public street. The primary building orientation shall not be toward a parking lot or parking structure. On corner lots, building entrances shall be located at or near the corner. Primary entrances shall be emphasized through the use of distinctive architectural treatments.
3. **Articulation.** Buildings shall avoid long, monotonous uninterrupted walls. Architectural design shall provide visual interest and variety to relieve the visual effect of a simple, long wall.
 - a. **Vertical Articulation.** Each building facade facing a public street must have elements of vertical articulation examples of which include columns, piers, recessed windows or entry designs, overhangs, ornamental projection of the moulding, different exterior materials or wall colors, fenestration changes, or recessed or projected portions of the main surface of the wall itself.
 - b. **Horizontal Articulation.** Each façade shall be designed to have a delineated floor line between the street level and upper floors. This delineation may be in the form of a masonry belt course, concrete lintel or a cornice line delineated by wood detailing. Each building façade facing a public street must have elements of

horizontal articulation examples of which include changes in materials corresponding to changes in façade planes, fenestration changes, recessed or projected portions of the main surface of the wall itself, stepbacks of upper stories from the floor below, and changes in the roofline.

4. **Roofs.** The top floor of all buildings must be capped by a cornice or sloping roof element. Flat roofs shall be enclosed with by parapets or other acceptable architectural feature.
5. **Facades facing public alleyways.** Facades facing public alleyways shall be treated consistent with the primary front building façade facing the public street(s), including such design elements as building articulation, entranceways and storefronts.
6. **Pedestrian Entrances.** The difference between pedestrian entrances for ground floor commercial uses and entrances for upper level commercial or residential uses shall be clearly delineated. This delineation can be accomplished through the use of different building materials, colors, or doorframe designs. Pedestrian entrances shall be emphasized through the use of distinctive architectural treatments.
7. **Security Gates or Doors.** The use of rolling, swinging, sliding or accordion style security gates or doors, whether solid or not solid, shall not be permitted on or in any building so as to be visible from a public street, except that such doors may be used to cover the vehicular entrances to a building.

THEREFORE, BE IT FURTHER ORDAINED by the Town Council of the Town of Westfield in the County of Union that Article 12, Section 12.11 titled “Architectural Design of Buildings” is hereby deleted in its entirety and replaced with the following:

§ 12.11. BUILDING DESIGN STANDARDS FOR SINGLE-FAMILY AND TWO-FAMILY DWELLINGS, AND DUPLEXES.

Striking dissimilarity, visual discord, as well as excessive uniformity or monotonous similarity in the exterior appearance of structures erected in the Town of Westfield can affect the desirability of a community by marring its appearance and thereby impairing its visual character. It is the purpose of this section to prevent this effect and thus to promote the public health, safety, morals and general welfare of the community; and, promote a desirable visual environment through creative development techniques and good civic design and arrangement.

In addition to any other applicable requirements of this ordinance, the following requirements shall apply to the design of detached single-family and two-family dwellings, and duplexes:

A. **Roofs.** Flat roofs are prohibited on detached single and two-family dwellings, and duplexes, except on lower tier roofs and shall not occupy more than 20% of the dwelling’s total roof coverage (not to be interpreted as total roof area). This provision shall not prohibit the reconstruction of flat roofs on existing dwellings.

B. Orientation. The principal face or front elevation and a primary entrance of a building shall be oriented to the street upon which the structure is located.

C. Dormers. The width of any individual dormer or combination of dormers above the second floor of a dwelling shall be limited to a maximum of fifty (50%) percent of the width of the floor below which the dormer or dormers is/are situated measured along the same building facade.

D. Excessive uniformity in design of residential buildings prohibited. In any new development in which two (2) or more new dwellings are proposed, no dwelling shall hereafter be erected or constructed which shall be like or substantially like any existing neighboring dwelling or any proposed neighboring dwelling for which a building permit has been issued. Apparently identical facades, substantially identical size and arrangement of either doors, windows, porticos, or other openings or breaks in the façade facing the street, including reverse arrangements; or other significant identical features, such as material, roofline and height, or other design elements are not permitted. For purposes of administering this requirement, the following provisions shall apply:

1. A dwelling shall be deemed to be a "neighboring dwelling" to the subject lot if said dwelling or any part thereof is currently or proposed to be located on any of the following lots:
 - a. any first or second lot in either direction along the same side of the street from the subject lot, without regard to intervening street lines; or
 - b. any lot or portion thereof that has street frontage on the opposite side of the street from the subject lot or on the opposite side of the street from any lot referred to in 1.a above.
2. A dwelling shall be deemed to be "like or substantially like" any neighboring dwelling if it is like such neighboring dwelling in more than three (3) of the following six (6) respects:
 - a. **Height.** Height of the main roof ridge above the elevation of the first floor;
 - b. **Length.** Length of the main roof ridge;
 - c. **Width.** Width between outside walls under the main roof perpendicular to the length thereof;
 - d. **Garage and Porch Location.** In the front elevation, relative location with respect to each other, of the garage (if attached), porch (if any) and the remainder of the dwelling;
 - e. **Window Placement and Design.** In the front elevation, relative location of windows; and
 - f. **Materials.** In the front elevation, materials used in the exterior wall of the dwelling.
 - g. **Entry Details.** In the front elevation, the relative location, size, and trim details of entry doors;
 - h. **Roof Orientation.** Orientation of the roof to the front elevation;
 - i. **Roof style.** The style of roof used on the structure;
 - j. **Projections and Recesses.** In the plane of the front elevation, the use and location of projections and recesses.

3. For paragraphs B.2.a, b, c and d above, dwellings shall be deemed to be like each other if the difference between the respective dimensions of the subject dwellings is less than or equal to six (6) feet.
4. For paragraph B.2.e above, dwellings shall be deemed to be like each other if the difference between the relative location of windows is less than or equal to two (2) feet.
5. For paragraph B.2.f above, dwellings shall be deemed to be like each other if the difference between the percentage wall coverage of the subject dwellings by the same material is less than or equal to thirty percent (30%).
6. For paragraph B.2.g above, dwellings shall be deemed to be like each other if the difference between the relative location of entry doors is less than or equal to 2 feet, or the use of different trim details around the doors such as side or top lights is not present.
7. For paragraph B.2.h above, dwellings shall be deemed to be like each other if the main roof ridge when compared to the neighboring dwelling, both run parallel the lot frontage or both run perpendicular to the lot frontage.
8. For paragraph B.2.i above, dwellings shall be considered like each other if the roof style chosen is identical to the neighboring dwelling. Like roof styles on separate dwellings which are rotated ninety (90) degrees to the lot frontage however, shall be considered different. Examples of roof styles include, but are not limited to, gable, hip, gambrel, and mansard.
9. For paragraph B.2.j above, dwellings shall be deemed to be like each other if relative location of the projections and recesses on the front elevation of the subject dwellings is less than two (2) feet.
10. Dwellings shall be deemed to be like each other if the only difference in the relative location of elements is an end-to-end or side-to-side reversal of same.

TOWN OF WESTFIELD
WESTFIELD NEW JERSEY
RESOLUTION NO.

FINANCE POLICY COMMITTEE

MAY 9, 2023

RESOLVED that the Chief Financial Officer be authorized to draw a warrant in the amount of \$73.80 to the order of New Jersey Department of Health, P.O. Box 369, Trenton, New Jersey for Dog Licenses issued by the Town Clerk for the month of April 2023.

TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY
RESOLUTION NO.

FINANCE POLICY COMMITTEE

MAY 9, 2023

RESOLVED, that the Town Treasurer be authorized to refund the following fees to the following individual via checks:

<u>Name</u>	<u>Account</u>	<u>Class</u>	<u>Fee</u>
Megan Doyle-Smyth	Pool Membership 03-55-920-202	Non-Resident Membership Family of 4 or less	\$755.25 Check
Philip Furia	Tennis/Rec T-05-600-071	Adult Pickleball/Session 2 "Almost"/ Tuesday/AM	\$95.00 Check
Theresa Bennett	Tennis/Rec T-05-600-071	Adult Pickleball/Session 2 Beginner/Thursday/AM	\$95.00 Check

RESOLVED, that the Town Treasurer be authorized to refund the following fees to the following individual via credit card:

<u>Name</u>	<u>Reason</u>	<u>Program</u>	<u>Fee</u>
Brian Turetsky	Withdrew	Youth Tennis/Session 2 Wrong Class/Session	\$129.00 Credit Card
Chunrui Sun	Withdrew	Playground Camp/Jefferson Sight Chelsea Li Samuel Li	\$389.50 \$389.50 Credit Card
Christopher Pye	Withdrew	Memorial Pool/2023 season Individual Membership	\$208.05 Credit Card
Jarett Kamins	Program Canceled	Built By Me/Filmmaking	\$170.00 Credit Card
Randi Albert	Withdrew/Injury	Adult Pickleball/Spring 2023 Thursday/Intermediate Class	\$60.00 Credit Card
Ashley Burroughs	Withdrew	Memorial Pool/2023 Season Non-Resident Parent/Child	\$608.00 Credit Card
Lauren Guberer	Withdrew	Memorial Pool/2023 season Resident Caregiver/Ximena Pacheco	\$115.00 Credit Card

TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY
RESOLUTION NO.

FINANCE POLICY COMMITTEE

MAY 9, 2023

LET IT HEREBY BE RESOLVED that the Chief Financial Officer be and hereby is authorized to draw a warrant for refund of dumpster security payment(s) as follows following final inspection and approval for return of deposit:

George J. Keller & Sons
PO Box 218
Flanders, NJ 07836

Amount of refund: \$975.00

TOWN OF WESTFIELD
WESTFIELD NEW JERSEY

RESOLUTION

FINANCE POLICY COMMITTEE

MAY 9, 2023

WHEREAS, the following applicants have placed the required cash bond of \$1,500.00 to cover the following Road Opening Permits, and

Date	Permit No.	Applicant	Address of Opening
04/12/22	22-222	JB Ragonese Construction Company PO Box 304 Garwood, New Jersey 07027	637 Elm Street
04/13/22	22-223	Zoom Drain 129 East First Avenue Roselle, New Jersey 07203	154 Summit Court
04/22/22	22-227	Christopher M. Scwharzenbek 535 Dudley Court Westfield, New Jersey 07090	535 Dudley Court

WHEREAS, the required one-year hold on the funds has been met and the applicants are therefore entitled to have the bonds returned to them, and

WHEREAS the Town Engineer has inspected the roadway excavations and has found the excavations to have been properly repaired.

NOW THEREFORE BE IT RESOLVED that the Treasurer is authorized to draw a warrant in the name of the applicants noted above for \$1,500.00, forward to the applicants address as listed.

TOWN OF WESTFIELD
WESTFIELD NEW JERSEY

RESOLUTION NO.

FINANCE POLICY COMMITTEE

MAY 9, 2023

RESOLVED that the Chief Financial Officer be, and he hereby is authorized to draw warrants to the following persons, these amounts being overpaid for 2023:

<u>Block/Lot/Qualifier</u>	<u>Property Address</u>	<u>Quarter/Year</u>
<u>Name</u>	<u>Property Address</u>	<u>Amount</u>
5402/41	1515 Lamberts Mill Road	2 nd /2023
Complete Care at Westfield		\$92,112.66

TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY
SPECIAL ORDINANCE NO. 2023-03

AN BOND ORDINANCE TO AUTHORIZE THE UNDERTAKING OF THE EDISON SCHOOL MULTIPURPOSE FIELDS PROJECT IN, BY AND FOR THE TOWN OF WESTFIELD, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$11,800,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.

BE IT ORDAINED by the Town Council of the Town of Westfield, in the County of Union, State of New Jersey, as follows:

Section 1. The Town of Westfield, in the County of Union, State of New Jersey (the "Town") is hereby authorized to undertake the Edison School Multipurpose Fields Project consisting of the installation of synthetic turf multipurpose athletic fields, undertaking of drainage and site improvements, installation of field lighting and field amenities and construction of a bathroom facility in, by and for the Town. Said improvements shall include all work, materials, equipment and appurtenances necessary and suitable therefor. Said project is being undertaken by the Town and the Westfield Board of Education (the "Board of Education") as a joint recreation project under a shared services agreement between the Town and the Board of Education.

Section 2. The sum of \$11,800,000 is hereby appropriated to the payment of the cost of making the improvements described in Section 1 hereof (hereinafter referred to as "purpose"). Said appropriation shall be met from the proceeds of the sale of the bonds authorized and the down payment appropriated by this ordinance. Said improvements shall be made as general

improvements and no part of the cost thereof shall be assessed against property specially benefitted.

Section 3. It is hereby determined and stated that (1) said purpose is not a current expense of said Town, and (2) it is necessary to finance said purpose by the issuance of obligations of said Town pursuant to the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law"), and (3) the total estimated cost of said purpose is \$11,800,000, and (4) \$565,000 of said sum is to be provided by the down payment hereinafter appropriated to finance said purpose, and (5) the estimated maximum amount of bonds or notes necessary to be issued for said purpose is \$11,235,000, and (6) the cost of such purpose, as hereinbefore stated, includes the aggregate amount of \$635,000 which is estimated to be necessary to finance the cost of such purpose, including architect's fees, accounting, engineering and inspection costs, legal expenses and other expenses, including interest on such obligations to the extent permitted by Section 20 of the Local Bond Law.

Section 4. It is hereby determined and stated that moneys exceeding \$565,000, appropriated for down payments on capital improvements or for the capital improvement fund in budgets heretofore adopted for said Town, are now available to finance said purpose. The sum of \$565,000 is hereby appropriated from such moneys to the payment of the cost of said purpose.

Section 5. To finance said purpose, bonds of said Town of an aggregate principal amount not exceeding \$11,235,000 are hereby authorized to be issued pursuant to the Local Bond Law. Said bonds shall bear interest at a rate per annum as may be hereafter determined within the limitations

prescribed by law. All matters with respect to said bonds not determined by this ordinance shall be determined by resolutions to be hereafter adopted.

Section 6. To finance said purpose, bond anticipation notes of said Town of an aggregate principal amount not exceeding \$11,235,000 are hereby authorized to be issued pursuant to the Local Bond Law in anticipation of the issuance of said bonds. In the event that bonds are issued pursuant to this ordinance, the aggregate amount of notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the bonds so issued. If the aggregate amount of outstanding bonds and notes issued pursuant to this ordinance shall at any time exceed the sum first mentioned in this section, the moneys raised by the issuance of said bonds shall, to not less than the amount of such excess, be applied to the payment of such notes then outstanding.

Section 7. Each bond anticipation note issued pursuant to this ordinance shall be dated on or about the date of its issuance and shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within limitations prescribed by the Local Bond Law. Each of said bond anticipation notes shall be signed by the Mayor and by a financial officer and shall be under the seal of said Town and attested by the Town Clerk or Deputy Town Clerk. Said officers are hereby authorized to execute said notes in such form as they may adopt in conformity with law. The power to determine any matters with respect to said notes not determined by this ordinance and also the power to sell said notes, is hereby delegated to the Chief Financial Officer who is

hereby authorized to sell said notes either at one time or from time to time in the manner provided by law.

Section 8. It is hereby determined and declared that the period of usefulness of said purpose, according to its reasonable life, is a period of fifteen years computed from the date of said bonds.

Section 9. It is hereby determined and stated that the Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the office of the Town Clerk of said Town, and that such statement so filed shows that the gross debt of said Town, as defined in Section 43 of the Local Bond Law, is increased by this ordinance by \$11,235,000 and that the issuance of the bonds and notes authorized by this ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 10. Any funds received from private parties, the County of Union, the State of New Jersey or any of their agencies or any funds received from the United States of America or any of its agencies in aid of such purpose, shall be applied to the payment of the cost of such purpose, or, if bond anticipation notes have been issued, to the payment of the bond anticipation notes, and the amount of bonds authorized for such purpose shall be reduced accordingly. In the event that any such funds received shall be in excess of the bonds authorized by this ordinance, said excess funds shall be applied to the reimbursement of the down payment appropriated herein.

Section 11. The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the

Director, Division of Local Government Services, is on file with the Town Clerk and is available for public inspection.

Section 12. The Town intends to issue the bonds or notes to finance the cost of the improvements described in Section 1 of this bond ordinance. If the Town incurs such costs prior to the issuance of the bonds or notes, the Town expects to reimburse itself for such expenditures with the proceeds of such bonds or notes in the maximum principal amount of bonds or notes authorized by this bond ordinance.

Section 13. The full faith and credit of the Town are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this ordinance. Said obligations shall be direct, unlimited and general obligations of the Town, and the Town shall levy ad valorem taxes upon all the taxable real property within the Town for the payment of the principal of and interest on such bonds and notes, without limitation as to rate or amount.

Section 14. This ordinance shall take effect twenty days after the first publication thereof after final passage.

TOWN OF WESTFIELD
WESTFIELD NEW JERSEY

RESOLUTION NO. XXX-2023

**PUBLIC SAFETY, TRANSPORTATION,
& PARKING COMMITTEE**

MAY 9, 2023

WHEREAS, on January 17, 2023, under Resolution 40-2023, a Contract was awarded to Flock Safety, P.O. Box 207576, Dallas, TX 75320 for \$22,500 for the purchase of Automated License Plate Recognition (ALPR) cameras to be installed at various locations throughout the Town of Westfield, and

WHEREAS, the total amount of the contract is \$41,250, requiring an amendment to the contractual price of the cameras, and

WHEREAS, Certificate of the Town Treasurer, certifying to the availability of adequate funds for this Amended Contract, prepared in accordance with N.J.A.C. 5:30 1.10 has been furnished to the Town Clerk. Expenditure of funds pursuant to this Contract is to be charged to Special Ordinance 22-01 and Police Department account 130-208, under Purchase Order PO# 23-00112, in an amount not expected to exceed \$41,250, an increase of \$18,750, as follows:

C-07-22-001-1C2	\$40,000.00
3-01-130-208	<u>1,250.00</u>
Total Cost:	\$41,250.00

NOW THEREFORE BE IT RESOLVED, that the Contract originally awarded to Flock Safety, be and is hereby amended in an amount not to exceed \$41,250 (increased \$18,750) and

BE IT FURTHER RESOLVED, that the proper Town Officials be, and they are hereby, authorized to take whatever actions are appropriate in the execution of discharge of this Contract.

TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY
RESOLUTION NO.

CODE REVIEW & TOWN PROPERTY COMMITTEE

MAY 9, 2023

RESOLVED that the following application for children's amusement devices be approved:

Richard Sieb
Seashore Amusements
11 Hendry Lane
Brick, NJ 08723

Spring Fling
May 7, 2023
Elm Street
Westfield, NJ 07090

Richard Sieb
Seashore Amusements
11 Hendry Lane
Brick, NJ 08723

* 10 amusement devices