

# ARTICLE 1800

## HISTORIC PRESERVATION

### 25-1800.1 Purposes.

25-1800.1.1 To safeguard the heritage of the City by preserving resources that reflect elements of its archaeological, cultural, social, economic, architectural, and historical heritage;

25-1800.1.2 To encourage the continued use of historic sites and to facilitate their appropriate reuse;

25-1800.1.3 To maintain and develop a harmonious setting for the historically significant buildings, structures, sites, objects, and districts;

25-1800.1.4 To prevent the unnecessary demolition of historic resources;

25-1800.1.5 To encourage appropriate alterations of historic sites and improvements within historic districts;

25-1800.1.6 To prevent new construction which is not in keeping with the historic sites or districts;

25-1800.1.7 To encourage proper maintenance and preservation of historic settings and landscapes so as to protect the values of Ocean City as an attractive area for permanent and seasonal residences;

25-1800.1.8 To protect and enhance property values;

25-1800.1.9 To promote civic pride in, and appreciation of, Ocean City's historic resources for the education, pleasure and welfare of its citizens; and

25-1800.1.10 To foster beautification and private re-investment. (Ord. #89-24)

### 25-1800.2 Definitions.

25-1800.2.1 *Addition* shall mean an extension or increase in building size, floor area or height of a building.

**25-1800.2.2** *Administrative Officer* for the purposes of this Article, shall be the Construction Code Official or his/her designee.

**25-1800.2.3** *Alteration* as applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one (1) location or position to another, or replacement of an existing portion of an existing building.

**25-1800.2.4** *Application* shall mean a request to the Historic Preservation Commission completed on forms available from the Administrative Officer or the Commission, to review a proposal for addition, alteration, demolition or other work on any structure or property located in an historic district, for purposes of obtaining certification by the Commission that the application is acceptable in terms of the review standards set forth in this Article. Application shall include review on a development application, referral of a permit and any other request for Commission action.

**25-1800.2.4.1** *Application, Minor* shall entail work the total cost of which does not exceed five hundred (\$500.00) dollars.

**25-1800.2.4.2** *Contributing Property* is a building, site, structure or object that was constructed during the Historic District's Period of Significance, as defined by the district's National Register of Historic Places nomination (1879 to 1929), is an integral part of the historic theme of the Historic District, and, taken in the aggregate with other contributing buildings, constitutes the Historic District's significance.

**25-1800.2.5** *Demolition* shall mean the partial or total razing, dismantling or destruction of any historic site or any improvement within an historic district.

**25-1800.2.6** *Historic District* shall mean one (1) or more historic sites and certain intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites, as specifically designated in this Article.

**25-1800.2.7** *Historic Site* shall mean any real property, man-made structure, natural object, or configuration of any portion or group of the foregoing of historic, archaeological, cultural or architectural significance as specifically designated in this Article.

**25-1800.2.8** *Improvement* shall mean any structure or any part thereof installed upon real property by human endeavor and intended to be kept at the location of such construction or installation.

**25-1800.2.9** *Integrity* shall mean the authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

**25-1800.2.10** *Interested Party* shall mean any person, whether residing within or without the City, whose right to use, acquire, or enjoy property is or may be affected by any action taken

under this Article, or whose rights to use, acquire, or enjoy property under this Article or under any other laws of this State or of the United States have been denied, violated or infringed by an action or a failure to act under this Article.

**25-1800.2.11** *Inventory* shall mean a list of historic properties determined to meet specified criteria of significance.

**25-1800.2.11.1** *Key Building* is a building, site, structure or object of such outstanding quality and state of preservation that it independently enhances the Historic District's significance and meets the criteria for individual listing on the National Register.

**25-1800.2.12** *Master Plan* shall mean the Master Plan of the City of Ocean City dated February 13, 1988, ~~as the same may be amended from time to time~~, and all subsequent re-examinations and amendments.

**25-1800.2.12.1** *Maintenance* shall mean repair of any deterioration, wear, or damage to a structure, in order to return to the same, as nearly as practicable, to its condition prior to the occurrence of such deterioration, wear, or damage with material and workmanship of the same quality. Maintenance shall further include replacement, in kind, of exterior elements or accessory hardware, including signs, using materials and workmanship having the same appearance. Maintenance does not require an application to the Historic Preservation Commission.

**25-1800.2.13** *National Register Criteria* shall mean the established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

**25-1800.2.14** *Noncontributing Building* is a building, site, structure or object that does not add to the historic architectural qualities, historic associations or archaeological values of the Historic District because: it was not present during the period of significance, it no longer possesses historic integrity reflecting its character at that time due to non-reversible alterations, or it is incapable of yielding important information about the period.

~~**25-1800.2.15** *Ordinary Maintenance* shall mean repair of any deterioration, wear, or damage to a structure, in order to return the same, as nearly as practicable, to its condition prior to the occurrence of such deterioration, wear, or damage with materials and workmanship of the same quality. Ordinary maintenance shall further include replacement of exterior elements or accessory hardware, including signs, using materials and workmanship having the same appearance.~~

**25-1800.2.16** *Permit* shall mean any required City approval for exterior work to any structure or property in an historic district which exterior work will be subject to a public view, including, but not limited to, a Building Permit. Permit shall include but is not necessarily limited to a Building Permit, a Demolition Permit, a permit to move, convert, relocate or remodel or to change the use or occupancy of any structure or property in an historic district. Permit shall also

include all exterior work subject to public view on fences, signs, porches, railing and steps for any structure or property in an historic district.

**25-1800.2.17** *Preservation* shall mean the act or process of applying measures to sustain the existing form, integrity and vegetated cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

**25-1800.2.18** *Protection* shall mean the act or process of applying measures designed to affect the physical condition of a property by defending it or guarding it from deterioration, loss or attack, or to cover or shield the property from danger or injury.

**25-1800.2.19** *Reconstruction* shall mean the act or process of reproducing by new construction the exact form and detail of a vanished building, structure or object, or any part thereof, as it appeared at a specific period of time.

**25-1800.2.20** *Rehabilitation* shall mean the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural and cultural values

**25-1800.2.21** *Repair* shall mean any work done on an improvement that is not an addition and does not change the exterior appearance of any improvement, provided, however, that any such repairs must be done with materials and workmanship of same quality.

**25-1800.2.22** *Removal* shall mean the partial or complete removal of a structure.

**25-1800.2.23** *Restoration* shall mean the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

**25-1800.2.24** *Structure* shall mean a combination of materials to form a construction for occupancy, use, or ornamentation whether installed on, above or below the surface of a parcel of land.

**25-1800.2.25** *Survey* shall mean the formal catalog of documented historic properties and sites determined to meet specified criteria entitled "**Historic District Boundary, City Council Resolution #93-2**" and adopted by the Commission and incorporated into the ~~Master Plan of Ocean City~~. **City of Ocean City Zoning and Land Development Ordinance**.

**25-1800.2.26** *Undue Hardship*: (1) With respect to commercial property, including property rented for residential use, the inability of the applicant to realize a reasonable return on the property without the proposed work; (2) With respect to property which is devoted to a not-for-profit purpose and is exempt from local property taxes, the inability of the applicant to carry out such purpose without the proposed work; and (3) With respect to owner-occupied residential property, the inability of the applicant to continue owner-occupied residential use without the proposed work. (Ord. #89-24; Ord. #93-2, S1)

### **25-1800.3 Historic Preservation Commission Established.**

The Historic Preservation Commission of Ocean City (the "Commission") is hereby established pursuant to N.J.S.A. 40:55D-107 et seq. (Ord. #89-24)

#### **25-1800.3.1 Members; Terms.**

a. There is hereby established an Historic Preservation Commission whose members shall serve without compensation.

b. The Commission shall consist of seven (7) regular members and two (2) alternate members, appointed by the Mayor. At least three (3) of the regular members shall be of and designated as Class A and B. The remaining regular members may be Class C and designated as such. The two (2) alternates must meet the qualifications of Class C and shall be designated Alternate No. 1 and Alternate No. 2.

The Classes are defined as:

1. Class A — a person who is knowledgeable in building and design and construction or architectural history and who may reside outside Ocean City.

2. Class B — a person who is knowledgeable of, or who has a demonstrated interest in, local history and who may reside outside Ocean City.

3. Class C — any citizen of Ocean City who shall hold no other municipal office, position or employment except for membership on the Planning Board or Board of Adjustment.

c. The term of the appointments of the regular members of the Commission shall be as follows:

1. Two (2) members shall be appointed for a term of two (2) years;

2. Three (3) members shall be appointed for a term of three (3) years;

3. Two (2) members shall be appointed for a term of four (4) years.

d. All subsequent appointments of regular members shall be for a term of four (4) years or until the appointment and qualification of a successor.

e. The term of the appointments of the alternate members of the Commission shall be as follows:

1. Alternate No. 1 shall be appointed for a term of one (1) year;

2. Alternate No. 2 shall be appointed for a term of two (2) years.

f. All subsequent appointments of alternate members shall be for a term of two (2) years or until the appointment and qualification of a successor.

g. Notwithstanding any other provision, the term of any member who is also a member of the Planning Board or Board of Adjustment shall be coterminous with his or her membership on the Planning Board or Board of Adjustment.

h. A vacancy occurring otherwise than by expiration of the term shall be filled within sixty (60) days for the unexpired term only. (Ord. #89-24)

### **25-1800.3.2 Rules and Organization of the Commission.**

a. The Commission shall elect from its membership a Chairperson and Vice-Chairperson. A Secretary shall also be appointed, who may or may not be a member of the Commission.

b. The Commission shall establish a regular schedule of meetings, with at least one (1) meeting per quarter. Additional meetings may be called by the Chairperson or Vice-Chairperson as required to meet the needs of business, to handle emergencies, or to meet time constraints imposed by law.

c. A quorum for the transaction of business shall be four (4) members. A majority vote of those present and voting shall prevail but not less than a majority of the full regular membership of the Commission may grant or change an historic designation or grant a demolition permit.

d. The Commission's Secretary shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, decisions, and applications.

e. In order to make available to the public information useful to the preservation and protection of historic buildings, places, landmarks and structures, and provide the basis for consistency of policy in decision making, the Commission shall maintain complete files and records including, but not limited to, data used in the classification of buildings, places and structures, minutes of Commission meetings, records of applications for permits and development reviews, along with collateral data, decisions and appeals associated therewith and information, materials and references submitted by the public relating to historic preservation. All Commission records and minutes shall be made public records as provided by law, and all Commission meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7, et seq.).

f. The Commission shall adopt written by-laws and procedures for the transaction of its business and for the consideration of applications.

g. No member shall be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. A member may be removed by the governing body of Ocean City for cause but only after a public hearing if he or she requests one.

h. 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. (Ord. #89-24)

### **25-1800.3.3 Expenses and Costs; Employment of Experts and Staff.**

a. The City Council shall make provision in its budget and appropriate funds for the expenses of the Commission. The Commission may employ, contract for, and fix the compensation of experts and other staff and services as it shall deem necessary. The Commission shall obtain its legal counsel from the City Attorney at the rate of the compensation determined by City Council, unless City Council, by appropriation, provides for separate legal council for the Commission. Expenditures pursuant to this Section shall not exceed, exclusive of gifts and grants, the amount appropriated by the City for the Commission's use.

b. The Commission shall appoint a consultant who is a recognized professional in the field of architectural history, historic preservation or similar discipline to advise the Commission on matters before it as the Commission may deem necessary to assist it in rendering its decision.

c. The City Planning and Construction Officials shall provide such technical administrative and clerical assistance as the Historic Preservation Commission shall require. For budgeting and purchasing purposes, however, the Commission shall be allocated its own budget. (Ord. #89-24; Ord. #93-2, § 2)

### **25-1800.3.4 Powers and Duties.**

It shall be the responsibility of the Commission to:

a. Identify, record and maintain a system to survey and inventory all building sites, places, landmarks and structures of historical or architectural significance, based on the "Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation" (Standards and Guidelines for Identification) and to aid the public in understanding their worth, methods of preservation, techniques of gathering documentation and related matters;

b. Make recommendations to the Planning Board and City Council in the preparation and periodic updating of the Historic Preservation Element of the Master Plan, including but not limited to the addition or deletion of historic sites and districts identified in the City's Master Plan;

c. Make recommendations to the Planning Board and City Council on the historic preservation implications of any plan element of the Master Plan which has been or may be adopted;

- d. Recommend to the City Council sites and districts to be designated through amendment of the Zoning Ordinance in accordance with the criteria and procedures for designation set forth in Section 25-1800.4 of this Article;
- e. Advise the Planning Board and Board of Adjustment on development and zoning applications for properties in designated districts and sites, in accordance with the procedures established in Section 25-1800.6 of this Article;
- f. Review all permit applications ~~affecting designated districts and sites~~ **pertaining to historic sites or property in the Historic District**, and provide written reports to the Administrative Officer, in accordance with the procedures established in Section 25-1800.7 of this Article;
- g. Provide advisory, educational, and informational services to promote historic preservation in the City;
- h. Draft and recommend to City Council and the Planning Board ordinances or amendments to existing ordinances that would resolve any conflicts which may exist between the design standards of the Historic Preservation Ordinance and the building or zoning regulations of the City;
- i. **Recommend the purchase of properties**, estates, easements, rights, restrictions and less than fee acquisitions, subject to final approval of City Council and at the direction of City Council, and to acquire grants, assistance or aid either outright or in exchange in order to further the intent and purpose of this Article and the welfare of the City provided that if there is any monetary obligation to the City in any way, City Council approval will be obtained. In any circumstances in which City Council approval is required, the Commission may negotiate and recommend such arrangements and will assist the Council in acquiring such easements or rights;
- j. Advise City Council and the Planning Board on the relative merits of proposals involving public funds to restore, preserve and protect historic buildings, places and structures including the preparation of long range plans therefor, securing State, Federal and other grants and aid to assist therein and to monitor such projects once underway;
- k. Advise and assist City officers, employees, Boards and other bodies including those at the County, State and Federal levels on all matters which have potential impact on the historic buildings, places, structures and districts in the City or on the physical character and ambience of a district;
- l. To cooperate with local, County, State or National historical societies, governmental bodies and organizations to maximize the contributions to the intent and purposes of historic preservation;
- m. To recommend to applicable County, State and Federal agencies, where appropriate, and with City Council approval recognition of historic districts;



n. To recommend to applicable County, State and Federal agencies, where appropriate, recognition of historic buildings, landmarks, places and structures and to review National Register nominations;

o. To request the City Council to seek on its motion or otherwise injunctive relief for violations of this Article or actions contrary to the intent and purposes of this Article. (Ord. #89-24; Ord. #93-2, § 3)

## **25-1800.4 Designation of Historic Districts and Sites.**

### **25-1800.4.1 Criteria for Designation.**

The survey shall be used as a basis for identifying sites and districts worthy of designation. The Commission shall consider for designation districts and sites that have integrity of location, design, setting, materials, workmanship, and association, and that meet one (1) or more of the following criteria:

- a. Character, interest, or value as part of the development, heritage, or cultural characteristics of the City, State, or Nation;
- b. Identification with a person or persons who significantly enriched the City, State, or Nation;
- c. Site of an historic event which had significant effect on the development of the City, State, or Nation;
- d. Embodiment of distinguishing characteristics of a type, period, or method of construction, architecture, or engineering;
- e. Identification with the work of a builder, designer, artist, architect, or landscape architect whose work has influenced the development of the City, State, or Nation;
- f. Embodiment of elements of design, detail, materials or craftsmanship that render a site architecturally significant or structurally innovative;
- g. Unique location of singular physical characteristics that make a district or site an established or familiar visual feature;
- h. Likely to yield information important in prehistory or history. (Ord. #89-24)

### **25-1800.4.2 Procedures for Designation.**

Based on the Commission's review of the survey or upon the recommendations of other City agencies, or of interested parties, the Commission shall consider designation of a district or a site according to the procedures outlined below:

a. The Commission or interested party shall prepare a nomination report for each proposed district or site. 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 historic site designations, the report shall include one (1) or more photographs; the tax lot and block number of the property as designated on the Official Tax Map; and a physical description and statement of significance and proposed utilization for the site;

b. The Commission shall schedule a public hearing on the proposed designation of a district or site. At least ten (10) days prior to the hearing the Applicant for Designation or the Commission, as the case may be, shall by personal service or certified mail:

1. Notify each owner of a proposed historic site or of property within a proposed historic district that his or her property is being considered for historic designation and the reasons therefor;

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

3. Notify each owner of the date, time and place of the hearing;

c. Public notice of the hearing shall be given at least ten (10) days prior to the hearing by publication in the official newspaper of the City. A copy of the nomination report shall also be made available for public inspection in the City Clerk's Office at least ten (10) days prior to the hearing;

d. Upon Commission review and approval of the proposed Historic District or site designation, the Commission shall forward its report to the City Council. The City Council shall refer the report to the Planning Board, which in turn shall report to the City Council within thirty-five (35) days. The City Council may disapprove or change any Planning Board recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following such recommendation. Failure of the Planning Board to transmit its report within the thirty-five (35) day period provided herein shall relieve the City Council of its obligations relating to referral of such a report to the Planning Board. City Council action on Historic District or historic site 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;

e. Notice of designation shall be made public by publication in the official newspaper of the City Council and distribution to all municipal agencies reviewing development applications and permits. A certificate or letter of designation shall be sent to each owner affected by the designation; and

f. A protest of a proposed historic district signed by twenty percent (20%) or more of the property owners within that Historic District; or by the owners of a property on which

there is a proposed historic site outside of a proposed or existing Historic District, may be filed with the City Clerk. Such designation shall not become effective following the filing of such a protest except by the favorable vote of two-thirds (2/3) of all members of the City Council. (Ord. #89-24)

#### **25-1800.4.3 District Designation.**

The City of Ocean City does hereby designate an historic district as shown on a certain map "Proposed Historic District, City of Ocean City, Cape May County, New Jersey dated January 8, 1993" and the same is attached hereto as Schedule A and made a part hereof.\* (Ord. #93-2, § 4)

#### **25-1800.5 Permits - When Required.**

##### **25-1800.5.1 Actions Requiring Review.**

A permit issued by the Administrative Officer shall be required, subject to the exceptions described in Section 25-1800.5.2 below, for any of the following, or in the event no Building Permit is required, before any work can commence on any of the following activities involving an historic site, property or within any Historic District:

- a. Demolition of any building, landmark, place, improvement or structure;
- b. Relocation of any building, landmark, place, improvement or structure;
- c. Change in the exterior appearance of any building, landmark, place, improvement or structure by addition, alteration, maintenance, reconstruction, rehabilitation, repair, replacement or restoration, which change is visible to the public from a named or numbered street. *In the event the change in exterior appearance is obstructed by vegetation or an accessory structure, including but not limited to fences and sheds, then the change is subject to review.*
- d. Any new construction of a principal or accessory structure.
- e. Changes in existing walls, fences, porches, railings, steps or signs or construction of any walls, fences, porches, railings, steps or signs, if visible to the public from a named or numbered street. *In the event the change in exterior appearance is obstructed by vegetation or an accessory structure, including but not limited to fences and sheds, then the change is subject to review.* (Ord. #89-24; Ord. #93-2, § 5)

##### **25-1800.5.2 Actions Not Requiring Review.**

A permit issued by the Administrative Officer is not required for:

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\*Editor's Note: Schedule A, referred to herein, may be found on file in the office of the City Clerk attached to Ordinance No. 93-2.

- a. Changes to the interiors of structures;
- b. Changes not visible to the public (except if the public visibility of the change is obstructed by vegetation or accessory structure) other than a relocation or demolition; and
- c. Repair, or exact replacement of any existing improvement provided that the work does not alter the exterior appearance of the structure. In the event, however, that previous noncontributing or disharmonious repair work is being replaced, such repair or replacement is permitted only if the repair or replacement returns the structure to its original condition. The following are some of the activities which are permitted as repairs:
  1. Identical replacement of existing windows and doors;
  2. Repairs of existing windows and doors and the installation of storm doors and windows that do not change their design, scale, or appearance;
  3. Maintenance and repair of existing roofing materials involving no change in the design, scale, or appearance of the structure;
  4. Structural repairs which do not alter the exterior appearance of the structure;
  5. Replacement of existing clapboards, shingles, or other siding with identical material;
  6. Maintenance and repair of existing clapboards, shingles, or other siding (including masonry) involving no change in the design, scale or appearance of the structure; and
  7. Exterior or interior painting of existing structures.

(Ord. #89-24)

### **25-1800.5.3 Emergency Repairs.**

When a structure or improvement requires immediate repair to preserve the continued habitability of the structure and/or health and safety of its occupants or others, emergency repairs may be performed in accordance with City Codes, without first obtaining a permit. Under such circumstances, the repairs performed shall be only such as are necessary to protect the health and safety of the occupants of the structure, or others, and/or to maintain the habitability of the structure. A request for the Commission's review shall be made simultaneously with the onset of emergency work, and no work in addition to the emergency repairs shall be performed on the structure until an appropriate request for approval is made and approval is obtained in accordance with the procedures set forth in this Article. All work done under this Section shall conform to the criteria set forth in this Article. (Ord. #89-24; Ord. #93-2, § 6)

#### 25-1800.5.4 Informal Review of Minor Applications and Concept Plan for Proposed Undertakings.

a. At the request of applicants considering action that may require Commission review, the Commission shall grant an informal review of a concept plan for the proposed undertaking. Neither the applicant nor the Commission shall be bound by any informal review.

b. Minor applications as defined herein may be granted by the Chairman of the Commission. In the case of other minor projects not constituting minor applications but involving exterior repairs or alterations which have no significant impact, the Commission, if the preliminary data and drawings are sufficiently complete, may recommend approval at an informal meeting.

(Ord. #89-24; Ord. #93-2, § 7)

#### 25-1800.5.5 Application Procedures.

a. Applications shall be made on forms available in the office of the ~~Administrative Officer in Ocean City Town Hall~~ **Recording Secretary**. Completed applications shall be delivered or mailed to the ~~Administrative Officer at Ocean City Town Hall~~ **Recording Secretary at the Department of Community Operations**.

b. Persons interested in obtaining Commission approval of proposed work covered by the provisions of this Ordinance are encouraged to apply directly to the Commission for review and approval. At the request of any such person, the Commission shall schedule a hearing.

c. The Commission shall advise the applicant in writing of the time, date, and place of the meeting at which his or her application is to be reviewed.

d. Applications shall include a completed application form ~~which contains a precise written description of the proposed work or activity and any of the following as may be required by the Commission:~~ **and all items contained in Section 25-1800.5.6 or requested waiver.**

- ~~1. Photographs of the existing structure or lot;~~
- ~~2. Scaled drawings showing site plan layout, facade elevations, and specifying materials;~~
- ~~3. For new construction applications, a streetscape elevation drawn to scale, showing the new structure in the context of neighboring buildings;~~
- ~~4. For large projects, working drawings;~~
- ~~5. The Commission may require the submission of additional information reasonably necessary to reach an informed decision.~~

e. An applicant shall not be required to appear or to be represented at any meeting of the Commission at which the Commission will consider the application for a permit or the application for development.

f. The Commission shall issue a written report on any application for a permit, whether approved, approved with conditions or disapproved. Such written report may be stated in resolution form and shall be provided to the Administrative Officer within the time periods set forth in this Section.

g. If the Commission submits a written report on an application for development, it shall make a copy of said report available to the applicant.

h. When an approval has been issued, the Administrative Officer shall, from time to time, inspect the work approved by the Commission and report to the Commission any work not in accordance with such resolution of approval.

i. An approval of a permit shall be valid for a period of one (1) year from date of issuance unless reasonable extensions are granted by the Commission. (Ord. #89-24)

#### **25-1800.5.6 Required Documents**

a. One (1) original and thirteen (13) copies of a plan and attachments meeting the requirements set forth below.

b. Site plans shall not be drawn at a scale smaller than one inch equals fifty feet (1"=50') nor larger than one inch equals ten feet (1"=10'). If the size of the site would require the use of sheets larger than thirty inches by forty two inches (30" x 42") in order to show the entire site on one (1) sheet, the detailed information for the site plan shall be shown in sections on sheets not larger than thirty inches by forty two inches (30" x 42"), which sheets shall be keyed to an overall plan of the site drawn at a scale of not less than one inch equals two hundred feet (1"=200').

c. *Title Block.* The title block shall appear on all sheets and include:

1. Title to read "Historic Preservation Site Plan".
2. Date (of original and all revisions).
3. Tax map sheet, block and lot number of the site, as shown on the latest City tax map, the date of which should also be shown.
4. Names and addresses of owners(s).
5. Names, signatures, addresses, and license numbers of engineer, architect, land surveyor, or planner who prepared the plan and their embossed seal(s).

6. If the plan contains more than one (1) sheet, each shall be numbered and titled.
- d. North arrow and written and graphic scales
  - e. Floor plans and building elevation drawings of any proposed structure or structures, or existing structures to be renovated specifying material type, style and location and list or demonstration of materials to be removed.
  - f. All vegetated areas and landscaping, existing and proposed.
  - g. Total percentage and square footage of demolition.
  - h. Total percentage and square footage of existing structure to remain.
  - i. Photographs of the existing structure or lot and adjacent properties in relation to structure clearly showing detail(s).
  - j. For new construction applications, a streetscape elevation drawn to scale, showing the new structure in the context of neighboring buildings.
  - k. The Commission may require the submission of additional information reasonably necessary to reach an informed decision.
  - l. A copy of any site plan previously approved by the Commission, and a copy of the Commission's decision and resolution granting approval, if applicable.
  - m. A revised site plan clearly indicating the nature and extent of proposed change, and a written description of, explaining the proposed change, if applicable.
  - n. Application and escrow fees as required.

#### **25-1800.5.6.1 Compliance Certification**

a. Prior to the issuance of any Certificate of Occupancy or prior to the actual occupancy of any building, the owner of the building or agent designated or appointed by the owner shall submit to the Recording Secretary documentation verifying compliance. Upon receipt of said certification, the Administrative Officer or his/her designee shall review the information and, if it is determined by the Administrative Officer that the proposed structure meets the requirements and all applicable conditional requirements, he/she shall issue a final Compliance Report to the Construction Office. The Construction Official shall not issue a Certificate of Occupancy unless and until the Administrative Officer has issued the final Compliance Report.

In the event the Administrative Officer determines that the project does not conform to the provisions of the regulations and/or conditions as may have been approved by the Historic Preservation Commission, he/she shall immediately send written notification to the applicant/owner of the findings and deviations.

## **25-1800.6 Commission Review of Development and Zoning Applications.**

### **25-1800.6.1 Copies to Be Made Available to the Commission.**

The Planning Board and Board of Adjustment shall make available to the Commission an informational copy of every application submitted to either Board for development and/or zoning changes in historic districts or on historic sites designated on the zoning map or in the Historic Preservation Element of the Master Plan. The appropriate Board shall forward a copy of the complete application to the Commission when the application for development has been deemed complete or is scheduled for a hearing, whichever occurs sooner. (Ord. #89-24; Ord. #93-2, § 8)

### **25-1800.6.2 Time for Action.**

On all applications for development referred to it, the Commission shall immediately determine the time period within which the Planning Board or Zoning Board must act on the application and the Commission shall assure that its report or advice to the Planning Board or Zoning Board is rendered in a timely fashion so as to allow those agencies adequate time to consider and respond to the content of the report. (Ord. #89-24)

### **25-1800.6.3 Recommendations in the Form of a Written Report.**

The Commission may make its recommendations to the appropriate Board in the form of a written report, and it shall convey its advice through delegation of one (1) of its members or staff to testify orally at any hearing on the application and to explain any written report which may have been submitted. (Ord. #89-24)

### **25-1800.6.4 Focus of Recommendations.**

The Commission's recommendations shall focus on how the proposed undertaking would affect a site or district's historic or architectural significance as outlined in Section 25-1800.4 of this Article. In considering the Commission's recommendations, the Planning Board and Board of Adjustment shall be guided by the review standards referenced in Section 25-1800.8 of this Article. (Ord. #89-24)

### **25-1800.6.5 Decision of Commission To Be a Recommendation.**

On all matters referred to the Commission which require approval or action by the Planning Board or Board of Adjustment, the decision of the Commission shall be a recommendation only, which may be approved, disapproved or amended by the Planning Board or Board of Adjustment. In the event that the Planning Board or Board of Adjustment should disapprove or amend the decision of the Commission, it shall state its reasons therefor at a public hearing and in its resolution or memorialization. (Ord. #89-24)

## **25-1800.7 Commission Review of Applications for Permits.**

### **25-1800.7.1 Applications To Be Referred to the Commission.**



The Administrative Officer shall refer all applications for permits pertaining to regulated activities on an historic site or within an Historic District to the Commission for a written report on the application of the Zoning Ordinance provisions concerning historic preservation to any of those aspects of the change proposed which were not determined by approval of an application for development by a municipal agency pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. The permit review shall include all relevant aspects of the design criteria and guidelines as they apply to the proposal, regardless of whether said aspects were considered by the Planning or Zoning Board in the development application process. (Ord. #89-24)

#### **25-1800.7.2 Time for Report.**

The Commission shall submit its written report on the application to the Administrative Officer as soon as possible but no later than forty-five (45) days of his referral of the application to the Commission. (Ord. #89-24)

#### **25-1800.7.3 Denial of Application.**

If within the forty-five (45) day period the Commission recommends to the Administrative Office against the issuance of a permit or recommends conditions to the permit to be issued, the Administrative Officer shall deny issuance of the permit or include the conditions in the permit, as the case may be. (Ord. #89-24)

#### **25-1800.7.4 Failure to Report Constitutes Report in Favor of Issuance.**

Failure of the Commission to report within the forty-five (45) day period shall be deemed to constitute a report in favor of issuance of the permit and without the recommendation of conditions to the permit. (Ord. #89-24)

#### **25-1800.7.5 Extension of Time.**

Nothing herein shall prohibit an extension of time by mutual written agreement of the applicant and the Commission. (Ord. #89-24; Ord. #93-2, § 9)

#### **25-1800.8 Standards for Review.**

##### **25-1800.8.1 Standards.**

In regard to all applications, the Commission shall be guided by "The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings", (1990), as may hereafter be amended and which are incorporated herein by reference. The following standards for rehabilitation are set forth herein for convenience:

a. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

b. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

c. Construction of historic designs that were never built shall not be undertaken.

d. New additions, alterations or new construction in an historic landscape shall be visually differentiated from the old and shall be compatible with the historic character of the landscape.

e. Replacement of missing historic plant material or vegetation features shall be substantiated by documentary or physical evidence. The replacement plant material or features shall match the historic appearance, function and where possible, species or variety.

f. A property shall be used for its historic purpose, or shall be placed in a new use that requires minimal change to the defining characteristics of the property and its environment.

g. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

h. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or historic features from other properties shall be avoided.

i. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

j. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved, when not cost prohibitive.

k. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary or physical evidence.

l. Chemical or physical treatments, such as sandblasting that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

m. Significant archeological resources shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken. (Ord. #89-24; Ord. #93-2, § 10)

#### **25-1800.8.2 New Construction.**

In regard to applications for new construction, additions and alterations, in addition to those applicable standards for rehabilitation, visual compatibility factors shall be considered by the Commission. The following factors shall be used in determining the visual compatibility of a building, structure or appurtenance thereto with the buildings and places to which they are visually related:

- a. Height of the proposed building shall be visually compatible with buildings and places to which it is visually related.
- b. *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.
- c. *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.
- d. *Rhythm of Solids to Voids in Front Facades.* The relationship of solids to voids in the front facade of a building shall be visually compatible with the buildings and places to which it is visually related.
- e. *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.
- f. *Rhythm of Entrance and/or Porch Projections.* 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.
- g. *Relationship of Materials and Texture.* The relationship of materials and texture of the facade and roof of a building shall be visually compatible with the pre-dominant materials used in the buildings to which it is visually related.
- h. *Walls of Continuity.* Appurtenances of a building such as walls, open type fencing and 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.
- i. *Scale of Building.* The size of a building, the mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.
- j. *Directional Expression of Front Elevation.* A building shall be visually compatible with buildings and places to which it is visually related and its directional character whether this be vertical character, horizontal character or non-directional character. (Ord. #89-24; Ord. #93-2, § 11)

### **25-1800.8.3 Application to Demolish or Move a Structure.**

The integrity of historic districts depends on the preservation and retention of the original historic structures. Therefore, the review of applications for demolition should be undertaken with the greatest care. In regard to application to demolish or move an historic building, landmark, place, or structure, the following matters shall be considered:

- a. Its historical, architectural and aesthetic significance.
- b. Its use.
- c. Its importance to the City and the extent to which its historical or architectural value is such that its removal will be detrimental to the district and/or to the public interest.
- d. 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.
- e. The extent to which its retention would promote business, create new positions, attract tourists, students, writers, historians, artists or artisans, encourage study and interest in American history, stimulate interest and study in architecture and design, educate citizens in American culture and heritage or make the City a more attractive and desirable place in which to live.
- f. The probable impact of its removal upon the ambience of the Historic District.
- g. The structural soundness and integrity of the building and the economic feasibility of restoring or rehabilitating the structure so as to allow for a reasonable use of same.
- h. Whether there is any threat to the public health and safety as a result of deterioration or disrepair of the building or structure.
- i. The technological feasibility of rehabilitating the structure.
- j. The intended use of the property.
- k. Whether interference with the charitable purposes of any nonprofit or charitable organization will result if the building is not demolished.
- l. The use for which the building was designed and the feasibility of utilizing same for its design use. (Ord. #89-24)

### **25-1800.8.4 Design Guidelines for Historic Districts.**

All permits or actions requiring a Certificate of Appropriateness and all applications for development in historic districts or for historic sites shall be governed by the design guidelines

for historic districts and sites entitled "Guidelines and Recommendations For Architectural Review in the Ocean City Historic District 1992" which are set forth in Schedule B annexed to this Article. The guidelines are an integral part of the Article and are incorporated as if set forth at length. (Ord. #93-2, § 12)

## **25-1800.9 Effect of Project Approval or Denial; Appeals.**

### **25-1800.9.1 Approval.**

Issuance of an approval of a permit shall be deemed to be final approval pursuant to this Article. Such approval shall neither cause nor prevent the filing of any collateral application or other proceeding required by any other City Ordinance to be made prior to undertaking the action requested concerning the historic site or the structure in an Historic District. (Ord. #89-24)

### **25-1800.9.2 Denial.**

Denial of a permit shall be deemed to preclude the applicant from undertaking the activity applied for. (Ord. #89-24)

### **25-1800.9.3 Appeals.**

The granting or denial of a permit may be appealed to the Board of Adjustment in the same manner as an appeal is taken pursuant to N.J.S.A. 40:55D-70(a). Nothing herein shall be deemed to limit the right of judicial review of the City action after an appeal is concluded by the Board of Adjustment. If the Board of Adjustment determines there is an error in the decision made by the Administrative Officer pursuant to the report submitted by the Commission, the Board of Adjustment shall include the reasons for its determination in the findings of its decisions thereon. (Ord. #89-24; Ord. #93-2, § 13)

### **25-1800.9.4 Issuance of Demolition Permits.**

In the event the Commission grants an application for demolition, or in the event an appeal is taken to the Zoning Board of Adjustment whose decision is to grant an application for demolition, no demolition permit shall be issued for a period of seven (7) days following the later date of the decision by the Commission or the Zoning Board of Adjustment, if an appeal is taken to the Board of Adjustment. (Ord. #01-14, § 1)

### **25-1800.10 Effect of Denial of Demolition Permit.**

#### **25-1800.10.1 Demolition Following Denial of Permit.**

In the event that the Commission disapproves an application for a permit to demolish an historic building, place or structure, the owner shall, nevertheless, as a matter of right, be entitled

to raze or demolish such building, place or structure provided that all of the following requirements have been fully met:

a. The owner has applied for the necessary permit and has received notice of denial of same from the Commission and has appealed said denial to the Zoning Board of Adjustment, which has affirmed the denial.

b. The owner has met the following notice requirements:

1. Notice of the proposed demolition has been posted on the premises of the building, place or structure throughout the notice period in a location such that it is clearly readable from the street.

2. Applicant has published a notice in the official newspaper of the City within the first ten (10) days of the notice period, within not less than ten (10) nor more than fifteen (15) days prior to the expiration of the notice, and at least once each ninety (90) days between the above first and last notifications, if the notice period is six (6) months or longer.

c. The period of time during which notice must be given in the manner herein set forth shall be known as the Notice. It shall commence on the tenth (10th) day following the date of the notice of denial received from the Zoning Board of Adjustment after an appeal has been decided and such notice period shall run for a period of time of six (6) months.

d. The owner has during the notice period, and at a price reasonably related to its fair market value, made a bona fide offer to sell such building, place or structure and the land pertaining thereto to any person or organization, government or agency thereof or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve the building, place or structure and the land pertaining thereto.

e. The owner shall not have been a party to any bona fide contract binding upon all parties thereto for the sale of any such building, place or structure and the land pertaining thereto executed prior to the expiration of the notice period except a contract made in accordance with paragraph d. above.

f. The Commission may, at any time, during such notice period if a significant change in circumstances occurs approve a permit for demolition, in which event the permit shall be issued within ten (10) days thereafter. During the notice period the Commission shall consult with the City Council, the New Jersey Department of Environmental Protection or other similarly qualified organizations to ascertain how the City may preserve the premises to be demolished. The Commission shall be empowered to assist the owner in developing plans to preserve the structure when moving or demolition thereof would be a loss to the City. The Commission shall be empowered to negotiate with the applicant to see if an alternative to demolition can be found and may require the applicant to prepare a financial analysis which may include any or all of the following:

1. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship, whether business or familial, if any, between the owner and the person from whom the property was purchased;
2. Assessed value of the land and improvements thereon according to the most recent assessment;
3. For depreciable properties, a pro forma financial statement prepared by an accountant or broker of record;
4. All appraisals obtained by the owner in connection with his purchase or financing of the property, or during his ownership of the property;
5. Bona fide offers for the property for sale or rent, price asked, and offers received, if any, and
6. Any consideration given by the owner as to profitable, adaptive uses for the property.

The Commission shall study the question of undue hardship for the applicant and shall determine whether the site or the property in the Historic District can be put to reasonable beneficial use without the approval of the demolition application. (Ord. #89-24; Ord. #93-2, § 14)

## **25-1800.11 Enforcement.**

### **25-1800.11.1 Violators Subject to Penalties.**

Any person violating any of the provisions of this Article shall upon conviction thereof be subject to the penalties herein. (Ord. #89-24)

### **25-1800.11.2 Separate Offenses.**

A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. #89-24)

### **25-1800.11.3 Violations.**

Any person who shall undertake any activity without approval required by this Ordinance, shall be deemed to be in violation of this Article. (Ord. #89-24)

### **25-1800.11.4 Notice of Violation.**

Upon learning of the violation, the Administrative Officer shall personally serve upon the owner of the property whereon the violation is occurring a notice describing the violation in detail and giving the owner ten (10) days to abate the violation by restoring the site or improvement to the condition it was in prior to the violation. If the owner cannot be personally served within the City with said notice, a copy shall be posted on the site and copy sent to the owner at his or her last known address. (Ord. #89-24)

**25-1800.11.5 Abatement of Violation.**

In the event that the owner does not begin to abate the violation as set forth in Section 25-1800.11.4, the Administrative Officer shall cause to be instituted any appropriate action or proceeding to prevent such unlawful activity, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises. (Ord. #89-24; Ord. #93-2, § 15)

**25-1800.11.6 Stop Work.**

If any person shall undertake any activity requiring a permit and report of the Commission without first having obtained approval, he or she shall be required to immediately stop the activity, apply for approval, and take any necessary measures to preserve the affected historic site or improvement pending a decision. If the work is denied, he or she shall immediately restore the affected historic site or improvement to its preactivity status. The Administrative Officer is hereby authorized to seek injunctive relief regarding a stop action or restoration in the Superior Court, not less than ten (10) days after the delivery of notice pursuant to Section 25-1800.11.4 hereof. (Ord. #89-24)

**25-1800.11.7 Injunction to Prevent Adverse Change.**

In the event that any action which would permanently and adversely change an historic site or Historic District, or a demolition or removal of an historic site or improvement is about to occur without approval having been issued, the Administrative Officer is empowered to apply to the Superior Court of New Jersey for injunctive relief as is necessary to prevent such actions. (Ord. #89-24)

**25-1800.11.8 Penalties.**

In addition to the remedies provided above, a person convicted of a violation of this Article before a court of competent jurisdiction shall be subject to a penalty as follows:

a. For each day up to ten (10) days, not more than **one hundred dollars (\$100.00)** ~~twenty-five dollars (\$25.00)~~ per day.

b. For each day between eleven (11) to twenty-five (25) days, not more than **two hundred dollars (\$200.00)** ~~fifty dollars (\$50.00)~~ per day.



c. For each day beyond twenty-five (25) days, not more than ~~five hundred dollars (\$500.00)~~ **seventy-five dollars (\$75.00)** per day.

d. For each day beyond twenty-five (25) days, a jail term, not to exceed ninety (90) days may be imposed. (Ord. #89-24)

## **25-1800.12 Preventive Maintenance.**

### **25-1800.12.1 Need for Preventive Maintenance.**

Recognizing the need for preventive maintenance to insure the continued useful life of landmarks and structures in Historic Districts, the City Council hereby declares that Code enforcement for such landmarks and structures in Historic Districts is a high municipal priority. (Ord. #89-24)

### **25-1800.12.2 Notice to Owner.**

In the event that any landmark or improvement in an Historic District deteriorates to the point that in the best estimate of the Administrative Officer, the cost of correcting the outstanding Code violations equals more than twenty-five percent (25%) of the cost of replacing the entire improvement on which the violation occurs, the Administrative Officer shall serve personally or by certified mail, return receipt requested, a notice on the owner of the property listing the violations, the estimate for their abatement, and the replacement cost of the improvements, and stating that if the owner does not take all necessary remedial action within sixty (60) days, or such extensions as the Administrative Officer shall for good cause grant, the City of Ocean City's designated official may, at the expiration of said sixty (60) days enter upon the property and abate such violations and cause the cost thereof to become a lien on the property. (Ord. #89-24)

### **25-1800.12.3 Hearing.**

Upon receipt of such notice, the owner may within ten (10) days after such receipt notify the Administrative Officer of his or her intentions to have a hearing as to the allegations and estimates set forth in the notice. Such hearing shall be conducted by the Commission and shall, so far as possible, be a formal adversary proceeding in which the Administrative Officer shall establish the matters alleged in the notice by a preponderance of the evidence. (Ord. #89-24)

### **25-1800.12.4 Opinion of Administrative Officer.**

If the owner does not request a hearing, the procedure set forth in the above Section shall be binding. If a hearing is requested, the Administrative Official will within ten (10) days following the hearing, serve on the owner an opinion in writing setting forth his conclusions and the reasons therefor. Such opinion shall be deemed to be a first notice pursuant to this Section. (Ord. #89-24)

### **25-1800.12.5 Abatement of Violations.**

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. (Ord. #89-24)

**25-1800.12.6 Certification of Costs by Administrative Officer.**

The Administrative Officer shall then certify to City Council the cost of such work plus all administrative, clerical and legal costs and overhead attributable thereto and shall present the same to City Council. (Ord. #89-24)

**25-1800.12.7 Costs to Be Lien Against Property.**

City Council may by resolution vote to cause the sum so certified to become a lien upon the property, payable with the next quarter's property taxes and if not then paid, bearing interest at the same rate as delinquent taxes. (Ord. #89-24)

**25-1800.13 Municipal Responsibility.**

**25-1800.13.1 Duties of Officials.**

It shall be the duty of all municipal officials of the City of Ocean City 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 permit, and if it should be to inform both the Secretary of the Commission, the Administrative Officer and the applicant of same. (Ord. #89-24)

**25-1800.14 Rules of Interpretation.**

**25-1800.14.1 Conflicts With Law.**

This Article shall be liberally construed to affect the purposes set forth herein. In the event that this Ordinance conflicts with State law, State law shall take precedence. (Ord. #89-24)

**25-1800.14.2 Severability.**

In the event that any portion of this Article is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its affect only to the portion of the Article actually adjudged invalid and shall not be deemed to affect the operation of any other portion hereof. (Ord. #89-24)

**25-1800.15 General.**

**25-1800.15.1 Powers of Commission Do Not Supersede Powers of Other Boards or Committees.**

No duties or powers of the Commission shall supersede or infringe on the powers of other City Boards or Committees. (Ord. #89-24)

**25-1800.15.2 Repealer.**

All ordinances and all provisions thereof inconsistent or conflicting with the provisions of this Article are hereby repealed to the extent of such conflict or inconsistency. (Ord. #89-24)

**25-1800.15.3 Effective Date.**

This Article shall take effect upon final passage and publication as required by law. (Ord. #89-24)

