

Clinton Township
Historic Preservation Ordinance

Clinton Township's historic preservation ordinance provides for a Historic Preservation Commission that, among other things: advises the Planning Board and Board of Adjustment on development applications related to historic sites; promotes historic preservation through education; and makes recommendations on demolition permit applications for historic structures.

Recently, the Commission has been reviewing the ordinance with an eye toward both improving it and achieving Certified Local Government status from the State, which would allow the Commission access to additional grant opportunities that could provide funds for the Township to continue its preservation and education efforts.

A number of updates to the existing ordinance are currently being considered. The major changes are:

1. Adding a process for **advisory** review of permit applications that affect the exterior appearance of designated historic structures.
2. Defining the process by which historic districts, sites and structures are designated by the Township.
3. Adding criteria that should be used in the review of applications.
4. Adding definitions of terminology used in the ordinance.

It is important to stress that the role of the Historic Preservation Commission is primarily advisory.

When reviewing applications (development, demolition, etc.), the goal of the Commission is to provide useful input to the applicant and/or the planning or zoning boards as to the historic nature of the structure(s) in question, and to suggest ways to improve designs to allow for preservation of the historic character of our township.

Please note: the current historic districts of Annandale, Cokesbury and Readingsburg will not need to go through the designation process, as they had done so when they were added to the State and National Registers of Historic Places.

The current ordinance incorporated with the proposed revisions is attached. All changes to text are highlighted in yellow, with additions underlined and deletions marked ~~thus~~.

The Commission welcomes the comments, concerns, and questions of interested residents. Please contact Brian Mullay, Historic Preservation Commission Chair, at 908-812-3008 or via e-mail at bmullay@yahoo.com for more information.

§ 4-69 Historic Preservation Commission.

- A. Purpose. The purpose of the Historic Preservation Commission is to promote the conservation of historic sites and districts and to safeguard the heritage of Clinton Township by preserving the elements of its cultural, social, scenic economic, and architectural history.
- B. Formation of Commission. There is hereby established in and for the Township an Historic Preservation Commission.
- C. Class qualifications.
- (1) The Historic Preservation Commission shall consist of five regular members and may have not more than two alternate members. Of the regular members, a total of at least one less than a majority shall be of Classes A and B; and three members shall be of Class C. Class qualifications shall be as follows:
(Amended 2-28-2001 by Ord. No. 741-01; 2-25-2004 by Ord. No. 838-04; 7-18-2007 by Ord. No. 927- 07]
- (a) Class A: Persons who are knowledgeable in building design and construction or architectural history who may reside outside the Township.
- (b) Class B: Persons who are knowledgeable or with a demonstrated interest in local history who may reside outside the Township.
- (c) Class C: Citizens of the Township who shall hold no other municipal office, position or employment, except for membership on the Planning Board or Board of Adjustment.
- (2) Alternate members shall meet the qualifications of Class C members.
- D. Appointment of members; terms; vacancies.
- (1) The Mayor shall appoint all members of the Commission and shall designate at the time of appointment the regular members by class and the alternate members, if any, as Alternate No. 1 and Alternate No. 2.
- (2) The terms of the members first appointed shall be so determined that to the greatest practicable extent, the expiration of the terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment, and in the case of alternate members, evenly over the first two years after their appointment, provided that the initial term of no regular member shall exceed four years, and that the initial term of no alternate member shall exceed two years. Thereafter, the term of a regular member shall be four years; and the term of an alternate member shall be two years.
- (3) A vacancy occurring otherwise than by expiration of term shall be filled **within 60 days** for the unexpired term only. Notwithstanding any other provision herein the term of any member common to the **[Historic Preservation]** Commission and the Planning Board shall be for the term of membership on the Planning Board; and the term of any member common to the **[Historic Preservation]** Commission and the Board of Adjustment shall be for the term of membership on the Board of Adjustment.
- E. Chairman; Vice Chairman; Secretary. The Historic Preservation Commission shall elect a Chairman and Vice Chairman from its members, and select a Secretary who may or may not be a member of the Historic Preservation Commission or a municipal employee.

F. Definitions.

Addition – Shall mean an extension or increase in the size, floor area or height of any building, structure, site or improvement.

Alteration – Shall mean any change in the exterior features of any building, structure, site or

improvement.

Application for Development – Shall mean an application to the Planning Board or the Zoning Board of Adjustment of the Township of Clinton for approval of a major or minor subdivision plat or site plan, planned development, conditional use or zoning variance, or an application for the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining excavation or landfill, or for any use or change in the use of any building or other structure, or of any parcel of land, for which permission may be required pursuant to the Municipal Land Use Law.

Building – Shall mean any man-made structure created principally to shelter any form of human activity as well as its functionally related appurtenances such as a house and a barn.

Commission – Shall mean the Historic Preservation Commission established pursuant to the provisions of this Ordinance.

Construction Official – Shall mean the Officer in charge of the granting of building or construction permits in the Township.

Demolition – Shall mean the partial or total razing, dismantling or destruction, whether entirely or in significant part, of any designated building, structure, site or improvement. Demolition includes the removal of a building, structure, site or improvement from its location or the removal or destruction of its façade or surface.

Designated Historic Landmark or Historic District – Shall mean an individual building, structure, site, improvement or district that has been determined to have historical significance pursuant to the provisions of this Ordinance.

Historic – Shall mean having historical, cultural, architectural, archaeological, economic, social or other significance as defined by the provisions of this Ordinance.

Historic District – Shall mean a significant concentration, linkage or continuity of buildings, structures, sites or improvements united historically by plan or physical development that qualifies for designation under Section K of this Ordinance.

Historic Landmark – Shall mean any building, structure, site or improvement that qualifies for designation under Section J of this Ordinance.

Improvement – Shall mean a building or other structure, or any work constituting a man-made alteration of, or addition to, any building, structure or site.

Inventory – Shall mean a list of historic properties determined to meet criteria of significance specified herein.

Master Plan – Shall mean the Master Plan of the Township of Clinton, as amended from time to time, compiled pursuant to the Municipal Land Use Law.

Municipal Land Use Law – Shall mean the Municipal Land Use Law of the State of New Jersey, P.L. 1975, c. 291 (N.J.S.A. 40:55D-1, et seq.), as amended from time to time.

National Register Criteria – Shall mean the established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places, as set forth in 36 C.F.R. 60.4, et seq.

Permit – Shall mean any required approval issued by the Construction Official pursuant to applicable building or construction codes for work or improvement(s) to property, or to a building

or structure located thereon.

Replacement – Shall mean the act or process of replicating any exterior architectural feature that is used to substitute for an existing deteriorated or extensively damaged architectural feature.

Site – Shall mean the location of a significant event, a prehistoric or historic occupation or activity, a building or structure, or a burial ground or cemetery, whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing structures.

Structure – Shall be used as a term to distinguish from buildings those functional constructions made usually for purposes other than creating human shelter, such as a bridge.

Survey – Shall mean the inventory of buildings, structures, sites, objects, improvements and districts located within the Township of Clinton that is conducted by the Commission for the ascertainment of their historical significance pursuant to the provisions of this Ordinance.

[F] G. Regulations. The Commission shall create rules and procedures for the transaction of its business subject to the following regulations:

(1) The Commission shall hold meetings monthly, and shall meet a minimum of 10 times per year. Regular meetings shall be held as scheduled unless cancelled for lack of a quorum, lack of applications to review or for other good cause, which shall be noticed in the minutes. The Chairman or vice Chairman, as the case may be, may call additional special meetings when the regular meetings are inadequate to meet the needs of the Commission's business, to handle emergencies or to meet time constraints imposed by law.

[(4)] (2) A quorum for the transaction of business shall consist of four ~~three~~ of the Commission's members, including the Chairman or, in his/her absence, the vice Chairman.

[(2)] (3) The Secretary shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations and decisions. All such materials shall be public records.

[(3)] (4) All meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7 et seq.).

[(4)] (5) Alternate members may participate in discussions of the proceedings but may not vote, except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

[(5)] (6) No member of the Historic Preservation Commission shall be permitted to act on any matter in which he has, either directly or in indirectly, any personal or financial interest.

[(6)] (7) A member of the Historic Preservation Commission may (after public hearing if he/she requests it) be removed by the Township Council for cause.

[G] H. Compensation for members. The Commission members shall serve without compensation but shall be reimbursed for expenses incurred in the performance of official business.

[H] I. Compensation for experts and other staff services. The Historic Commission may secure the voluntary assistance of the public and (within the limits of the budget established by the Township for the Historic Preservation Commission's operation) to retain consultants and experts.

[I] J. Powers and Duties. The Historic Preservation Commission shall have the responsibility to:

- (1) [Prepare a survey of historic sites of the Township pursuant to criteria identified in the survey report] Identify, designate and regulate historic sites, historic landmarks and historic districts in order to preserve their historical significance; and
- (2) Make recommendations to the Planning Board on the historic preservation plan element of the Master Plan and on the implications for preservation of historic sites of any other Master Plan elements; and
- (3) Advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program; and
- (4) Advise the Planning Board and Board of Adjustment on applications for development, pursuant to Subsection [J] L of this section[-] ; and.
- (5) Provide written reports pursuant to N.J.S.A. 40:55D-1 11 on the application of the zoning ordinance provisions concerning historic preservation; and
- (6) Carry out such other advisory, educational and informational functions as will promote historic preservation in the Township.
- (7) Hold public hearings and to review and advise on applications for construction, alteration or demolition affecting proposed or designated historic sites, districts and structures.

K . Designation of Historic Districts, Sites and Structures.

- (1) The Commission shall maintain a comprehensive survey of the Township to identify historic sites, historic landmarks and historic districts that are worthy of protection and preservation.
- (2) Criteria for designation. The Commission shall use the following criteria for evaluating and designating historic districts, sites and structures:
 - (a) any individual building, structure or site that is listed on the National and /or State Register, or that is declared eligible for the National and/or State Register, shall automatically qualify as a local historic landmark;
 - (b) a site or building associated with a person who has contributed to an historical or cultural township, state or national event;
 - (c) Any structure, building, house or grouping of these (a historic district), as well as man-made or natural landscape sites which are significant in exemplifying the cultural, social, economic or historical heritage of the Township.
 - (d) individual houses and supporting structures or districts that exhibit architectural value in either reflecting an historic era or reflecting a specific architectural type, or that exhibit significant architectural innovation or are the work of a particularly significant architect or builder;
- (3) Procedures for designation. In order to pursue the designation of historic sites and districts, as provided for in N.J.S.A. 40:55D-107 et seq., and Section J (1), above, the Commission shall initiate and undertake the following actions:
 - (a) Make a list of sites and districts tentatively recommended for designation as historic, including: a brief description of the site or district; the site or district's significance; a description of the site or district's location and boundaries; and a map location.
 - (b) The Commission shall, by regular mail and certified mail, return receipt requested, notify each owner of a proposed historic site, or the owner of property within a

proposed historic district, that their property has been tentatively recommended as a historic site, and/or for inclusion in a historical district, and the reasons therefore. Such notification shall also include information to the property owner of the significance and consequences of such a designation, and advise the property owner of his/her opportunity and right to participate in the process by which the property may be designated. The notice shall also include the date and time of the public hearing when the Commission will be considering the proposed designation. The notification described herein shall not be required for any property that is listed on the National or State Register.

- (c) Upon completion of the survey and the notice to property owners involved, the Commission shall hold a public hearing to review and examine the properties set forth on the list recommended for approval. A list of the properties, together with a map showing same, shall be published, together with the notice of the hearing on same, in the official newspaper of the Township no less than ten (10) days prior to such hearing. Notice of the Commission's hearing shall also be included on the Township's web page.
- (d) The proposed list of sites and districts recommended for designation as historic shall be submitted at a public hearing to the comments of the public. Interested parties shall be entitled to present their opinions, suggestions and objections at this public hearing.
- (e) Following the public hearing, and after full consideration of the comments and information presented, the Commission shall make its final decision on the properties and its respective recommended designations, and shall issue a final report. The report shall set forth the Commission's reasons in support of its decisions with respect to each historic site and each historic district designation.

(4) The report of the Commission, together with all applicable maps and comments, shall be submitted by the Commission to the Planning Board for consideration with respect to including the historic sites and historic districts in the Township's master plan and the historic preservation element thereto. The report shall also be submitted to the Township Council for its consideration with respect to whether or not to adopt the list and map of historic sites and historic districts by amendment for inclusion as an overlay area in Chapter 165, *Land Use Regulations*, of this Code. The Planning Board and Township Council may accept, reject or modify the Commission's recommendations on historic sites and historic districts.

[J] L. Referrals by Planning Board and Zoning Board.

- (a) The Planning Board and Board of Adjustment shall refer to the Historic Preservation Commission every application submitted for development in Historic Zoning Districts or on historic sites or historic structures designated on the Zoning or Official Map or identified in any component element of the Master Plan to either Board. The referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever event occurs sooner. Failure to refer the application as required shall not invalidate any hearing or proceeding. The Historic Preservation Commission may provide its advice, which shall be conveyed through its delegation ~~to~~ 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.
- (b) For purposes of this section, "historic sites" or "historic structures" shall be defined as any man-made structure which has previously been designated as a site of historic, archaeological, cultural, scenic or architectural significance at the national or state level, and/or through the process set forth in Section K, above, *Designation of Historic Districts, Sites and Structures*.

[K] M. Demolition of Historic Structure: Notice to Commission.

[Added 5-26-2004 by Ord. No. 848-04; amended 12-8-2004 by Ord. No. 867-04]

- (1) Notice required. Any applicant to the Planning Board or Board of Adjustment for the development of a site, or any applicant to the Building Department for a demolition permit, which involves a historic structure must provide notice to the Historic Preservation Commission.
- (2) Form of notice.
 - (a) Such notice shall be provided in a letter to the Township Administrator sent via certified mail (return receipt requested), containing the following information:
 - [1] Street address;
 - [2] Tax Map lot and block number;
 - [3] A description of the structure to be removed or demolished; and
 - [4] The anticipated date of removal/demolition.
 - (b) No land use application shall be deemed complete, nor shall any demolition permit be granted, without proper notice evidenced by a copy of the letter and certified receipt filed with the applicable municipal agency.
- (3) Time for notice. In the case of a land use application, an applicant must provide such notice as part of the land use board's application checklist. In the case of a demolition permit, such notice must be provided not less than 30 days prior to the proposed demolition.
- (4) The applicant shall permit the Historic Preservation Commission to access the property for documentary purposes. The Historic Preservation Commission may waive the thirty-day notice requirement and/or access to the site or structure provided that such waiver is provided by the Commission in writing to the applicant.
- (5) The Historic Preservation Commission shall provide its findings and recommendations to the pertinent municipal agency prior to the issuance of any approval or demolition permit. The Historic Preservation Commission shall have 45 [not less than seven, but not more than 14] days from the date of its receipt of the notice set forth in this subsection to provide such findings and recommendations. If the Historic Preservation Commission has no concerns with the proposed demolition, then the demolition permit shall be issued.
- (6) Where the Historic Preservation Commission raises concerns with the proposed demolition of a historic structure, and the matter is not the subject of a land use application, the matter shall be referred to the Planning Board of Adjustment before a demolition permit shall be issued. The Planning Board of Adjustment shall consider the matter at its next occurring meeting, provided at least 10 days have elapsed between the issuance of the Historic Preservation Commission's report and such Planning Board of Adjustment meeting. The matter may be carried or postponed with the consent of the applicant. Should the applicant fail to consent to a reasonable request by the Planning Board of Adjustment to postpone or carry the matter, the Board of Adjustment's [Planning Board's] adoption of the Historic Preservation Commission's recommendations shall not be deemed to be arbitrary or capricious. The applicant shall post such escrows as the Planning Board of Adjustment believes is necessary for a full and fair determination of the matter. The applicant shall not be required to provide any public notice for such hearing. The Planning Board of Adjustment shall notify the Historic Preservation Commission within five days of the scheduling of the hearing.
- (7) The findings and recommendations of the Historic Preservation Commission shall not be binding upon the Planning Board of Adjustment, but shall be considered by the same. The Planning Board of Adjustment shall consider the historic value of the subject structure, the recommendation made by the Historic Preservation Commission, and the [costs in resources, including time and money, to the applicant] reasonableness [if] of the Historic Preservation Commission's recommendations to the applicant [are followed]. The applicant

may be required to provide such sums as are necessary to document and /or preserve the historic structure. The [Planning] Board of Adjustment shall balance the above considerations and shall attach such reasonable conditions to the issuance of a demolition permit as it [feels] believes is reasonable and necessary.

- (8) Any applicant who disputes the decision of the [Planning] Board of Adjustment shall have the right to appeal to the Township Council within 10 days of the rendering of the [Planning] Board of Adjustment decision by the filing of a letter or notice of appeal with the Township Clerk. The Township Council shall conduct a hearing at the next occurring Council meeting after the filing of the appeal. The Council may take new testimony with regard to the subject application and shall have the right to modify or overturn the [Planning] Board of Adjustment decision on the affirmative vote of a majority of the membership of the Township Council. Any decision of the Township Council may be appealed to the Superior Court via an action in lieu of prerogative writ.
- (9) For purposes of this subsection, "historic structure" shall be defined as any man-made structure which has previously been designated as a site of historic, archaeological, cultural, scenic or architectural significance at the national [.] or state [or local] level, and/or through the procedure set forth in Section K, above, *Designation of Historic Districts, Sites and Structures*.

[Amended 7-18-2007 by Ord. No. 927-07]

N. Permits: exterior appearance of historic landmarks, sites or structures.

- (a) No building permit of any kind shall be issued by the Building Department for, and no work shall be conducted on, a historic structure, site or landmark without the Commission having been provided with written notice of the building permit application. The Commission shall thereafter timely review the building permit application to determine if the proposed work involves the exterior of the historic site only, and provide its recommendation regarding the identified work.
- (b) For purposes of this subsection, "historic structure" or "historic site" shall have the same definition as in Sections K and L, above.
- (c) The requirements of (a) and (b), above, shall apply to the following activities within historic districts or involving any historic landmark, site or structure:
 - (1) relocation of any historic site or landmark or of any improvement within any historic district.
 - (2) change in the exterior appearance of any existing historic site or landmark or of any improvement within any historic district by addition, alteration or replacement.
 - (3) any new construction of a principal or accessory structure on any historic site or in any historic district.
 - (4) Changes in, or addition of, signs or exterior lighting.
- (d) The requirements of this Section shall not apply to any repainting, repair or exact replacement of any existing improvement.
- (e) Form of Notice.
 - (1) Such notice shall be provided in a letter addressed to the Township Administrator and sent via certified mail, return receipt requested, containing the following information:
 - (a) street address;
 - (b) tax map lot and block number;
 - (c) a copy of the building permit application; and
 - (d) the anticipated date the work is to be performed.

- (2) No land use application shall be deemed complete, nor shall any building permit be granted, without proper notice evidenced by a copy of the letter and certified mail return receipt filed with the applicable municipal agency.
- (f) Time for notice. Notice must be provided not less than thirty days prior to the proposed commencement of construction.
- (g) The applicant shall permit the Commission to access the subject property for documentary purposes. The Commission may waive the thirty-day notice requirement and/or access to the site or structure, provided that such waiver is provided by the Commission in writing to the applicant.
- (h) The Commission shall provide its recommendation to the applicant and the pertinent municipal agency prior to the issuance of any approval or building permit. The Commission shall have 45 days from the date of its receipt of the notice set forth in this subsection to provide such recommendations.
- (i) The findings and recommendations of the Commission shall not be binding upon the applicant or pertinent municipal agency, but shall be considered by the same.
- (j) Emergency procedures.
- (1) When a historic site, historic landmark or a key or contributing historic district resource requires immediate repairs to preserve its continued habitability and/or the health and safety of its occupants or others, emergency repairs may be performed in accordance with applicable construction codes immediately upon approval of the Construction Official, who shall certify that a bona fide emergency of the type referenced herein exists, without first obtaining the recommendations of the Commission. Under such circumstances, the repairs performed shall be only such as are necessary to preserve the continued habitability of the building or structure and/or the health and safety of its occupants or others. Where feasible, temporary measures to prevent further damage shall be used provided these measures are reversible without damage to the building or structure.
- (2) Simultaneously with the commencement of the emergency work, the property owner shall provide notice as required in Subsections (a) through (e) above, and shall obtain the Commission's recommendation pursuant to Subsections (g) through (i) above.

O. Standards and Criteria for review.

- (1) The purpose of this Section is to provide uniform standards and criteria for the regulation of historic sites, historic landmarks and historic districts for use by the Commission. All projects requiring a permit affecting the exterior appearance of, and all applications for development on, historic sites, historic landmarks and historic districts, shall be governed by the principles of the Secretary of the Interior's Standards for Rehabilitation (as contained within the Secretary of the Interior's Standards for the Treatment of Historic Properties) and by the Secretary of the Interior's Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings.
- (2) In considering development application referrals from the Planning Board and/or Board of Adjustment, the Commission may consider use, zoning requirements for setbacks, density, height limitations and lot coverage in rendering its advice to the appropriate land use board.
- (3) Criteria for Review: in its review of historic sites, and landmarks or properties located

within historic districts, the Commission shall give consideration to certain criteria, including but not limited to the following:

- (a) The historical value of the landscape or treescape.
- (b) The historical value of a building, structure, site, object, improvement or district and its relationship to property of the surrounding area.
- (c) The general compatibility of the proposed use to the historical value of the surrounding area.
- (d) The general compatibility of the exterior design, arrangement, texture and materials proposed to be used with the historical value of the surrounding area.