

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY
GENERAL ORDINANCE NO. 2183**

**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.* 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 requirements of any other state statutes or municipal Ordinances or regulations.
- F. In the event of any inconsistency, ambiguity, and/or overlapping of requirements promulgated by the municipality, the more restrictive requirement 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. The Town Planner, and in the case of any such action required by him/her, the Zoning Officer, or Construction Official, or any other official of the Town of Westfield, as applicable, who is authorized and required as a component of his/her job description and employment to accept, review, and act on permit applications in accordance with the ordinances and regulations of the Town.
- C. Alteration. Any work done on any improvement which:
 - 1. is not an addition to the improvement; and
 - 2. changes the appearance of the exterior surface of any improvement.
- D. 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. 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.
- F. 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.
- G. 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.

H. Historic Preservation Commission Application Subcommittee (HPC Application Subcommittee). The HPC Chairperson and two (2) other Commission members previously designated by the HPC Chairperson.

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

1. is of particular historic, cultural, scenic, or architectural significance to the Town of Westfield and in which the broad cultural, political, economic, or social history, state or community is reflected or exemplified;
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, or the culture of prehistoric man;
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).

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

J. 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.

K. 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 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 roofline of any building on a historic landmark; or
 6. Involves ten percent (10%) or less of the facade of any building on a historic landmark.
- L. Major Application. Any application for a Certificate of Appropriateness which is not a minor application, as defined above. Notwithstanding this definition and the definition of “Minor Application” as set forth above, any application which involves the subdivision of a historic landmark by the Planning or Zoning Boards, or any individual property within a historic district, shall be deemed to be a major application.
- M. 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.
- N. Reconstruction. The act or process of reproducing by new construction the exact form, material, and details of a vanished building, structure, or object or part thereof, as it appeared during a specific period of time.
- O. Rehabilitation. The act or process of returning the exterior of an improvement to a state of utility through repair of an alteration which makes possible an efficient contemporary use while preserving those portions or features of the improvement which are significant to historical, architectural and cultural values.
- P. Repair. Work done on any improvement which:
 1. is not an addition to the improvement; and
 2. does not change facade of any improvement.
- Q. Replacement. A repair that changes the façade of any structure or improvement.
- R. Restoration. The act or process of accurately recovering the form and details of the exterior of an improvement by means of the removal of later work or by the reconstruction of missing earlier work.
- S. Site. The location of a significant event, prehistoric, or historic activity, or remnant of a building or structure such as a battlefield, landscape, or the ruins of a building or structure.
- T. 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.

§ 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.
- 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.
 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. 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, 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. Alternate members may participate in discussions but may not vote except in the absence or disqualification of a regular member.
 6. A vote shall not be delayed 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.
 7. A simple majority of affirmative votes is required to grant a Certificate of Appropriateness. If a Certificate of Appropriateness is not granted when voted on by the Commission, it shall be considered denied.
 8. All actions to grant, change, or deny a Certificate of Appropriateness shall be memorialized by a formal written resolution, containing findings of fact and conclusions, which shall be adopted within forty-five (45) days as a memorialization of the action after the action has been taken.
 9. The Commission shall annually establish a schedule of regular monthly meetings, which shall be noticed and posted in 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.
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 the capital improvement program.
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. 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 prehistory or 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. 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 in such form as the Commission shall promulgate by regulation.
 5. Once an improvement has been designated a landmark or incorporated as a historic structure within a historic district, it may only be delisted therefrom by the same process required herein for its designation. If delisted, a certificate to that effect shall also be filed by the Town of Westfield with the County Recorder of Deeds.
 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 a resolution 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 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 issue or deny a Certificate of Appropriateness for any development on such historic site or within such historic district.
- C. Exceptions.
1. Interior Work; Repairs, Exact Reconstruction. A Certificate of Appropriateness shall neither be required for changes to the interior spaces of buildings. A Certificate of Appropriateness shall not be required to change a paint color either in the interior or on the exterior of a building. A Certificate of Appropriateness shall be not be required for any façade repair that entirely matches the material and appearance of the repaired elements, or exact reconstruction of any existing façade improvement.
 2. Emergency Repairs. When, in the opinion of the Construction Official, a historic landmark requires immediate emergency repair to preserve the habitability and/or protect the health or safety of its occupants or others, which repair would otherwise require a Certificate of Appropriateness, temporary emergency repairs may be performed in accordance with Town codes, without the necessity of first obtaining Commission review. Under such circumstances, the repairs performed shall only be such as are necessary to maintain the safety and habitability of the structure. No additional work shall be performed upon the structure until or unless the Commission grants a Certificate of Appropriateness pertaining to such work.
 3. Non-Facade Changes. Changes not affecting the exterior facade of a building shall not require a Certificate of Appropriateness.
- D. Review of Certificate of Appropriateness Applications.
1. The Town Planner, 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 Town Planner 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 Town Planner's notice advising the applicant of the need to file, the application shall be considered officially referred to the Commission by the Town Planner. The date on which the Commission deems the application complete shall be deemed the date of referral by the Town Planner.

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 that requires approval by the Planning Board or Zoning Board of Adjustment, the Commission's review shall be confined to those aspects of the proposal not under the jurisdiction of the reviewing Board.
5. The Commission shall, pursuant to N.J.S.A. 40:55D-111, provide its written report to the applicant and to the Town Planner within forty-five (45) days of the Town Planner'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 Administrative Officer 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, the Commission's report filed with the Town Planner 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 Town Planner 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 Town Planner within the forty-five (45) day period, the Commission recommends that the permit be approved with certain conditions, the Town Planner shall only approve the permit with the conditions as therein recommended.
9. Any Commission recommendation to the Town Planner 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 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 aspect(s) of the proposed activity not specifically under the jurisdiction of and approved by the reviewing Board.

§ 7. PROCEDURES FOR FILING AN APPLICATION.

- A. All applications for Certificate of Appropriateness shall be filed with the Town Planner 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 Town Planner 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 Town Planner 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. 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. Photographs depicting existing building(s), structure(s), and conditions on the subject landmark and on immediately adjacent properties.
 - 4. Specification of materials to be used in completing the project and proposed colors of exterior finishes.

5. Sketches or drawings illustrating the project, as proposed.
 6. A copy of the Administrative Officer's notice advising the applicant of the need to file if such notice was provided to the applicant.
 7. A copy of any application approved by the Planning Board or Zoning Board of Adjustment, as applicable, along with the Board's memorializing resolution.
 8. Such additional information as the applicant or the Commission may find necessary to clearly explain and/or illustrate the project proposal and to assess whether or not a Certificate of Appropriateness will be issued.
- 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.E, 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. 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.
 3. For new construction, a streetscape elevation drawn to scale, showing the new structure in the context of neighboring buildings.
 4. A written statement or report prepared by a qualified professional (i.e., an individual knowledgeable in historic architecture who is also an architect, landscape architect, planner, architectural historian, or other like professional) discussing the relationship between the project proposal and the standards of review as set forth in § 8 hereof.
- I. The applicant shall file one (1) original and one (1) copy of the full application package for purposes of the completeness determination. Upon receipt of notification that the application has been deemed complete, the applicant shall provide eleven (11) additional copies of the full application for review by the members of the Commission.
- 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.9, hereof, shall be required. The Commission Secretary shall consult with the applicant regarding scheduling. The applicant need not be present for the application to be considered and acted upon, however, should the applicant wish to attend the meeting, every effort shall be made, within the time limits prescribed for Commission action on the application (pursuant to N.J.S.A. 40:55D-111 and § 6.C and § 7.I, hereof) to accommodate the applicant's schedule.
 2. Major Applications. Major applications shall be considered and acted upon by the Commission only during the course of a duly noticed public hearing at which any interested party may ask questions and be heard on the application. The Commission Secretary shall consult with the applicant regarding scheduling of such hearing since the applicant or his/her duly authorized representative must attend such hearing to present and answer questions on the application. The Secretary shall make every effort, within the time limits prescribed for Commission action on the matter (pursuant to N.J.S.A. 40:55D-111 and §§ 6.C and 7.I, 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 hereof, to the Commission Secretary or in the event of his/her unavailability to the Town Planner.
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 applicable New Jersey law, 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 Town Planner 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 of § H hereof; otherwise such applications shall be deemed to have been approved. In the event of a referral by the Town Planner pursuant to § 6.C, above, the Commission must provide its report to the Town Planner 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 Town Planner, 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 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, 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.H, hereof; and that the information presented is sufficient in and of itself to make such determinations; then it may, by affirmative majority vote, waive the requirement for submission of a formal application for a Certificate of Appropriateness in accordance with this Section, and forthwith grant a Certificate of Appropriateness for the project as proposed. 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. the extent to which its retention would promote the general welfare by maintaining and increasing real estate values; generating business; creating new jobs; attracting tourists, students, writers, historians, artists and artisans; attracting new residents; encouraging study and interest in American history; stimulating interest and study in architecture and design; educating citizens in American culture and heritage; or making the municipality a more attractive and desirable place in which to live;
 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.

- 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.E hereof.
- 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 may 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 determination in order to deny any subdivision of a historic landmark. If a subdivision is approved consistent with these provisions, all new construction on any resulting lot shall be subject to the requirements of §§ 8.E, F, G, and H, below. All lots 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 related

shall be considered in terms of the visual compatibility factors as set forth in § 8.H hereof.

G. Consideration on Other Actions. In regard to an application for 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.H hereof.

H. Additional matters considered. In regard to all applications for Commission 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. This objective shall not be construed to supersede or interfere in any way with the uses permitted within any zoning district in the Town of Westfield, as set forth by the Land Use Ordinance, or otherwise permitted under the provisions of N.J.S.A. 40:55D-1, *et seq.*
2. Rehabilitation work should not destroy the distinguishing qualities or character of the property and its environment. The removal or alteration of any historical material or architectural features should be held to a minimum consistent with the proposed use.
3. Deteriorated architectural features should be repaired rather than replaced wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of original features, substantiated by physical or pictorial evidence rather than on conjectural designs, or the availability of different architectural features from other buildings.
4. Distinctive stylistic features or examples of craftsmanship which characterize older buildings should be treated with sensitivity.
5. Many changes to buildings and environments are evidence of the history of the building and the neighborhood. These changes may have developed significance in their own right and this significance should be recognized.
6. All buildings should be recognized as products of their own time. Alterations which may be inconsistent with the actual character of the building should be avoided.

7. Contemporary designs for new buildings in old neighborhoods and additions to existing buildings or landscaping should not be discouraged if such design is compatible with the character of the neighborhood, building, or its environment.
 8. Wherever possible, new additions, or alterations to buildings should be done in such a manner that if they were to be removed in the future, the essential form and integrity of the original building would be unimpaired.
 9. The Historic Preservation Commission shall also be guided by the standards and criteria of the "Secretary of Interior Standards for Historic Preservation Projects" prepared by the Office of Archaeology and Historic Preservation, Heritage Conservation and Recreation Service, U.S. Department of Interior, Washington, D.C., as same may be amended from time to time.
- I. Visual compatibility factors. In assessing the effect of any proposed change contained in an application before 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. Definitions. For the purposes of this Section, the following words and phrases have the following meanings:
 - APPLICATION — An application to the Zoning Official for a demolition permit as defined by this Section.
 - COMMISSION — The Historic Preservation Commission of the Town of Westfield.
 - CONSTRUCTION OFFICIAL — The Construction Official of the Town of Westfield.
 - 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 or partial demolition of a building or structure (excluding interior demolition).
 - 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 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.

HISTORIC PRESERVATION OFFICER (HPO) — The Secretary of the Commission or a member of the Commission appointed by the Commission.

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.

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.

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.

ZONING OFFICIAL – The Zoning Official of the Town of Westfield.

C. 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 Historic Preservation Officer (HPO) 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.

D. Review of Application by Historic Preservation Officer.

1. The HPO shall, within 10 business days 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.

- E. 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.
- F. 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. Upon learning of the violation, the Zoning Officer shall personally serve upon the owner of the lot wherein the violation has occurred or is occurring, a notice describing the violation in detail and giving the owner ten (10) days to abate the violation by restoring the landmark or improvement to its status quo ante. If the owner cannot be personally served within the municipality with said notice, a copy shall be posted upon the landmark or other improvement located in 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.
- C. In the event that the violation is not abated within ten (10) days of service or posting upon the landmark or other improvement located in 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.
- D. If a violation involves ongoing unauthorized construction or demolition work, the Construction Official shall immediately issue a stop work order in accordance with the Uniform Construction Code, N.J.S.A. 52:27D-119, *et seq.*
- E. The penalty for violations shall be as follows:
 - 1. for each day, up to ten (10) days: not more than one thousand dollars (\$1,000.00) per day;
 - 2. for each day, eleven (11) to twenty-five (25) days: not more than one thousand and five hundred dollars (\$1,500.00) per day;
 - 3. for each day beyond twenty-five (25) days: not more than two thousand dollars (\$2,000.00) per day; and

4. in the case of a demolition without a permit therefor, a violation shall be punishable by a ten thousand dollar (\$10,000.00) fine.
- F. In the event that the Zoning Officer or Construction Official is made aware that demolition or removal of a landmark building or structure is about to occur without a Certificate of Appropriateness having been issued, 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.A, above, shall apply. If a hearing is requested,

the Town Attorney will within ten (10) days following the hearing, serve on the owner an opinion in writing setting forth his or her conclusions and the reasons, therefore. Such opinion shall deem to be first notice pursuant to § 12.A hereof.

- 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):

- 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.

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

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

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

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

- D. Mindowaskin Park, known as Lot 12, Block 2403.

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

- E. The private residence owned at the time of its designation by Hugh Platt, located at 526 Wychwood Road, Westfield, New Jersey, known as Lot 1, Block 1410 on the tax maps, 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.

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

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

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

- G. The private residence owned at the time of its designation by Charles L. Whedon and Viola M. Whedon, located at 667 Fourth Avenue, Westfield, New Jersey, known as Lot 6, Block 3303 on the tax maps, 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.

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

- H. The private residence owned at the time of its designation by Mr. and Mrs. Theodore Alley, located at 500 Salter Place, Westfield, New Jersey, known as Lot 12.021, Block 3408 on the tax maps, 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

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

- I. The Miller-Cory House museum owned and operated at the time of its designation by the Westfield Historic Society, located at 14 Mountain Avenue, Westfield, New Jersey, known as Lot 40 in Block 1203 on the Town Tax Map, 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.

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

- J. The Well House structure, 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.

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

- K. The Burial Grounds of the Presbyterian Church in the West Fields of Elizabethtown, owned at the time of its designation by the Presbyterian Church in Westfield, located at 125 Mountain Avenue, Westfield, New Jersey, known as Lot 14 in Block 2405 on the Town Tax Map; its period of significance 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.

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

- 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.

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

- 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.

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

- N. Triangle Park, which is the triangular piece of land between Walnut St., Lawrence Ave., and Mountain Ave., in Westfield.

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

§ 15. DESIGNATED HISTORIC DISTRICTS.

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

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

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

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

§ 16. 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.

NOTICE

Notice is hereby given that the foregoing ordinance was approved for final adoption, as amended, by the Town Council of the Town of Westfield at a Regular Meeting held on September 8, 2020.

Tara Rowley, RMC

Town Clerk