



Township Council
1 Municipal Plaza
Bloomfield, NJ 07003

Louise M. Palagano
Municipal Clerk

<http://www.bloomfieldwpnj.com>

Meeting: 10/05/15 07:00 PM

2015 ORDINANCE AMENDMENT

15-61

AN ORDINANCE REAFFIRMING THE ADOPTION OF ORDINANCE NO. 14-32, WHICH AMENDED CHAPTER 302, HISTORIC DISTRICTS, IN THE CODE OF THE TOWNSHIP OF BLOOMFIELD, ESSEX COUNTY, NEW JERSEY TO CREATE A HISTORIC PRESERVATION COMMISSION PURSUANT TO N.J.S.A. 40:55D-107, ET SEQ.

WHEREAS, by Ordinance adopted on March 17, 1980, the Township established a Historic District consisting of the Historic Green and surrounding properties, which ordinance was amended in its entirety by ordinance adopted on January 2, 2007; and

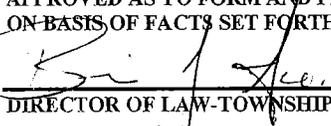
WHEREAS, the Mayor and Council have determined that there are other properties within the Township worthy of designation as a historic site or building, and thus enacted Ordinance No. 14-32 on August 11, 2014, which established a Historic Preservation Commission imbued with the powers set forth under the Municipal Land Use Law ("MLUL"), and specifically N.J.S.A. 40:55D-107, et seq.; and

WHEREAS, Ordinance No. 14-32 was not referred to the Township Planning Board prior to adoption; and

WHEREAS, the MLUL, however, requires in N.J.S.A. 40:55D-26, that all ordinances constituting a development regulation must be referred to the Planning Board for review determine whether there are any inconsistencies between the proposed ordinance and the Township Master Plan and for any other recommendations the Planning Board may have with respect to the proposed ordinance; and

WHEREAS, the MLUL defines a "development regulation" as including any ". . . municipal regulation of the use and development of land" adopted pursuant to the MLUL; and

APPROVED AS TO FORM AND PROCEDURE
ON BASIS OF FACTS SET FORTH



DIRECTOR OF LAW-TOWNSHIP ATTORNEY

WHEREAS, thus, Ordinance No. 14-32 should have been referred to the Planning Board pursuant to N.J.S.A. 40:55D-26; and

WHEREAS, concurrently with the introduction of this Ordinance reaffirming the adoption of Ordinance No. 14-32 on first reading, the Mayor and Council have introduced a resolution referring this Ordinance to the Planning Board pursuant to N.J.S.A. 40:55D-26.

BE IT ORDAINED, by the Mayor and Council of the Township of Bloomfield, County of Essex, State of New Jersey, reaffirms the following:

Section 1. Chapter 302 "HISTORIC DISTRICTS" of the Code of the Township of Bloomfield, County of Essex, State of New Jersey, is hereby amended to read as follows:

§302B-1 PURPOSE

There is established the Bloomfield Historic Preservation commission in accordance with N.J.S.A. 40:55D-107. The Bloomfield Historic Preservation Commission (HPC) is charged with conserving, protecting, enhancing and perpetuating the landmarks, properties and improvements within Bloomfield.

§302B - 2 Members, Officers, Meetings, Experts and Responsibilities.

A. The HPC shall consist of seven regular members and two alternate members. The membership shall include, in designating the category of appointment, at least one member of each of the following classes:

- (1) Class A - a person who is knowledgeable in building design and construction or architectural history and who may reside outside the Township, however, preference shall be given to residents.
- (2) Class B - a person who is knowledgeable or with a demonstrated interest in local history.
- (3) Class C - Those regular members who are not designated as Class A or Class B shall be designated as Class C. Class C members shall be citizens of the Township who shall hold no other municipal office, position or employment except for membership on the Planning Board or Board of Adjustment.
- (4) Alternate members shall meet the qualifications of Class C members.
- (5) The Mayor shall appoint all members of the HPC and shall designate at the time of appointment the regular members by class and the alternate members as "Alternate No. 1" and "Alternate No. 2." The terms of the members first appointed shall be so determined that to the greatest practicable extent the expiration of the terms shall be distributed, in the case of regular

members, evenly over the first four years after their appointment, and in the case of alternate members, evenly over the first two years after their appointment, provided that the initial term of no regular member shall exceed four years and that the initial term of no alternate member shall exceed two years. Thereafter, the term of a regular member shall be four years; and the term of an alternate member shall be two years. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only. Notwithstanding any other provision herein, the terms of any member common to the HPC and the Planning Board or Board of Adjustment shall be for the term of membership on the respective board.

(6) 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.

(7) A member may, after public hearing if so requested by the member, be removed by the Mayor and Council for cause.

(8) The Mayor and Council may designate a member to serve as the liaison between the Township and the HPC.

(9) No member of the HPC shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest.

B. The HPC shall annually elect a chairperson and vice-chairperson from its members and select a secretary who may or may not be a member of the HPC or a municipal employee. The secretary shall keep written or recorded minutes of all proceedings. The secretary shall also keep a log of all decisions on applications by designated lot, block and address, which log shall be maintained as an official record of the Township.

C. The HPC shall meet at least once per month and more often as necessary to satisfy its obligations and shall adopt rules and regulations of procedure to include the following:

(1) That a quorum to conduct a meeting shall be at least four members and that no less than three votes are necessary to take any formal action.

(2) That all meetings shall comply with N.J.S.A. 10:4-6 et seq. known as the "Open Public Meetings Act."

(3) Such other rules and regulations as the HPC may adopt to further its purposes.

D. Experts and staff; expenses and costs.

(1) The Mayor and Council shall make a provision in the Township budget and appropriate funds for the expenses of the HPC.

(2) The HPC may employ, contract for and fix the compensation of experts and other staff and services as it shall deem necessary. The HPC shall obtain its legal counsel from the Township Attorney at the rate of compensation determined by the Council, unless the Council, by appropriation, provides for separate legal counsel for the Commission. Expenditures pursuant to

this subsection shall not exceed, exclusive of gifts or grants, the amount appropriated by the Council for the HPC's use.

E. Responsibilities. The Commission shall have the responsibility to:

- (1) Prepare a survey of historic sites of the Township pursuant to criteria identified in the survey report;
- (2) Make recommendations to the Planning Board on the historic preservation plan element of the master plan and on the implications for preservation of historic sites of any other master plan elements;
- (3) Advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program;
- (4) Advise the Planning Board and Board of Adjustment on applications for development pursuant to N.J.S.A. 40:55D-110;
- (5) Provide written reports pursuant to N.J.S.A. 40:55D-111 on the application of the zoning ordinance provisions concerning historic preservation; and
- (6) Carry out such other advisory, educational and informational functions as will promote historic preservation in the Township.

§ 302B-3 Procedure for designation of historic sites and historic districts.

A. In addition to the structures already identified as being within the historic district, the HPC shall consider for historic site or historic district designation any additional buildings, structures, objects, sites, and districts within the Township which merit historic site or historic district designation and protection, possessing integrity or location, design, setting, materials, workmanship of association and being:

1. of particular historic significance to the Township by reflecting or exemplifying the broad cultural, political, economic or social history of the nation, state or community; or
2. associated with historic personages important in national, state or local history; or
3. the site of an historic event which had a significant effect on the development of the nation, state or community; or
4. an embodiment of the distinctive characteristics of a type, period or method of architecture or engineering; or
5. representative of the work of an important builder, designer, artist or architect; or
6. significant for containing elements of design, detail, materials or craftsmanship which represent a significant innovation; or
7. able or likely to yield information important in prehistory or history.

B. Based on its review or upon the recommendation of other municipal bodies or of concerned citizens, the HPC may make a list of additional historic sites or historic districts recommended for designation. For each historic site, there shall be a brief description of the historic site and the significance pursuant to the criteria in Subsection of this section, a description of its location and boundaries, and a map siting. Thereafter, the Commission shall refer any property recommended for designation to the Mayor and Council for consideration.

C. After review, the Mayor and Council may refer the recommendation to the Planning Board requesting that they take the appropriate measures to have the property identified on the Township's Master Plan as historic.

§ 302B-4 Actions requiring review by Commission.

A. Applications for development. The Planning Board and Board of Adjustment shall refer to the HPC every application for development submitted to either board for development in historic zoning districts or on historic sites designated on the zoning or official map or identified in any component element of the Master Plan. This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner. Failure to refer the application as required shall not invalidate any hearing or proceeding. The HPC may provide its advice, which shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.

B. Permits. All applications pertaining to historic sites or property in historic districts shall be referred to the Commission by the Construction Code Official for a written report on the application of the zoning provisions of this chapter concerning historic preservation to any of those aspects of the change proposed, which aspects were not determined by approval of an application for development by the Planning Board pursuant to the Municipal Land Use Law. The HPC, through its Secretary, shall report to the Construction Code Official within 45 days of his referral of the application to the HPC. If within the forty-five-day period the HPC recommends against the issuance of the permit or recommends conditions to the permit to be issued, the Construction Code Official shall deny issuance of the permit or include the conditions in the permit, as the case may be. Failure to report within the forty-five-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.

C. Review when an application for development or building permit is not required. In the event that the Zoning Officer or the Construction Code Official shall determine that a building permit and/or application for development involving any development activity that would affect an historic district or historic site is not needed, then the property owner and/or tenant of the property on which the exterior changes, alterations or improvements are proposed to be made shall make application directly to the Commission for a certificate of appropriateness. The Commission shall hear such applications employing its procedures set forth in 302B-6 and the criteria set forth in § 302-B7 and will render its findings in writing. The findings of the HPC, in such cases, shall be enforceable by the Construction Code Official.

§ 302B-5 Procedures for review of applications for development.

A. For all applications presented to the Planning Board which affect an historic site or an improvement within an historic district, the property owner shall submit an application for a certificate of appropriateness to the Planning Board along with the request for the Board's approval. Such an application shall pertain solely to the proposed site review or zoning request.

B. The Planning Board will forward to the HPC a complete application for development as well as the application for a certificate of appropriateness. The HPC shall be allowed at least 14 days from the day it receives a complete application to prepare its recommendations to board. Should the HPC elect to make a recommendation, it shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.

C. The HPC's recommendation shall focus on how the proposed undertaking would affect an historic site or architectural significance. In considering the HPC's recommendations, the board shall be guided by the review criteria established in § 302-B7 of this chapter.

§ 302B-6 Procedures for the Commission's review of building permits.

A. Prior to undertaking any action affecting the exterior architectural appearance of an historic site or an improvement within an historic district, the property owner shall complete and submit to the Construction Code Official and HPC Secretary an application for a certificate of appropriateness. This includes, but is not limited to, permits for new construction, demolition, alterations, additions or replacements affecting the exterior architectural appearance of an historic site or an improvement within an historic district.

B. The HPC's Secretary shall review the application for technical completeness. Any application found to be incomplete shall be returned to the property owner within 10 days of receipt of the application.

C. When an application is found to be technically complete, the HPC's Secretary shall schedule the application to be reviewed at the HPC's next regularly scheduled meeting. The property owner shall be notified of the meeting date and shall be allowed an opportunity to speak at the meeting. The HPC shall inform the property owner and the Construction Code Official of its decision by written resolution setting forth its findings and conclusions no later than 45 days from the day the application shall have been deemed complete.

§ 302-B7

In reviewing an application for its effect on a building, improvement or structure within the historic district or classified as an historic site, the following criteria shall be used by the Commission and the Land Use Board. The criteria set forth in Subsection A of this section relate to all projects affecting an historic site or an improvement within an historic district. The criteria set forth in Subsections B through D of this section relate to specific types of undertakings and shall be used in addition to the general criteria set forth in Subsection A of this section.

A. In regard to all applications affecting an historic site or an improvement within an historic district, the following factors shall be considered:

- (1) The impact of the proposed change on the historic and architectural significance of the site or the historic district;
- (2) The site's importance to the Township and the extent to which its historic or architectural interest would be adversely affected to the detriment of the public interest;
- (3) The use of any structure involved;
- (4) The extent to which the proposed action would adversely affect the public's view of an historic site within an historic district from a public street;
- (5) If the application deals with a structure within an historic district, the impact the proposed change would have on the district's architectural or historic significance and the structure's visual compatibility with the buildings, places and structures to which it would be visually related in terms of the visual compatibility factors set forth in this section.

B. In regard to all specific details pertaining to scale, building materials, and other exterior details of either proposed new construction or alterations of existing structures, applicants must refer to the Secretary of the Interior's Standards for Rehabilitation.

C. In regard to an application to demolish an historic site or any improvement within an historic district, the following matters shall be considered:

- (1) Its historic, architectural, cultural or scenic significance.
- (2) If it is within an historic district, the significance of the structure in relation to the historic character of the district and the probable impact of its removal on the district.
- (3) Its potential for use for those purposes currently permitted by the Article VII of this chapter.
- (4) Its structural condition and the economic feasibility of alternatives to the proposal.
- (5) Its importance to the Township and the extent to which its historical or architectural value is such that its removal would be detrimental to the public interest.
- (6) The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could be reproduced only with great difficulty and expense.
- (7) The extent to which its retention would promote the general welfare by maintaining and increasing the real estate values, generating business, attracting tourists, attracting new residents, stimulating interest and study in architecture and design, or making the Township an attractive and desirable place in which to live.
- (8) If it is within an historic district, the probable impact of its removal upon the ambience of the historic district.

D. In regard to an application to move any historic site, or to move any structure within an historic district, the following matters shall be considered:

- (1) The historic loss to the site of original location and the historic district as a whole.
- (2) The reasons for not retaining the building improvement or structure at its present location.
- (3) The compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the protection of interest and values referred to in this chapter.
- (4) The probability of significant damage to the historic site.
- (5) If the proposed new location is within an historic district, visual compatibility factors as set forth in Subsection of this section.
- (6) If it is to be removed from the Township, the proximity of the proposed new location to the Township, including the accessibility to the residents of the Township and other citizens.

§ 302B-8 Effect of project approval; denial; appeal.

A. Applicants seeking to undertake any project or action concerning an historical site or improvement in an historic district must seek approval from the HPC pursuant to this chapter. The HPC's decision shall be memorialized in a certificate of appropriateness to be submitted to the Construction Code Official for the issuance or denial of the permit.

B. Issuance of the certificate of appropriateness shall be binding upon the person charged with the issuing of the building, demolition or sign permit, in accordance with the provisions of N.J.S.A. 40:55D-111.

C. Denial of an application or of a building permit shall completely bar the applicant from undertaking the activity which was the subject of the denied application.

D. In the event an applicant wishes to appeal a determination made by the Construction Code Official, the appeal will be heard pursuant to N.J.S.A. 40:55D-70(a). The appeals process will be guided by N.J.S.A. 40:55D-69 et seq. If it is determined that an error was made by the Construction Code Official as to any aspect of the decision, the board may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end have all the powers of the administrative officer from whom the appeal is taken, as directed by N.J.S.A. 40:55D-74.

§ 302B-9 Violations and penalties.

A. Any person, including the owner of the property, contractors, and those acting at the request or by the authority of the owner and/or contractor, who shall undertake an activity which would cause a change in the exterior architectural appearance of any improvement within an historic district or of any historic site by addition, alteration or replacement without obtaining a certificate of appropriateness, shall be deemed to be in violation of this chapter.

B. Upon learning of the violation, the Director of Housing and Community Development shall cause to be served personally upon the owner of the lot whereon the violation is occurring a notice describing the violation in detail and giving the owner 10 days to abate the violation by restoring the historic site or improvement to the condition it was in prior to the violation occurring. If the owner cannot be personally served within the Township with the notice, a copy shall be posted on the site and a copy sent to the owner at his last known address as it appears on the Township tax rolls.

C. In the event that the violation is not abated within 10 days of service or posting on the site, whichever is earlier, the Director of Housing and Community Development shall cause to be issued a summons and complaint, returnable in the Municipal Court, charging violation of this chapter and specifying the wrongful conduct of the violator. Each separate day the violation exists shall be deemed to be a new and separate violation of this chapter.

D. The penalty for violation shall be as follows:

- (1) For each day up to 10 days, not more than \$100 per day;
- (2) For each day 11 days to 25 days, not more than \$150 per day;
- (3) For each day beyond 25 days, not more than \$200 per day.

E. If any person shall undertake an activity which would cause a change in the exterior architectural appearance of any improvement within an historic district or of any historic site by addition, alteration or replacement without first having obtained approval of the site, he shall be required to immediately stop the activity, apply for approval, and take any necessary measures to preserve the site affected pending a decision. If the project is denied, he shall immediately restore the site to its preactivity status. The Director of Housing and Community Development is authorized to seek injunctive relief regarding a stop action on restoration in the Superior Court, Chancery Division, not less than 10 days after the delivery of notice pursuant to Subsection of this section. Such injunctive relief shall be in addition to the penalties authorized under Subsection of this section.

F. In the event that any action which would permanently affect an historic site or historic district, or demolition is about to occur, without a certificate of appropriateness having been issued, the

Director of Housing and Community Development is empowered to apply to the Superior Court of New Jersey for injunctive relief as is necessary to prevent such actions.

G. The Township Administrator in the absence of the Director of Housing and Community Development, shall perform all of the aforementioned duties.

Section 2. All ordinances inconsistent herewith are hereby repealed.

Section 3. This ordinance shall take effect upon final passage and publication in accordance with the law.

......*

I hereby certify that the above ordinance was duly adopted by the Mayor and Council of the Township of Bloomfield at a meeting of said Township Council held on *November 2, 2015.*

Joseph Palagano

 Municipal Clerk of the Township of Bloomfield

MeVza

 Mayor of the Township of Bloomfield

✓ Vote Record - Ordinance						
		Yes/Aye	No/Nay	Abstain	Absent	
<input type="checkbox"/> Adopt						
<input type="checkbox"/> Deny						
<input type="checkbox"/> Withdrawn	Elias N. Chalet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Table	Nicholas Joanow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Not Discussed	Carlos Bernard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/> First Reading	Wartyna Davis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Table with no Vote	Joseph Lopez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Approve	Carlos Pomares	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Veto by Mayor	Michael J. Venezia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Discussion						
<input type="checkbox"/> Defeated						
<input type="checkbox"/> Discussion No Vote						

✓ Vote Record - Ordinance						
		Yes/Aye	No/Nay	Abstain	Absent	
<input type="checkbox"/> Adopt						
<input type="checkbox"/> Deny						
<input type="checkbox"/> Withdrawn	Elias N. Chalet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Table	Nicholas Joanow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Not Discussed	Carlos Bernard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> First Reading	Wartyna Davis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Table with no Vote	Joseph Lopez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Approve	Carlos Pomares	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Veto by Mayor	Michael J. Venezia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Discussion						
<input type="checkbox"/> Defeated						
<input type="checkbox"/> Discussion No Vote						