

TOWNSHIP OF MAHWAH

ORDINANCE NO. 627

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF MAHWAH TO ADD CHAPTER 31 ENTITLED, "HISTORIC SITES COMMITTEE," PROVIDING FOR THE MEMBERSHIP AND POWERS THERETO AND THE ESTABLISHMENT OF HISTORIC DISTRICTS AND SITES.

WHEREAS, it is the intent of this Ordinance, in the furtherance and proper exercise of the police power, to safeguard, enhance and preserve the heritage of the Township of Mahwah, stabilize and improve property values, foster civic beauty and development, prevent building deterioration and neighborhood decay and promote the educational, cultural, economic, social and general welfare of the residents of the Township through the preservation and protection of districts, sites, buildings and structures of historic, cultural or architectural value or interest within the Township;

THEREFORE, BE IT ORDAINED:

1. That the Code of the Township of Mahwah be amended by the addition of a Chapter 31, entitled, "Historic Sites District," thereto as follows:

Section 31-1. Historical Sites Committee Established.

There is hereby established an Historical Sites Committee for the protection, enhancement and preservation of districts, sites, buildings and structures of historic, cultural or architectural value or interest within the Township of Mahwah.

Section 31-2. Definitions.

As used in this Chapter, the following terms shall mean and include:

A. "Alteration" shall mean any act defined as an alteration by the Uniform Construction Code of the State of New Jersey.

B. "Committee" shall mean the Historic Site Committee.

C. "Exterior Architectural Feature" shall mean the architectural style, design, general arrangement and components of all of the outer surfaces of an improvement, as distinguished from the interior surfaces enclosed by said exterior surfaces, including, but not limited to, the kind and texture of the building material, the type and style of all windows, doors, lights, signs, and other features appurtenant to such improvements.

D. "Historic District" shall mean any area which:

1. Contains improvements which:

(a) Have a special character or special historic or aesthetic interest or value.

(b) Represent one or more periods or styles of architecture typical of one or more eras in the history of the Township, state or nation.

(c) Cause such area, by reason of such features, to constitute a distinct section of the Township.

2. Has been designated as an historic district pursuant to the provisions of this section.

E. "Historic Landmark" shall mean any improvement, any part of which has a special character or special historic or aesthetic interest or value as part of the development, heritage or cultural characteristics of the Township, state or nation and which has been designated as an historical landmark pursuant to the provisions of this Chapter.

F. "Historic Landmark Site" shall mean any parcel or part thereof on which a landmark is situated and has been designated an historic landmark site pursuant to the provisions of this Chapter.

G. "Improvement" shall mean any building, structure, place, work of art or other object constituting a physical betterment of the real property on which same is situate, or any part of such betterment.

H. "Ordinary maintenance and repairs: shall mean replacement of any part of an improvement for which a permit issued by the Building Inspector is not required by law, where the purpose and effect of such work or replacement is to correct any deterioration, decay or damage to such improvement or any part thereof and to restore same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage.

I. "Owner" shall mean any person or persons having such right to, title to or interest in any improvement so as to be legally entitled upon obtaining the required permits and approvals from the Township agencies having jurisdiction over building construction, to perform with respect to such property any alteration, construction, restoration or demolition.

Section 31-3. Committee appointment; qualifications; terms; vacancies; procedure.

A. The Committee shall consist of seven (7) members, who shall serve without compensation and who shall be appointed by the Mayor. All Committee members shall be residents of the Township of Mahwah. The Committee shall elect from its

membership a Chairman to serve as presiding officer of the Committee.

B. The initial terms of office of the first Committee members shall be for one (1), two (2) or three (3) years to be designated by the Mayor in making such appointments in the following manner: Two (2) of such members shall be appointed for terms of one (1) year; two (2) of such members shall be appointed for terms of two (2) years; and three (3) of such members shall be appointed for terms of three (3) years. The term of each such member shall expire on December 31 of the last year of each such member's term and upon the appointment and qualification of such member's successor. The terms of appointment of succeeding Committee members shall be for three (3) years each, to expire on December 31 of the last year of such succeeding member's term and upon the appointment and qualification of such member's successor.

C. The Mayor and Township Committee may remove any member of the Committee for cause on written charges served upon such member and after a hearing thereon, at which hearing the member shall be entitled to be heard in person or by counsel. A vacancy on such Committee occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as an original appointment.

D. The Committee 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 be open to the public and notice of meetings shall be posted in the Town Hall 48 hours in advance; provided, however, that emergency meetings may be held without prior notice. No Committee member shall vote or participate in any meeting concerning any matter in which he has a direct or indirect personal interest, monetary or otherwise.

SECTION 31-4. Powers and Duties.

A. General. To insure the goal of fostering civic pride in the beautiful and noble accomplishments of the past, the Committee shall safeguard the Township's historic, aesthetic and cultural heritage through the establishment of reasonable rules and regulations for the alteration, construction, restoration or demolition of historic landmark sites, historic districts or improvements therein. The Committee shall endeavor to obtain the cooperation of owners and federal, state and local governmental authorities for the preservation of such historic landmark sites, historic districts or improvements therein and may recommend to appropriate governmental authorities, when it is deemed necessary in the public interest, the institution of actions or proceedings to preserve same and to correct or abate all violations of laws relating thereto.

B Scope of the Committee's Powers.

Nothing contained in this Chapter shall be construed as authorizing the Committee, in acting with respect to any historic landmark site, historic district or improvements therein, or on adopting regulations in relation thereto:

- 1. To regulate or limit the height and bulk of buildings.
- 2. To regulate or supervise the ordinary maintenance and repair of the exterior of a building or those changes which control the interior arrangement of the building without affecting the design, material or outward appearances of same;
- 3. To regulate the area of yards, courts or other open spaces, the density of population or the location of trades, industries or buildings designed for specific uses.
- 4. To prevent the issuance of a permit by the Building Inspector for the alteration, construction, restoration, demolition or other work, of a temporary or permanent nature, with regard to any building or part of a building if such work is required to be commenced immediately in the interest of public safety in the discretion of the Building Inspector.
- 5. To act with respect to any building permit issued by the Building Inspector for any building or site prior to the designation of same as an historic landmark or historic landmark site, or the inclusion of same in an historic district.

C. Designation of Historic Landmarks, Historic Landmark Sites and Historic Districts.

- 1. Based on its own surveys and upon the recommendation of concerned citizens, the Committee shall identify historic landmarks, historic landmark sites and historic districts within the Township which are worthy of preservation because of their historical, cultural, social or architectural significance in that they possess integrity of location, design, setting, materials, workmanship and:
  - (a) Are associated with events that have made a significant contribution to the history of the Township, state or nation; or
  - (b) Are associated with the lives of persons significant in our past; or
  - (c) Embody the distinctive characteristics of a type, period or method of construction, represent the work of a master, or possess high artistic values; or
  - (d) Have yielded, or may be likely to yield, information important to prehistory or history.

2. The Committee shall thereafter notify each owner

by certified mail that his property has been tentatively designated an historic landmark, advise him of the significance and consequence of same and of his right to challenge such designation. The Committee shall as soon thereafter as practicable hold a public hearing at which all interested persons shall be entitled to present their opinions, suggestions and objections. It shall, however, invite each owner to voluntarily consent to final designation without the need for public hearing or other procedure.

3. After full consideration of the evidence brought forth at the public hearing held on any such tentative designation, the Committee shall make its final decision and shall issue its final report to the public stating reasons in support of its actions with respect to each historical landmark, historical landmark site and historic district designation.

4. Such final report shall be submitted to the Township Clerk. The Mayor and Township Committee shall then approve or disapprove of the designation, informing the Committee of any and all objections.

5. Following approval by the Mayor and Township Committee, certificates of designation shall be served upon the owner of the site so designated, and a true copy thereof shall be filed with the county clerk for recordation in the same manner as certificates of lien upon real property. Notice of the designation shall also be made to the Building Inspector.

D. Preservation of Landmarks-Controls.

1. Upon receipt of an application for a permit to perform any alteration, construction, restoration or demolition upon any property located within a historic district or designated an historic landmark or historic landmark site, the Building Inspector shall refer the application to the Committee for its review.

2. Within thirty (30) days after receiving a copy of the application, the Committee shall determine:

(a) Whether the proposed work would change, destroy or adversely affect any exterior architectural feature of the historic landmark, historic landmark site or historic district.

(b) In the case of a proposed construction of a new improvement, or additional improvement upon a landmark site, whether such construction would affect adversely the external appearance of existing landmark improvements on the site in question or on neighboring sites.

3. The Committee shall consider in addition to any pertinent matters, the factors of aesthetic, historical and architectural values and significance, architectural style, design, arrangement, texture and material. Within the thirty (30) day period the Committee shall invite the applicant to

discuss the proposed alteration and may convene a public hearing on the subject. If the Committee determines either of the foregoing questions in the negative, it shall forward a certificate of appropriateness to the Building Inspector, which certificate shall be sufficient authority for the issuance of the permit applied for originally. If after thirty (30) days the committee has made no report to the Building Inspector, a permit shall be issued pending approval of the application by the Building Inspector.

4. Should the Committee conclude that the proposed alteration would have a significant effect detrimental to the importance of the historic landmark, historic landmark site or historic district in question, an official notice of postponement shall be submitted to the Building Inspector which shall operate to bar the issuance of the permit for a period not to exceed six (6) months. Reasons for postponing for a specified time within six (6) months limit shall be forwarded with the official notice.

5. During the postponement period, the Committee shall explore all possible means of preserving, to the greatest extent possible, the historic landmark, historic landmark site or historic district in question, including, but not limited to: negotiations with the owner toward voluntary compromise as to the manner of alteration or renovation; convening public hearings designed to elicit public opinion concerning the merits and alternate means of preservation of the landmark in question; instigation of condemnation action by the Township or State Government; and exploration and solicitation of any tax or other fiscal benefits having the potential to relieve the owner of any unreasonable financial burdens resulting from his inability to do the work proposed.

6. Upon resolution of the factors underlying the notice of postponement, a notice to proceed shall issue from the Committee to the Building Inspector specifying the terms of the resolution or compromise reached between the Committee and the owner.

7. Upon receipt of the notice to proceed, the Building Inspector shall issue an appropriate permit sufficient to authorize the alteration or construction as described in such notice.

8. If, at the expiration of the period of postponement, no resolution or compromise agreement is reached and no action has been taken by the Township or state condemnation of the property in question, a permit authorizing the alteration or construction work as originally applied for shall be issued by the Building Inspector without the need for further Committee action.

E. Decertification by Committee. In the event the owner of any property located within a designated historic district or designated a historic landmark or historic landmark

site abandons such property or fails to maintain it, the Committee in its discretion may decertify its designation. Following such action, a notice of decertification shall be served upon the owner of the site so effected or shall be posted at the site in the event of abandonment. A true copy thereof shall be also filed in the office of the Building Inspector and with the County Clerk for recordation.

Section 31-5. Funding.

1. The Mayor and Township Committee shall annually appropriate funds, within budget limitations, for the operation of the Committee. The Committee shall endeavor to avail itself of financial assistance from Federal, State or private sources.

2. If any provision of this Ordinance is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the Ordinance and the applicability thereof to other persons and circumstances shall not be effected thereby.

3. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

4. This Ordinance shall take effect at the time and in the manner provided by law.

Introduced: February 23, 1978

Adopted: March 23, 1978

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