

ORDINANCE #2015-407
HISTORIC PRESERVATION ORDINANCE

**AN ORDINANCE OF THE VILLAGE OF LOCH ARBOUR
ESTABLISHING A HISTORIC PRESERVATION ZONE AND
PROMULGATING REGULATIONS THEREFOR**

001 SHORT TITLE

This Ordinance shall be known and cited as the “Historic Preservation Ordinance of the Village of Loch Arbour.”

002 HISTORIC DISTRICT ESTABLISHED

There is hereby established within the Village of Loch Arbour a “Historic District.” The boundaries of the Village of Loch Arbour Historic District (hereinafter referred to as the “District”), are coterminous with the boundaries of the Village.

003 PURPOSES AND INTENT

003.1 Purposes of the Historic Preservation Ordinance

The “HPO”, has the following general purposes:

- A. To provide a means to preserve the visual sense of the past of Village of Loch Arbour, as reflected in its architecture.
- B. To maintain an appropriate and harmonious application of architectural styles befitting and complementary to the architecturally significant buildings within the Village of Loch Arbour.
- C. To stabilize and improve property values.
- D. To foster civic beauty and neighborhood pride.
- E. To encourage private investment in existing or new buildings in a manner that preserves, restores, repairs, or is compatible with the original architectural style characteristic within the District.
- F. To encourage preservation of the visual sense of the past in a manner that minimizes hardships on residents of the District.

003.2 Intent of the Historic Preservation Ordinance.

It is the intent of this ordinance to establish the circumstances, conditions and procedures to obtain a Certificate of Appropriateness, as hereinafter defined, from the Planning Board as it pertains to exterior architectural features, applications for permits from the Construction Official or applications for development of properties in the "District". No building permit, where such is required, shall be issued unless a Certificate of Appropriateness shall have been previously issued by the Planning Board, pursuant to this Ordinance, except in the case of an Ordinary Repair, Emergency Repair or where no change to a Major Architectural Element is proposed.

004 DEFINITIONS

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

ACCESSORY BUILDING shall mean a building, which is customarily associated with and is subordinate and incidental to the principal building, and exceeds a 40 square foot footprint and/or five (5) feet in height at its peak.

ADDITION shall mean any extension or increase in the size, floor area or height of a building.

ADMINISTRATIVE OFFICER shall mean the person designated by the Board of Commissioners to handle the administration of applications in accordance herewith as well as the coordination of building applications as referenced herein.

ALTERATION, MAJOR shall mean the addition, change or modification of major architectural elements to a building, which effects the design, shape, pitch or existence of the roof including, but not limited to, main roofs, dormers, roofs of bay or cantilevered windows, pediments, parapets, towers, porches, cupolas, Porte Cochere and balconies, as well as alterations, including demolition of non-linear (e.g. oval, Palladian, etc.) window frame outlines. Major alterations would additionally include changes by additions or complete conversion or alteration of the traditional predominant substance, texture or finish of a building (e.g. changing from wood to stucco, stucco to brick), and changes by additions or complete conversion or alteration of columns and railings on any exterior elevation.

ALTERATION, MINOR as distinct from alteration, major, shall mean the replacement or renewal of existing work, requiring a building permit, of a building, with the same or architecturally equivalent materials, equipment or parts, that are made in the ordinary course of maintenance and that do not cause a major alteration of the building, nor result in a request for

any other relief from the Planning Board.

APPLICATION shall mean the formal request by a property owner to the Planning Board for review of an activity, which potentially constitutes a major alteration.

ARCHITECTURAL DRAWINGS shall mean drawings prepared, signed and sealed by a New Jersey licensed Architect, or drawings prepared so as to clearly and unambiguously indicate proposed new work and the existing building (in the case of an addition or modification). Drawings shall include a site plan, floor plans and elevations in sufficient scale and detail to convey the intended new work. The elevation drawings shall indicate all features (i.e. dormers, windows, roofs, trim, etc.) and surface finishes proposed for the project. Plans shall indicate the intended use of all rooms, terraces, Porches, etc.

ARCHITECTURAL ELEMENT, MAJOR is a distinguishing original feature, and shall mean an architectural component/design/style/object, which clearly expresses the time period in which a building was built. For the purpose of administration of this ordinance the following are considered Architectural Elements, Major: (a) Roof shape/pitch and existence of roofed items, including main roof, dormer roof, roof of roofed windows, pediments/parapets, tower roof, Porte-cochere roof, porch roof, balcony roof; (b) Non-linear (e.g. oval, Palladian, etc.) window frame outlines; (c) Predominant surface/finish of the building; (d) Columns and railings.

BACK YARD shall mean and be equivalent to “rear yard” as defined in the Developmental Ordinance of the Village.

BOARD shall mean the Planning Board established pursuant to the provisions of the Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq.)

BUILDING shall have the same definition as set forth in the Developmental Ordinance of the Village.

CERTIFICATE OF APPROPRIATENESS shall mean that certificate issued by the Board, that is required prior to undertaking rehabilitation, restoration, renovation, alteration or demolition, undertaken of buildings, accessory buildings or garages in the District.

CORNER LOT shall have the same definition as set forth in the Developmental Ordinance of the Village.

COST ESTIMATE shall mean a written estimate of the costs, prepared by an Architect, Engineer or Contractor licensed in the State of New Jersey, broken down by category of work, for any proposed MAJOR ALTERATION, MINOR ALTERATION or DEMOLITION.

DEMOLITION shall mean the partial or total razing, dismantling or destruction of any building or of any improvement within the Village of Loch Arbour.

DISREPAIR shall mean a condition that permanently and directly threatens the existence and successful preservation, restoration or rehabilitation of an Architectural Element, Major as defined herein.

DWELLING shall have the same definition as set forth in the Developmental Ordinance of the Village.

EMERGENCY REPAIR shall mean an immediate and temporary repair necessary only to allow the continued habitability of a building and/or to protect the health and safety of any occupants and/or the community at large.

GARAGE shall have the same definition as set forth in the Developmental Ordinance of the Village.

IMPROVEMENT shall mean any building or any part thereof constructed or installed upon real property by human endeavor and intended to be kept at the location of such construction or installation.

NON-ORDINARY REPAIR shall mean any repair that does not constitute an ORDINARY REPAIR as that term is defined herein.

ORDINARY REPAIR shall mean repairing any deterioration, wear or damage to a building, accessory building, garage or part thereof, to return the same as nearly as practicable to its condition prior to such deterioration, wear or damage.

PRINCIPAL BUILDING shall mean any BUILDING, as defined in the Developmental Ordinance of the Borough, which is not an ACCESSORY BUILDING or GARAGE.

PORCH shall have the same definition as set forth in the Developmental Ordinance of the Village.

005 AUTHORITY GRANTED TO PLANNING BOARD

005.1 Statutory Authority

The Village of Loch Arbour Planning Board shall exercise, to the same extent and subject to the same restrictions, all of the powers of a commission established pursuant to N.J.S.A. 40:55D-107 *et seq.*, and as may be amended from time to time. At least one Planning Board member shall meet the qualifications of a Class A member as defined by

N.J.S.A. 40:55D-107(b) and at least one Planning Board member shall meet the qualifications of a Class B member as defined by N.J.S.A. 40:55D-107(b).

005.2 Preservation Powers of the Planning Board

The Planning Board shall have the following preservation powers:

- A. To review any and all applications for development and applications for zoning and/or building permits with respect to proposed improvements to, or demolition of, any and all existing or proposed buildings within the District for appropriateness of design, arrangement and materials to be used and whether the proposed improvements will detract from the visual character of the District;
- B. To modify the boundaries of the District;
- C. To encourage alterations, repairs, restoration, reconstruction and rehabilitation of any building to be made in the spirit of the original architectural style and to require that any additions are made in such a manner as not to detract from a building's original appearance.
- D. To utilize and apply the Design Guidelines in the review of permit and development applications to see that said application substantially comply with the intent of the Design Guidelines.

006 GUIDELINES

The Planning Board shall establish guidelines to be known as "Design Guidelines for the District" which shall be submitted by the Planning Board to the Board of Commissioners for its approval. Any amendments or supplements thereto proposed by the Planning Board shall also be submitted to the Board of Commissioners for its approval. The Design Guidelines may be used in the review of all development applications and applications for Certificates of Appropriateness in the District. The Design Guidelines establish the "suggested" or "preferred" means of maintaining the visual sense of the past within the District. However, the Design Guidelines are not "requirements" but are to be liberally construed to provide the Planning Board with the flexibility to address the specific circumstances of a particular applicant while achieving the purposes of this Ordinance.

007 HISTORIC REVIEW PROCESS

007.1 Requirement For a Certificate of Appropriateness

- A. A Certificate of Appropriateness is required in the District for the following actions:
1. Any change, rehabilitation, restoration, reconstruction, improvement or alteration to the exterior of a building, accessory building or garage, which would constitute a Major Alteration, as defined herein;
 2. Any change, rehabilitation, restoration, improvement or alteration to the exterior of a building, accessory building or garage, which would constitute a Minor Alteration, as defined herein;
 3. Additions to any building, accessory building or garage as defined herein;
 4. Demolition of any building, accessory building or garage as defined herein;
 5. New construction.
- B. Any applicant undertaking any change to the exterior of any building, accessory building or garage which would constitute (i) Major Alteration (as defined herein), (ii) a Minor Alteration (as defined herein), (iii) demolition or (iv) new construction shall first complete and submit an application for a Certificate of Appropriateness to the Zoning Officer.
- C. The Construction Official shall not issue a building permit for any exterior change to any building, accessory building or garage, which would constitute (i) Major Alteration (as defined herein), (ii) a Minor Alteration (as defined herein), (iii) demolition or (iv) new construction prior to review by the Planning Board and the issuance of a Certificate of Appropriateness, except in the case of an Ordinary Repair (as defined herein), or an Emergency Repair (as defined herein) or in the event of the Board's failure to act in the time prescribed in N.J.S.A. 40:55D-111.

007.2 A Complete Application shall consist of:

A Complete Application for a Certificate of Appropriateness shall consist of:

- A. Completed application form in full as supplied by the administrative officer;
- B. Architectural drawings or renderings of the details of the exterior of the building,

accessory building or garage;

- C. A narrative description pursuant to the Design Guidelines of the proposed scope of work;
- D. In the case of an application for a partial or total demolition, a Cost Estimate (as defined herein) to rehabilitate / restore the building, accessory building or garage or part thereof sought to be demolished and a Cost Estimate (as defined herein) of the proposed demolition and replacement.
- E. An application fee of \$50.00, plus any additional fees required for applications to the Board.

007.3 Hearings

- A. Within 90 days of receipt of a complete application, the Secretary of the Planning Board will schedule a public hearing on the application to take place at a regular meeting of the Planning Board. The presence of the property owner or his legal representative is required.
- b. Hearings will be conducted pursuant to the administrative procedures established in the Developmental Ordinance of the Village of Loch Arbour as amended, as well as other statutory requirements of the State of New Jersey for the conduct of Planning Board Hearings.
- C. Any application for the granting of a Major Alteration or a Demolition as defined herein or from any other relief from the Developmental Ordinance of the Village of Loch Arbour shall require the applicant to advertise and give public notice to owners of property within two hundred (200) feet of the proposed project, in accordance with the procedure for development applications. The applicant shall be responsible for sending out the appropriate notices and shall be responsible for paying the cost of the proceedings. On the date of the hearing, the applicant shall be required to provide the Planning Board with an Affidavit of Mailing and an Affidavit of Publication as proof of fulfilling the notification and advertisement requirements specified herein.
- D. Applications for Minor Alterations, as defined herein, shall not require the applicant to comply with the Notice and Advertisement provisions of subparagraph C of this Section.

007.4 Determination by The Board

Upon completion of review by the Board, the Board may:

- A. Approve, approve with conditions or deny a development application;
 - 1. When denying an application, the Planning Board shall state the reasons for said action;
 - 2. Upon a favorable decision approving, or approving with conditions any application, the Planning Board shall issue a Certificate of Appropriateness.
- B. The Certificate of Appropriateness shall authorize the Construction Official to issue a building permit if all other conditions or requirements of the law have been satisfied;
 - 1. The Certificate of Appropriateness shall be valid for one year from the date it is issued by the Planning Board. Two extensions of six months each may be granted by the Planning Board, at their discretion, upon written request by the applicant and the applicant's appearance before the Board to substantiate the basis upon which the Board should grant any such extensions.
 - 2. If a Certificate of Appropriateness has been denied, the Construction Official or his agent shall not issue a building permit;
 - a) The Construction Official or his agent may stop work at any site which does not comply with an issued Certificate of Appropriateness or this ordinance.
- C. If, after a Certificate of Appropriateness has been issued, a change in the scope of the work becomes necessary or desired by the applicant, the applicant shall immediately halt all ongoing activity and re-apply to the Planning Board pursuant to the procedures set forth in this ordinance.

008 CRITERIA FOR REVIEW OF APPLICATIONS.

The Planning Board shall be guided by the following standards in reviewing applications for Certificates of Appropriateness and/or development applications:

- A. Every reasonable effort should be made to provide a compatible architectural appearance for buildings, accessory buildings or garages which will require minimum alteration to the building, accessory building or garage.
- B. Rehabilitation of any buildings, accessory buildings or garages should not

substantially alter the distinguishing qualities or visual character of the said building, accessory building or garage.

- C. Deteriorated architectural features should be repaired, wherever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of original features.
- D. With respect to an application for demolition, no building, accessory building or garage within the DISTRICT shall be demolished without being condemned by standard procedures or unless it:
 - 1. Is not feasible to restore it in conformance with the Design Guidelines; or
 - 2. It can be shown that the building, accessory building or garage has no significant architectural or historic value.

If a building, accessory building or garage within the District is destroyed by fire or natural disaster, new construction shall conform to the Design Guidelines. Removal of architecturally significant exterior building material that conceals mechanical equipment should be avoided.

- E. Distinctive stylistic features or examples of skilled craftsmanship which characterize older buildings, accessory buildings or garages and/or pre-date mass production of building materials should be retained wherever possible.
- F. All buildings, accessory buildings or garages should be recognized as products of their own time. Alterations to create an appearance inconsistent with the original character of the building, accessory building or garage should be discouraged.
- G. The design of any new buildings, accessory buildings or garages in the District and any additions to existing buildings, accessory buildings or garages should be compatible with the architectural style of the District.
- H. The Planning Board may refer to the Design Guidelines for assistance in reviewing applications.

009 VIOLATIONS AND PENALTIES

Any person, firm or corporation that shall violate the terms of this ordinance shall be subject to the violations and penalties set forth in the Developmental Ordinance.

010 GENERAL PROVISIONS

- A. If any section or provision hereof shall be adjudged invalid, such determination shall not affect the other provisions hereof which shall remain in full force and effect to the extent of such conflict or inconsistency provided not otherwise required by law.
- B. All ordinances and provisions thereof inconsistent or conflicting with the provisions of this ordinance shall supersede and the controlling to the extent of such conflict or inconsistency, except in cases where the inconsistency is in direct opposition to the purpose of this ordinance as determined by the Planning Board.
- C. All other terms, provisions, sections and subsections of the Ordinance above described remain in full force and effect.
- D. This ordinance shall take effect twenty (20) days after the first publication thereof after final passage as provided by law.

APPROVED:

ADOPTED: