**BOROUGH OF ALLENTOWN**
**COUNTY OF MONMOUTH**
**STATE OF NEW JERSEY**

**ORDINANCE NO. 03-2023**

**AN ORDINANCE AMENDING SECTION 2-49: "HISTORIC PRESERVATION REVIEW COMMISSION" OF CHAPTER 2: "ADMINISTRATION" TO COMPORT WITH LATER-ADOPTED LAND DEVELOPMENT REGULATIONS ESTABLISHING AN HISTORIC PRESERVATION COMMISSION.**

**BE IT ORDAINED** by the Mayor and Council of the Borough of Allentown, County of Monmouth, State of New Jersey, that Borough Code Section 2-49: "Historic Preservation Commission" of Article IV: "Boards, Committees and Commission" of Chapter 2: "Administration" of the Borough's Revised General Ordinances is hereby amended as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

**CHAPTER 2: ADMINISTRATION**

**ARTICLE IV: BOARDS, COMMITTEES AND COMMISSIONS**

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**§ 2-49 HISTORIC PRESERVATION COMMISSION**

**§ 2-49.1 Establishment.**

Under Borough Code Section 28-16, ~~There~~ there is ~~hereby~~ established an Historic Preservation ~~Review~~ Commission ~~for the protection, enhancement and preservation of districts, sites, buildings and structures of historic, cultural or architectural value of interest~~ to implement the historic preservation element of the Master Plan, to provide guidance to property owners in achieving preservation of historic resources and to advance certain public purposes, which are more fully set forth in Borough Code Section 28-16.1, within the Borough of Allentown.

**§ 2-49.2 ~~Purpose.~~ Historic Preservation Commission Responsibilities.**

The responsibilities of the Historic Preservation Commission are set forth in Borough Code Section 28-16.3.

~~The district and site are created for advisory purposes and do not constitute an amendment or supplement to the zoning ordinances of the Borough of Allentown. The purpose of their creation is to promote the educational, cultural, economic and general welfare of the~~

~~Borough through the preservation of historic buildings, structures, places, sites, districts, vistas and views and through development and maintenance of appropriate settings which impart distinctive aspects of the Borough and which serve as visible reminders of its historical and cultural heritage. The creation of the historic district is intended to:~~

~~a. Safeguard the heritage of the Borough by preserving resources within the Borough which reflect elements of its cultural, social, economic and architectural history;~~

~~b. Encourage the continued use of historic landmarks and to facilitate their appropriate reuse;~~

~~c. Promote appreciation of historic districts and sites for the education, pleasure and welfare of the local population;~~

~~d. Maintain and develop an appropriate and harmonious setting for the historic and architecturally significant buildings, structures and districts within the Borough;~~

~~e. Foster beautification and private reinvestment;~~

~~f. Discourage unnecessary demolition of historic resources and inappropriate building or development;~~

~~g. Encourage the appropriate maintenance and preservation of historic districts;~~

~~h. Enhance the visual and aesthetic character of the Borough;~~

~~i. Promote the conservation of historic districts and sites and to invite voluntary compliance.~~

**§ 2-49.3 Composition; Qualifications; Terms of Members~~; Removal and Vacancies; Records and Meetings~~.**

The composition, membership, rules, and operations of the Historic Preservation Commission are governed by Borough Code Sections 28-16.4 and 28-16.5.

~~a. The Commission shall consist of nine members and two alternate members, who shall serve without compensation and who shall be appointed by the Mayor with the advice and consent of Council. The Commission shall elect from its membership a Chairman, Vice Chairman and Secretary to serve as officers of the Commission. The Commission shall reorganize annually each January.~~

~~b. The terms of appointment of Commission members shall be for three years each, to expire on December 31 of the last year of the member's term and upon the appointment and qualifications of such member's successor. Commission members shall serve without compensation.~~

~~c. The Commission will be comprised of the following members:~~

~~1. Class A Group: two regular members will be appointed who have special knowledge in building design and construction or architectural history and who may reside outside the municipality.~~

~~2. Class B Group: two members will be appointed who have special knowledge or a demonstrated interest in local history and who may reside outside the municipality.~~

~~3. Class C Group: five members and two alternate members will be appointed who are citizens of the municipality and do not hold any municipal office position, except membership of the Planning Board.~~

~~d. The Mayor may remove any member of the Commission for cause and report to the Borough Council of such action. A vacancy on such Commission occurring otherwise than by expiration shall be filled in the same manner as an original appointment to complete the unexpired term.~~

~~e. The Commission shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations and decisions. All such material shall be public record. All meetings shall comply with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. No Commission member shall vote or participate in the discussion of any matter in which he has a direct or indirect personal interest, monetary or otherwise.~~

~~f. In accordance with N.J.S.A. 40:55D-111, the Chairman of the Historic Preservation Review Commission may act in place of a full Commission when a minor or simple application for the issuance of a building permit pertaining to historic property is presented.~~

**§ 2-49.4 ~~Powers and Duties~~Meetings of the Commission.**

The scheduling and conduct of meetings by the Historic Preservation Commission are governed by Borough Code Section 28-16.6.

~~The Historic Preservation Review Commission shall have the following powers and duties:~~

~~a. To prepare a survey of historic sites of the Borough.~~

~~b. To make recommendations to the Planning Board on the historic preservation plan element of the Master Plan and on the implication for preservation of historic sites of any other Master Plan elements.~~

~~c. To advise the Planning Board on the inclusion of historic sites in the recommended capital~~

~~improvement program.~~

~~d. To advise the Planning Board and the Board of Adjustment on applications for development in accordance with subsection 2-49.5.~~

~~e. To provide written reports on the application of the zoning provisions concerning historic preservation to the administrative officer in charge of issuance of building permits.~~

~~f. To carry out such other advisory, educational and informational functions as will promote historic preservation in the Borough.~~

~~g. To identify and record historic buildings, structures, sites, objects or districts and evaluate these resources against the criteria outlined in this section. The survey material shall be reviewed and, if necessary, updated at least every other year to incorporate any newly acquired historical documentation and to reflect changes to a resource's integrity or condition.~~

~~h. To assist other public bodies in aiding the public in understanding historic resources' significance and methods of preservation.~~

~~i. To advise the Borough Council on the relative merits of proposals involving public lands to restore, preserve and protect historical buildings, places and structures, including the preparation of a long-range plan therefor; securing State, Federal and other grants and aid to assist therein and monitoring such projects once underway.~~

~~j. To recommend to the Planning Board and the Borough Council the establishment and boundaries of historic districts where appropriate.~~

~~k. To recommend to the Zoning Board the granting of use variances where such are deemed to be within the intent and purposes of this section.~~

~~l. To secure the voluntary assistance of the public and, within the limits of the budget established by the Borough for the Historic Preservation Review Commission's operation, to retain consultants and experts and incur expenses to assist the Historic Preservation Review Commission in its work to provide testimony in support of the Commission's position before other bodies, boards, commissions or courts.~~

~~m. To cooperate with local, County, State or historical societies, governmental bodies and organizations to maximize their contributions to the intent and purposes of this section.~~

~~n. To recommend to the applicable County, State and Federal agencies, where appropriate, recognition of historic buildings, structures, sites, objects or district.~~

~~o. To request the Borough Council to seek injunctive relief for violations of this section or other actions contrary to the intent and purpose of this section.~~

**§ 2-49.5 Referrals from ~~Planning Board or Zoning Board of Adjustment; Reports~~Municipal Agencies.**

The referral of matters to the Historic Preservation Commission by other municipal agencies is governed by Borough Code Section 28-16.9.

~~The Planning Board and Board of Adjustment shall submit to the Historic Preservation Review Commission a copy of every application submitted to either Board for development in historic zoning districts or on historic sites designated on the Zoning or Official Map or in any component element of the Master Plan. The Historic Preservation Review Commission shall provide its advice and majority opinion in writing to the secretary of the Planning Board for each application forwarded to it within 35 days of the date of the referral.~~

**§ 2-49.6 Other ~~Reports~~Matters Concerning the Commission.**

All other provisions, terms, operations, and matters concerning the Historic Preservation Commission are set forth at length in Borough Code Section 28-16.

~~All applications for issuance of permits pertaining to the exterior of historic sites or property in historic districts shall be referred to the Historic Preservation Review Commission by the Zoning Officer or Construction Code Officer, for a written report on the application. The Historic Preservation Review Commission shall report to the administrative officer within 35 days of his or her referral of an application to the Historic Preservation Review Commission. Failure to report within the 35 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. Pursuant to N.J.S.A. 40:55D-111 and Section 2-49.3(f) hereof, the Chairman of the Historic Preservation Review Commission may act in place of a full Commission when a minor or simple application for the issuance of a building permit pertaining to historic property is presented or in the case of emergency repairs to an historic property.~~

**~~§ 2-49.7 Review of Applications.~~**

~~For the purposes of this section, the administrative officer shall be deemed to be either the Construction Code Officer or the Zoning Officer.~~

**~~§ 2-49.8 Violations and Penalties.~~**

~~a. Any person who undertakes any activity affecting the exterior of an historic landmark or any exterior improvement within an historic district which is regulated by this section, without obtaining review by the Historic Preservation Review Commission, shall be in violation of this section.~~

~~b. On any violation, the Zoning Officer shall serve a notice describing the violation and demanding abatement within 10 days and notifying the owner or person(s) present that they must immediately stop and cease any further activity whatsoever. Such owner or other person(s) shall immediately stop any activity.~~

~~c. The Zoning Officer may also:~~

~~1. File complaint in the Borough Municipal Court; and/or~~
~~2. Seek injunction relief or restraints in any court of competent jurisdiction.~~

~~d. Each separate day a violation exists shall be deemed to be a new and separate violation.~~

~~e. Any person violating any of the provisions of this section shall, upon conviction thereof, be liable to the penalty stated in Chapter 1, Section 1-5.~~

**BE IT FURTHER ORDAINED** by Mayor and Council that should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

**BE IT FURTHER ORDAINED** by Mayor and Council that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

**BE IT FURTHER ORDAINED** by Mayor and Council that this ordinance shall be in full force and take effect after final passage and publication according to law.

ATTEST:

THOMAS FRITTS, Mayor

LAURIE A. ROTH, MAS, RMC, CMR
Municipal Clerk