

PINELANDS MODEL HISTORIC PRESERVATION ORDINANCE
SEPTEMBER 1988

NEW JERSEY PINELANDS COMMISSION

A MODEL HISTORIC PRESERVATION ORDINANCE FOR THE PINELANDS

New Jersey Pinelands Commission
P.O. Box 7
New Lisbon, New Jersey 08064
(609) 894-7300
September, 1988

This document was prepared with the assistance of an Historic Preservation Fund Grant from the U.S. Department of the Interior, National Park Service. Grant funds are administered by the Office of New Jersey Heritage, N.J. Department of Environmental Protection.

TABLE OF CONTENTS

	Page
Preface	3
Introduction	10
Statement of Purpose	11
Establishing an Historic Preservation Commission	12
Designation Process	14
Publication of Designation List	15
Certificates of Appropriateness	16
Standards for Certificates	17
Undesignated Areas	19
Preventive Maintenance	21
Model Ordinance	23

PREFACE

The first local historic preservation ordinance in the United States was enacted by the city of Charleston, South Carolina in 1931. Thereafter, that city's lead was followed only slowly by other communities until the mid 1960's, when interest in local regulations to preserve historic sites began to become widespread. The number of historic ordinances increased eightfold between 1965 and 1975 and has more than doubled since that time. At present there are approximately 1000 historic preservation commissions with various levels of review power throughout the country.

The extent to which a municipality may regulate development in historically sensitive areas is determined by the enabling legislation enacted by the state. In New Jersey a number of communities had established historic districts and commissions under an indirect statutory authority which has recently been clarified by amendments to the Municipal Land Use Law (MLUL). These amendments provide for the creation of "historic preservation commissions" and

detail their powers and duties and the manner in which they are appointed.

Municipal historic preservation commissions (HPC) in this state may be created by the local governing body and are to consist of five, seven or nine members. Members are appointed for four year terms by either the mayor or the planning board chairman, as are any alternate members (maximum of two) who serve for two years. The membership must include individuals knowledgeable in architectural history or design and in local history and these members need not be township residents. The remaining members, comprising no more than a simple majority of the commission, and the alternates must be local residents who hold no municipal office or employment other than being on the planning board or board of adjustment.

The duties of a local historic preservation commission can be purely advisory in nature or can include a decision making capacity. Commissions are charged with the responsibility to prepare an historic sites survey and advise the planning board on matters relating to historic preservation in the master plan and the capital improvement program. With regard to actions on development applications, the MLUL allows for commissions either to direct the administrative officer to issue or deny a permit or to recommend action on a permit to the planning board.

Municipalities in the State of New Jersey that include land in the Pinelands Area must also conform to the Pinelands Comprehensive Management Plan (CMP). The CMP contains specific provisions for the protection of historic and cultural properties, including standards and procedures for designating significant historic sites and for evaluating proposals for altering or developing such sites. The standards for designating sites are very similar in scope and content to the criteria used to determine eligibility for inclusion in the National Register of Historic Places. To be designated, a structure, site or object must be associated with persons, institutions or events of significance to Pinelands culture; or be representative of an architectural style of importance to the Pinelands; or have the potential to yield research information integral to an understanding of local or regional culture. If an individual wishes to modify, remove or demolish a designated site, he must apply for a certificate of appropriateness before work can begin. Approval of the certificate is contingent upon the proposed project's degree of compliance with certain clearly defined standards. These include, among others, the impact upon the historical characteristics of the designated resource, the compatibility of the new design with historic elements and the degree to which the proposal conforms to federally defined standards for preservation projects.

The Pinelands Commission has recently adopted a cultural resource management plan (CRMP) which provides further guidance to municipal authorities for the preservation of their local heritage. This plan is intended to aid in the identification, evaluation and treatment of historic period sites within their jurisdiction. Sites are organized into functionally related categories called "resource groups" which provide reference points for a comprehensive approach to the identification of historic resources. A proper framework for the identification of sites is critical at the local level as well. The CRMP establishes a uniform structure for the evaluation of the significance of historic resources identified by a qualified professional during the course of a survey. Evaluation of any individual site is accomplished essentially through the criteria employed in the CMP. Significance is determined through a series of questions which assess the relationship

of the site to each criterion. If a site is determined to be significant, there are formulae for fixing the correct type of treatment and detailed measures pursuant to each type.

The Pinelands model historic preservation ordinance contains provisions which conform to the CRMP, the CMP and the MLUL and should satisfy the preservation imperatives of Pinelands municipalities. Each town in the Pinelands is unique and the configuration of cultural resources in each, as well as the development potential and the necessary treatment prescriptions, are not duplicated elsewhere. The model must be adapted to answer the requirements of each local situation. Considerable care must be exercised in applying the model to ensure both that the full range of local resources are adequately protected and that the provisions are not redundant with or conflict with other ordinance requirements.

Many variations on the basic tenets of an historic district ordinance can and do occur in local ordinances, both within New Jersey and elsewhere. Although this model is comprehensive and meets all the requirements of the relevant legislation, it is by no means the only approach that can be taken to the declaration and regulation of historically sensitive areas. For example, the model provides standards for procedures which a planning board, with counsel from a HPC, can use to identify sites and districts eligible for historic designation. Alternatively, a specific district can be defined within an ordinance and the procedures for identifying and designating other areas can be omitted. The model also grants the local commission the power to approve or deny certificates of appropriateness for permits not issued pursuant to planning board or board of adjustment approvals, such as a building permit. However, an ordinance can be structured so that the boards retain this power and the commission assumes only an advisory role.

The actions which will require a certificate of appropriateness (i.e., the types of historic site development or alteration) are to a large extent governed by provisions in the CMP and include, "construction ... encroachment upon ... alteration, remodeling, disturbance or demolition." A municipality may at its discretion enact even more restrictive measures. For instance, some local ordinances contain provisions which regulate exterior paint colors. These provisions are only legally defensible, though, if they seek to reproduce color schemes that prevailed during a certain historic period. Information regarding acceptable colors and color combinations should be maintained by the HPC and should be easily available to applicants.

Municipalities seeking to adopt measures for the protection of historic sites should examine not only this model ordinance but local ordinances already enacted as well. The experiences of other townships in enforcing their historic provisions will no doubt prove to be an invaluable aid in designing an effective ordinance. In addition, municipal officials should consult the following publications at a minimum which provide background information and some innovative alternatives worthy of consideration in any draft. However, caution should be exercised in the selection of possible provisions, since many will not conform to the Comprehensive Management Plan or to current state legislation regarding the content of historic ordinances. The CMP requires specific procedures and remedies for certain categories of actions and these do not generally comport with most local ordinances and model ordinance provisions.

- Recommended Model Provisions for a Preservation Ordinance, with Annotations. 1980. Available from the National Trust for Historic Preservation, 1785 Massachusetts Avenue, N.W., Washington, D.C. 20036
- Preparing an Historic Preservation Ordinance, by Richard J. Roddewig. 1983. Planning Advisory Service Report Number 374; available from the American Planning Association, 1313 E. 60th Street, Chicago, I11 60637
- New Jersey's Certified Local Government Guidelines. 1985. Available from the New Jersey Historic Preservation Office (N. J. Department of Environmental Protection), P.O. Box 404, Trenton, N.J. 08625
- Preserving New Jersey: A Handbook for Municipal Historic Preservation Commissions. 1986. Available from Preservation New Jersey, 180 Township Line Road, Belle Mead, N.J. 08502
- Annotated Version of New Jersey Historic Preservation Enabling Legislation. 1986. Available from Preservation New Jersey (see above).

INTRODUCTION

Since all Pinelands municipalities are required to include a historic preservation element in their land use ordinance, the following model provisions are presented as an amendment to the local zoning ordinance. Although the Comprehensive Management Plan (CMP) does not specify where historic preservation provisions are to be incorporated into local regulations, the Municipal Land Use Law (MLUL) clearly indicates that these controls must be in the zoning ordinance. Particular care must be applied in adopting this draft to ensure that contradictory portions of the existing zoning ordinance are deleted and that the major sections of the draft ordinance are inserted in the correct places.

The draft amending ordinance contains five separate sections, which include both the substantive additions to the current land use ordinance and technical procedures relating to passage and implementation. Other sections will also have to be drafted which state which existing ordinance provisions are being deleted or revised. The sections of the model are as follows:

- Section 1 is a general amending provision to the local zoning ordinance
- Section 2 includes the substance of the recommended standards

- Section 3 contains definitions required by the ordinance
- Section 4 includes standard severability provisions
- Section 5 specifies how the amending ordinance will take effect

Following is an explanation of some of the major elements of Section 2, which is the heart of the model ordinance. Some possible alternative provisions which conform to the MLUL and the CMP are also suggested.

STATEMENT OF PURPOSE

Although the body of case law in New Jersey regarding historic ordinances is not great, it is obvious from cases elsewhere that a clear statement of purpose is essential to a successful ordinance. The statement, whether drafted as prefatory "whereas" clauses or in the body of the ordinance, should adequately describe the historical characteristics which the municipality seeks to protect and relate them to legitimate governmental goals and functions.

The model ordinance presents a representative statement of purpose. However, it is advisable that municipal officials take the time to individualize the statement, tailoring it to the particular types of resources in the township. The more specific the statement is in detailing the focus of the local concern and the reasons for that concern, the stronger will be the foundation upon which the ordinance rests.

ESTABLISHMENT OF HISTORIC PRESERVATION COMMISSION

The draft ordinance proposes a five member Historic Preservation Commission (HPC) with two alternates, a majority of whom will be residents holding no other municipal office, except that one individual may also be a member of the Planning Board or Board of Adjustment. There is a series of restrictions imposed by the MLUL on such dual membership and these should be carefully reviewed before a Planning Board member is appointed to the HPC. The mayor will appoint the membership, which must include an historian and an architect/architectural historian.

Alternatives - The ordinance can be structured so that:

- 1) The HPC comprises a larger membership (seven or nine) to include more citizen members and preservation specialists. The architect/architectural historian and historian positions must jointly comprise at least three positions on a seven member board and at least four positions on a nine member board.
- 2) The chairman of the Planning Board, rather than the mayor, appoints the members.
- 3) Dual membership on the HPC and the Planning Board, Board of Adjustment or any other municipal office is prohibited. This would obviate any confusion over interpreting the eligibility requirements in the MLUL.

4) A certain percentage of the Class C members of the HPC must be residents of an historic district, if one has been created.

ROLE OF THE HISTORIC PRESERVATION COMMISSION

As proposed, the HPC functions in both a decision 'making and an advisory capacity. It offers recommendations to the Planning Board on the designation of landmarks and historic districts and it counsels both the Planning Board and Board of Adjustment on the propriety of development applications submitted for their approval. The Commission makes decisions on all other development proposals (those which either do not require Planning Board or Board of Adjustment approval or involve historic preservation issues not addressed by the boards) which affect landmarks or historic district resources.

Alternative - The ordinance can be structured so that the Commission assumes a purely advisory role to the Planning Board and Board of Adjustment, recommending action on designations and Certificates of Appropriateness.

DESIGNATION PROCESS

Two types of historic resources can be designated, individual "landmarks" or "historic districts." The draft ordinance provides that the Historic Preservation Commission conduct a survey and develop a recommended designation list which is referred to the Planning Board. The Planning Board may then recommend it to the governing body for adoption by ordinance.

Alternative - If a municipality already has in mind a particular historic area which it wishes to protect, the ordinance can be designed to reference the district specifically and define its boundaries. In any event the designated area must constitute an overlay on the existing zoning districts.

It is advisable that the initial survey and designation list be completed on National Register of Historic Places forms or New Jersey State Inventory forms and be coordinated with the Office of New Jersey Heritage (CN 404, Trenton, New Jersey 08625). This will allow the municipality to apply for State/National Register status for the district, which provides it with a measure of protection from state and federal projects and enhances the possibility of grant funding.

The municipality may wish to allocate funds for the survey to be completed by a professional consultant. Matching grant moneys are available from the Office of New Jersey Heritage and the resulting survey is likely to be completed more accurately and sooner than by volunteer help.

PUBLICATION OF DESIGNATION LIST

Once adopted by the governing body, a certificate of designation is to be sent by the Commission to the owner of each designated property - and to the county clerk for recording in the same manner as a lien.

Alternatives - The ordinance can be structured so that:

- 1) The manner in which the designation is recorded can be left to the discretion of the county clerk, to avoid any connotations associating the process with a lien.
- 2) The notification of owners included on the final designation list (Section 4 .G .) could be accomplished by publication in the official newspaper rather than by certified mail. Since owners would already have been personally notified regarding the tentative list, a second mailing might be too expensive particularly in large historic districts.

CERTIFICATES OF APPROPRIATENESS

Once a site has been designated, a Certificate of Appropriateness must be issued before a change in its exterior appearance is permitted. The Planning Board or the Board of Adjustment generally issues the certificate for development applications which otherwise require their approval; the HPC issues the certificate in all other instances. (Under the Pinelands Comprehensive Management Plan, the Pinelands Commission may also designate sites and these are referred to as "Pinelands Designated". The requirements for Certificates of Appropriateness apply in the same manner as for Township designated sites except that there is an additional requirement for notification of the Commission). Repainting, repairs and interior alterations are exempted from the requirement to obtain a Certificate of Appropriateness.

Alternatives - The ordinance can be structured so that:

- 1) The HPC functions in a purely advisory capacity, in which case the Planning Board and Board of Adjustment would issue all Certificates of Appropriateness.
- 2) A greater variety of actions requires a Certificate of Appropriateness. The range of activities is largely at the discretion of the municipality. Local ordinances often regulate the choice of exterior paint colors because of their immediate visual impact. If so, the HPC should maintain a list of acceptable colors. The list should be based on the spectrum of colors commonly in use during the landmark's or district's period of historic significance.

STANDARDS FOR CERTIFICATES OF APPROPRIATENESS

The draft ordinance contains standards which govern seven activities affecting landmarks, historic districts or Pinelands Designated sites. These cover: alterations or additions; relocations; demolition; subdivision; disturbance to archaeological sites; maintenance of signs; and the application of visual standards relative to districts.

Since these proposed standards will set the tone for historic preservation, they should be carefully reviewed before the draft ordinance is finalized. Of particular note are the sign standards and a proposed requirement that all existing signs within an historic district or associated with landmarks receive a Certificate of Appropriateness.

Alternatives - There are, of course, innumerable alternatives to the recommended standards. With regard to some of the specific provisions, the ordinance can be structured so that:

1) The requirement for a Certificate of Appropriateness could be extended to include existing signs as well as new signage. Owners of signs in existence, at the time the historic preservation ordinance is adopted could be given a specified number of years in which to obtain a Certificate of Appropriateness. Local officials should, however, consult their municipal attorney before adopting such a provision. Efforts to improperly restrict or remove existing signs may raise an issue regarding the right to free speech. Local officials may also wish to review signage provisions adopted by other municipalities, such as Princeton and Cape May City, which may include innovative approaches.

2) The emergency provisions allow for other local officials, such as the construction code official, to issue a Certificate of Appropriateness in the event of the mayor's absence.

"UNDESIGNATED" AREAS

Although the survey undertaken by the Historic Preservation Commission will serve to identify many of the important known sites, there will undoubtedly be other unknown resources (primarily, but not exclusively, archaeological sites) which may go unnoticed.

So that these sites are not inadvertently lost, the draft ordinance requires that a cultural resource survey accompany all applications for "development" (as defined in the CMP, this would include such actions as construction of a single family home, but excludes lesser activities such as most building additions or alterations to existing structures) in a Pinelands Town or Village and applications for major development elsewhere. The need for a survey can be waived by the Planning Board or Board of Adjustment or by the Pinelands Commission, however, if it is determined that significant cultural resources are not likely to be present on the property.

If the Planning Board determines that a site "eligible" for landmark or historic district status or Pinelands designation exists on the property, it will follow the Certificate of Appropriateness standards in its review of the proposed development. Should the Board disapprove the application, it must seek formal designation of the site from the Pinelands Commission and the local governing body. If formal designation by either party is not accomplished within one year, the Board may no longer apply the Certificate of Appropriateness standards to that property. This system preserves the integrity of the formal process set forth for landmark, historic district and Pinelands designation, yet still offers temporary protection to historic sites while they are being considered for designation.

The Pinelands Commission has completed a review of all Pinelands Towns and Villages intended to define which portions of each are historically sensitive. This review should considerably reduce the area subject to the survey requirement for small development projects. Copies of the report, which includes maps of all the historically sensitive areas, are available from the Commission.

Alternatives - The ordinance can be structured so that:

1) Surveys are required for both major and minor subdivision and site plan approvals in a Pinelands Town or Village and only for major subdivisions and site plans elsewhere. The Pinelands definition of "major development" (generally five or more residential lots, commercial/industrial development on sites of more than 3 acres, or land disturbance in excess of 5,000 square feet) would eliminate the survey requirement for certain types of smaller developments, but could also create confusion since it may not be consistent with the township's definition for "major subdivision".

2) The section listing the "Actions Requiring a Cultural Resource Survey" (Section 7.A.) governs all activities which require a municipal permit, - regardless of whether they involve changes to an old structure. This would ensure that all resources of possible significance, not only architectural, but archaeological also, are evaluated and protected. It would, however, put a heavy burden on the Planning Board, considering the large number of applications that would require its review.

PREVENTIVE MAINTENANCE

An ongoing issue in most preservation efforts relates to the maintenance of recognized historic resources. Although an important issue, it is often a controversial one. The draft ordinance includes an affirmative requirement that landmarks and districts must be properly maintained and establishes a process for the municipality to correct any maintenance problems if the owner fails to act.

Alternative - The municipality could choose not to establish ordinance standards for preventive maintenance at this time, but to direct that the HPC study the issue and report on its recommendations to the governing body and Planning Board.

ORDINANCE

An Ordinance Amending an Ordinance of the Township of _____, in t h e County of _____ and the State of New Jersey, Entitled “_____”.

BE IT ORDAINED AND ENACTED by the (MUNICIPAL GOVERNING BODY) of the Township, of _____, in the County of _____ and the State of New Jersey, as follows:

SECTION 1. This ordinance amends the _____ Township _____ Ordinance. Ordinance # _____.

SECTION 2. Delete (Article) _____ in its entirety and add the following:

ARTICLE _____

Historic Preservation Commission and Cultural Resource Protection

1. Purpose

The purpose of this ordinance is generally to provide a means to safeguard the historic and cultural heritage of (NAME OF MUNICIPALITY) and to promote that unique and invaluable heritage for the education, edification and economic benefit of the Township and its visitors. More specifically, this ordinance is intended to:

- A. preserve to the extent possible the physical remnant of the historical, cultural and social history of the Township which has been handed down and enriched by succeeding generations; and
- B. protect this heritage of the past upon which the character, lifestyle and very quality of life in the Township are in great measure dependent; and
- C. promote the preservation and continued use of historic landmarks and districts, as an essential element of municipal character and identity and as an important factor in the economy of the municipality; and
- D. contribute to the education and civic-mindedness of the Township's young people; and
- E. regulate development and redevelopment which threaten such landmarks; and
- F. conform to the New Jersey Pinelands Comprehensive Management Plan which recognizes the importance of the region's historical, cultural, and social heritage and seeks to preserve this heritage; and
- G. ensure the welfare of the municipality which is dependent on the preservation of its past for the reasons set forth above.

2. Historic Preservation Commission

A. Membership

There is hereby created a commission to be known as the (NAME OF MUNICIPALITY) Historic Preservation Commission. The Historic Preservation Commission shall consist of five regular members, a first alternate and a second alternate. The regular membership shall include at least one member of each of the following classes :

Class A - a person who is knowledgeable in building design and construction or architectural history and who may reside outside the township; and

Class B - a person who is knowledgeable or with a demonstrated interest in local history and who may reside outside the township.

Those regular members who are not designated as Class A or Class B shall be designated as Class C. Class C members shall be residents of the municipality who hold no other municipal office, position or employment except that one member may also be a member of the Planning Board or Board of Adjustment, in accordance with N.J.A.C. 40:55D-23 and 40:55D-69. In choosing Class C members, the Mayor shall attempt to seek out at least one individual with expertise in prehistoric and/or historic archaeology.

Alternate members shall meet the qualifications of Class C membership. The first alternate and second alternate shall serve respectively as voting members at Historic Preservation Commission meetings in the event that one or more of the regular members cannot attend or in the event that one or more of the regular members are disqualified. If vacancies occur on the Historic Preservation Commission, the first and second alternates shall serve respectively as voting members until such time as new members are appointed.

B. Terms of Office

Members and alternates shall be appointed by the Mayor and shall be designated by class and by status as alternate No. 1 or alternate No. 2 at the time of their appointment. Of the members first appointed, one shall be designated by the Mayor to serve for one year, one for two years, one for three years and two for four years. Of the alternates first appointed, the first alternate shall serve for two years and the second alternate shall serve for one year. Thereafter, the term of a regular member shall be four years; the term of an alternate shall be two years. Notwithstanding any other provision herein, the term of any member common to the Historic Preservation Commission and the Planning Board shall be for the term of membership on the Planning Board and the term of any member common to the Historic Preservation Commission and the Board of Adjustment shall be for the term of membership on the Board of Adjustment.

Vacancy appointments shall be made within 60 days of the date of the vacancy and shall be only for the balance of the unexpired term. Members and alternates shall be eligible for reappointment.

A member of the historic preservation commission may, after public hearing if he requests it, be removed by the (MUNICIPAL GOVERNING BODY) for cause.

C. Officers

The Historic Preservation Commission shall elect from its membership a chairman and a vice-chairman who shall serve for a term of one year and be eligible for re-election.

D. Operational Rules

The Historic Preservation Commission shall adopt rules and procedures for the transaction of its business subject to the following requirements:

- (1) a quorum for the transaction of business shall consist of a majority of the Historic Preservation Commission's members, including the chairman, or in his absence, the vice-chairman; and
- (2) The Historic Preservation Commission shall appoint a secretary who need not be a member. The secretary shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, and decisions. All such materials shall be public records in accordance with the Open Public Meetings Act (N.J.S.A. 10:4-7 et seq.).

E. Compensation for Historic Preservation Commission Members

The Historic Preservation Commission members shall serve without compensation but shall be reimbursed for expenses incurred in the performance of official business.

F. Conflicts of Interest

No Historic Preservation Commission member shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest.

G. Consultant Services and Materials

Within the limits of funds appropriated for the performance of its work and any additional grants and gifts, the Historic Preservation Commission may obtain the services of qualified persons to direct, advise and assist the Historic Preservation Commission and may obtain the equipment, supplies and other material necessary to its effective operation

. 3. Powers and Duties of the Historic Preservation Commission

The Historic Preservation Commission shall:

- A. prepare and adopt a recommended historic district (s) and landmark (s) designation list and map which shall then be referred to the Planning Board and the (MUNICIPAL GOVERNING BODY) for adoption according to the provisions of this Article;
- B. hear and decide on applications for Certificates of Appropriateness in accordance with the provisions of Section 6 of this Article;
- C. recommend amendments, as circumstances warrant, to the historic district(s) and landmark(s) designation list and map in the manner set forth in this Article;
- D. report at least annually to the Planning Board and the (MUNICIPAL GOVERNING BODY) on the state of the historic preservation plan element of the master plan and recommend measures to improve same;

- E. advise the Planning Board on the inclusion of historic sites in the recommended capital improvement program;
- F. review this and all other Township ordinances and report to the Planning Board and the (MUNICIPAL GOVERNING BODY) on their impact on historic resources;
- G. collect and disseminate material on the importance of historic preservation and techniques for achieving same;
- H. advise all municipal agencies regarding goals and techniques of historic preservation;
- I. review all National Register of Historic Places nominations in coordination with the Office of New Jersey Heritage; and
- J. adopt and promulgate such procedures not inconsistent with this ordinance as are necessary and proper for the effective and efficient operation of the duties herein assigned.

4. Designation of Landmarks and Historic Districts

A. Historic Survey

The Historic Preservation Commission shall make a comprehensive survey of (NAME OF MUNICIPALITY) for the purpose of identifying historic districts and landmarks which are worthy of protection and preservation.

Based on the survey or upon the recommendation of concerned citizens, the Historic Preservation Commission shall: document the importance and historic significance to the municipality, region, state or nation of each proposed landmark and historic district designation according to the criteria established in the definitions of "landmark" and "historic district" contained in (REFERENCE TO "DEFINITIONS" SECTION OF THE ORDINANCE): and prepare a tentative nomination list and map of such proposed landmarks and historic districts.

B. Publication of Tentative Designation List

The Historic Preservation Commission shall, as soon as practicable, make public a complete list and map of the tentatively designated landmarks and historic districts, specifying the locations, boundaries and popular names thereof and, in each case, the reason for such tentative designation.

C. Owner Notification

Upon completion of the survey and the tentative nomination list and map, the Historic Preservation Commission, by certified mail, shall within _____ days:

- (1) notify each owner that his property has been recommended for designation as an historic landmark or as part of an historic district and the reasons therefor; and
- (2) advise each owner of the significance and consequences of such a designation and advise him of his opportunity to participate in the public hearing held pursuant to the provisions of Section 4D hereof.

D. Public Hearing

The tentative list and map shall within days thereafter be presented at a public hearing held by the Historic Preservation Commission for the examination and criticism of the public. Interested persons shall be entitled to present their opinions, suggestions, and objections at this public hearing. A list and map showing all proposed historic districts and landmarks shall be published, together with notice of the hearing, in the official newspaper of the Township not less than 10 days before such hearing is to be held.

After full consideration of the evidence brought forth at the public hearing, the Historic Preservation Commission shall make its final recommendations on such designations and shall issue its final report to the public stating reasons in support of its recommendations with respect to each landmark and historic district.

E. Submission to Planning Board

The Historic Preservation Commission's report shall within ___ days thereafter be submitted to the Secretary of the Planning Board. The Planning Board shall then determine whether to recommend adoption, rejection, or modification of the Historic Preservation Commission's proposed designations to the (MUNICIPAL GOVERNING BODY). The Planning Board shall clearly specify its findings with respect to a recommendation to reject or modify the Historic Preservation Commission's proposed designations and shall incorporate into the Township Master Plan all the proposed designations which it has recommended for adoption.

F. Submission to (MUNICIPAL GOVERNING BODY)

Upon action by the Planning Board, the Board's recommendations shall be submitted to the township clerk. The (MUNICIPAL GOVERNING BODY) shall then consider whether to enact the designation list and map as part of the (MUNICIPAL ZONING ORDINANCE). Upon enactment, the requirements of Section 6 of this Article shall govern all such designated landmarks and historic districts.

G. Publication of Final Designation List and Map

Copies of the designation list and official map as enacted by the (MUNICIPAL GOVERNING BODY) shall be made public and distributed to all municipal agencies reviewing development applications and all construction, zoning, and other permits. The Historic Preservation Commission shall serve a certificate of Designation by certified mail upon the owner of each designated site, 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.

H. Designation Plaque

Each designated historic district or landmark may be marked by an appropriate plaque, in such form as the Historic Preservation Commission shall promulgate and with the permission of the owner of the designated. site.

I. Removal of Designation

Any resource designated by the (MUNICIPAL GOVERNING BODY) in accordance with Section 4.A-G or Section 5 of this Article may be removed from designation if the (MUNICIPAL GOVERNING BODY) determines that the resource no longer meets the criteria set forth in the definitions of landmarks and historic districts.

5. Amendments to the Designation List and Map

B. Application for Landmark or Historic District Designation

Once enacted, the designation list and map may be amended by submission to the Planning Board of an application for landmark or historic district designation. Amendments may be proposed by any interested person or party.

B. Application Requirements

(1) An application for historic district or landmark designation shall be submitted on a National Register of Historic Places Inventory-Nomination Form with the accompanying information listed in the State and National Register Manual as published by the New Jersey Department of Environmental Protection. The application shall contain the following information:

- a. statement detailing the basis for designation with reference to the criteria set forth in the definitions of landmarks and historic districts in (REFERENCE TO "DEFINITIONS" SECTION OF ORDINANCE);
- b. one or more photographs, if appropriate, together with descriptive captions, illustrating the features of the proposal which support its designation; and
- c. a detailed description of the present and original, if known, condition of

any structure or site proposed for designation, including a detailed architectural description, if applicable; and

- d. one or more maps clearly identifying the boundaries of the area proposed for designation and a written statement justifying those boundaries on the basis of the criteria set forth in the definitions of landmarks and historic districts.

- (2) Upon receipt of an application for landmark or historic district designation, the Planning Board shall refer a copy of the application to the Historic Preservation Commission for review and comment. Upon a recommendation from the Historic Preservation Commission, the Planning Board may request further information from the applicant in order to complete a thorough review of the application.

C. Owner Notification

If the designation is proposed by anyone other than the property owner, the Historic Preservation Commission shall notify the owner in the same manner as provided in Section 4C of this Article.

D. Action on Amendments

Action on the application for an amendment to the designation list and map shall be taken in accordance with Sections 4D through 4H of this Article.

3. Certificates of Appropriateness

A. Actions Requiring a Certificate of Appropriateness

- (1) A Certificate of Appropriateness shall be required before any permit or development approval is issued for any of the following or, in the event no other type of permit or approval is otherwise required, before work can commence on any of the following activities on the property of any landmark, within any historic district, or on a Pinelands Designated site:
 - a. Demolition or destruction of an archaeological remnant or any other portion of a landmark, a Pinelands Designated site or an improvement within any historic district.
 - b. Relocation of any landmark or Pinelands Designated site or of any improvement within any historic district.
 - c. Change in the exterior appearance of any existing landmark or Pinelands Designated site or of any improvement within any historic district or Pinelands Designated site by addition, alteration or replacement.

- d. Any new construction of a principal or accessory structure.
 - e. Changes in or addition of exterior lighting or new signs such as are otherwise regulated by this Ordinance, except that no Certificate of Appropriateness shall be required for a designation plaque installed pursuant to Section 4H of this Article.
 - f. Subdivision into two or more lots of any lot on which is situate a landmark, historic district site or Pinelands Designated site.
- (2) An application for a Certificate of Appropriateness shall be submitted to the Administrative Officer who shall make a copy available to the Historic Preservation Commission. The Administrative Officer shall also make a copy available to the Planning Board or Board of Adjustment, as the case may be, in accordance with the provisions of Section 6.A. (4)-(5) of this Article.
 - (3) The Historic Preservation Commission shall issue Certificates of Appropriateness for any and all activities otherwise requiring a Certificate of Appropriateness unless such Certificate has been issued by the Planning Board of Adjustment pursuant to subsections (4) or (5) below.
 - (4) The Planning Board shall issue Certificates of Appropriateness for all applications for development which otherwise require its approval pursuant to the Municipal Land Use Law, P.L. 1975, c. 291 provided that a complete application for a Certificate of Appropriateness has been submitted by the applicant in conjunction with the said application for development. The Historic Preservation Commission shall review the applications and provide a written report to the Board on the issuance of the Certificate of Appropriateness in accordance with Section 6B of this Article.

In the event that a complete application for a Certificate of Appropriateness has not been submitted to the Planning Board in conjunction with the application for development, the Historic Preservation Commission shall be responsible for issuing the Certificate of Appropriateness.

- (5) The Board of Adjustment shall issue Certificates of Appropriateness for all applications for development which otherwise require its approval pursuant to the Municipal Land Use Law, P.L. 1975, c. 291 provided that a complete application for a certificate of appropriateness has been submitted by the applicant in conjunction with the said application for development. The Historic Preservation Commission shall review the applications and provide a written report to the Board on the issuance of the Certificate of Appropriateness in accordance with Section 6B of this Article.

In the event that a complete application for a Certificate of Appropriateness has not been submitted. to the Board of Adjustment in conjunction with the application for development, the Historic Preservation Commission shall be responsible for issuing the Certificate of Appropriateness.

- (6) Repair of a landmark, historic district site or Pinelands Designated site, as defined in (REFERENCE TO "DEFINITIONS" SECTION OF ORDINANCE) of this ordinance, shall not require a Certificate of Appropriateness, nor shall repainting or interior alterations.

B. Referral of Applications to the Historic Preservation Commission

The Planning Board and Board of Adjustment shall make available to the Historic Preservation Commission a copy of every application submitted to either board for development on the property of any landmark, within any historic district or on a Pinelands Designated site. Failure to make the copy available shall not invalidate any hearing or proceeding. The Historic Preservation Commission may provide its advice which shall be conveyed through 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. Application Requirements

(1) No application for issuance of a Certificate of Appropriateness shall be deemed complete by the Administrative Officer unless it includes the following information:

- a.. Detailed plans depicting the exact work to be performed, including detailed renderings of the exterior of any proposed new sign or structure or any exterior alterations to existing structures. A delineation of the relationship of the renderings of the proposal in relation to adjacent structures or surrounding lands may be requested.
- b. A statement of the relationship of the proposed work to the standards for landmark and historic district designation and for Pinelands Designation, if applicable, and the standards for approval of Certificates of Appropriateness.
- c. In the event the requested Certificate of Appropriateness, if issued, would permit the demolition or relocation of a landmark, historic district site or Pinelands Designated site, a detailed analysis of the economic feasibility of maintaining the structure in its present form, including the amount paid for the property; date of purchase; the current assessed value of the lands and improvements; real estate taxes for the previous two years; the annual debt service, if any, for the previous two years; gross income from the property

for the previous two years; and annual cash flow, if any.

- d. In the event the requested Certificate of Appropriateness, if issued, would permit the maintenance of an existing sign, photographs of the sign and a narrative description, including the age, location, dimensions, materials and type of illumination, if any.
- e. A statement of measures to be taken to mitigate any adverse effects of the proposed work on the landmark, historic district site or Pinelands Designated site, including recording procedures for the site in its present state, if appropriate.
- f. If the proposed work involves the disturbance of an archaeological remnant on the property of a landmark, historic district site or Pinelands Designated site, a statement describing the mitigation program proposed and the qualifications of those professionals who will be conducting data recovery operations.
- g. If the proposed work involves a Pinelands Designated site or if it involves development associated with a landmark or historic district subject to Pinelands Commission .review pursuant to (REFERENCE TO EXISTING ORDINANCE PROVISIONS REGARDING NOTIFICATION OF THE PINELANDS COMMISSION) of this ordinance, evidence that the procedures relating to notification of the Pinelands Commission have been met.
- h. Any other information which the Historic Preservation Commission determines is necessary to evaluate the application.

D. Standards for the Issuance of a Certificate of Appropriateness

- (1) In determining whether to approve, disapprove or approve with conditions the issuance of a Certificate of Appropriateness, the Planning Board, Board of Adjustment or Historic Preservation Commission, as the case may be, shall first consider which of the following general treatment prescriptions shall apply:
 - a. Preservation of the resource in place if possible;
 - b. Preservation of the resource at another location if preservation in place is not possible: or
 - c. Recordation of the resource if neither preservation of the resource in place or at another location is possible.
- (2) Preservation of the landmark, historic district site or Pinelands Designated site in

place is the preferred treatment and shall be required unless all of the following conditions apply:

- a. continuation of the present use of the resource is not feasible;
- b. the resource cannot reasonably be modified for the proposed use;
- c. adaptation of the resource for an alternative use is not feasible;
- d. a bona fide offer of sale of the resource for purposes of preservation at the present location has been tendered for a reasonable period without an acceptable response.

(3) Preservation of the landmark, historic district site or Pinelands Designated site at another location shall be required if preservation in place is not possible, unless one of the following conditions applies:

- a. relocation of the resource is not feasible because of obstructions or impediments that prevent relocation;
- b. because no suitable alternative site is available;
- c. the condition of the structure precludes its removal to another site;
- d. relocation would not serve to protect those qualities that led to its designation;

(4) Thorough and complete recordation of the landmark, historic district site or Pinelands Designated site shall be required if preservation in place and preservation at another location are not possible, unless one of the following conditions applies :

- a. the resource has been disturbed, altered or modified to such an extent that recordation will not contribute to an understanding of its historic character or evolution;
- b. the information provided by recordation would be redundant.

(5) The following requirements shall apply to the treatment specified in Section 6.D.(1)-(4) above:

- a. Preservation in Place:
 - i. Historic buildings and structures, architectural features, and engineering features;

- (a) Deed covenants, easements, or other appropriate mechanisms must be developed to provide that: any rehabilitation of the building or feature must be performed in accordance with the Secretary of the Interior's Standards for Rehabilitation (36 C.F.R. 67); and the structure or feature must be protected sufficiently to preserve those qualities that make it significant.
 - (b) Before beginning rehabilitation, the original condition of the building or other architectural or engineering feature must be documented photographically in accordance with the Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation.
- ii. Archaeological sites and archaeological remnants associated with historic structures;
- (a) A deed covenant, easement, or other appropriate mechanism must be developed to provide for protection, through restricted access if necessary, to preserve those qualities that make the resource important. Any on-site activities must have no detrimental effect on the preservation of the resource. The covenant or other appropriate mechanism must further direct that any stabilization of the resource will be carried out in conformance with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation.
 - (b) The archaeological resource shall be incorporated into open space whenever project designs or land use activities permit.
 - (c) Sufficient land shall be allocated for resource preservation if the preservation of the resource is not compatible with other activities.
- iii. Construction or maintenance of a sign:
- (a) The size, shape and character of the sign shall be in keeping with the historic character of the landmark, historic district site or Pinelands Designated site on which the sign is located. The size of the sign shall not exceed _____ square feet (and shall otherwise conform to [REFERENCE TO OTHER ORDINANCE PROVISIONS REGULATING SIGNAGE, IF APPROPRIATE]) . The Historic Preservation Commission shall have the option of approving a larger sign under the following conditions:
 - (i) a larger sign is needed in order to provide reasonable visibility to passers-by; or

- (ii) a larger sign is needed in order to conform to the scale of the building; or
 - (iii) a larger sign is needed in order to reproduce accurately a sign in use at the site fifty or more years ago; or
 - (iv) a larger sign is needed in order to provide sufficient space to display the copyrighted symbol of a national corporation or organization.
- (b) The signage for a particular building or shop shall be reduced to the fewest separate panels or statements as possible.
- (c) Signs on buildings shall not obliterate or obscure the architecture of the building. A sign on a building shall be compatible or integral with it.
- (d) Obsolete signage from defunct activities shall be removed unless it is an integral part of the structure's architecture or history.
- (e) Many forms of modern lighting of signs are incompatible with the historical integrity of a landmark or historic district site. Such lighting shall conform to the following provisions:
 - (i) flashing, intermittent or moving type illumination shall not be permitted;
 - (ii) backlit fluorescent signs, signs illuminated by neon or other gaseous elements or materials and all other self-illuminated signs shall not be permitted;
 - (iii) floodlighting shall be so shielded that the source of light shall not be visible from any point of the lot on which the sign, building, or structure being illuminated is erected, and so that only the sign is directly illuminated.
- (f) Signs shall be installed so as to be flush with the exterior wall of the site unless it enhances the historic characteristics of the site.
- (g) Interior signs which are intended to be viewed from the outside of the building or structure shall conform to the requirements of this section, insofar as they are applicable.
- iv. If the proposed work involves new construction, an alteration or an addition within an historic district, the following factors shall be

used in determining the visual compatibility with the buildings and places to which the worksite is visually related:

- (a) Height. The height of the proposed building shall be visually compatible with adjacent buildings.
- (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 on 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, texture and color. The relationship of materials, texture and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related.
- (h) Roof shapes. The roof shape of a building shall be visually compatible with buildings to which it is visually related.
- (i) 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 with the buildings and places to which it is visually related.
- (j) 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.

(k) Directional expression of front elevation. A building shall be visually compatible with buildings and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.

v. Subdivision into two or more lots:

(a) Subdivision for purposes of new construction shall not be permitted unless the information required in Section 6.C(1) of this Article indicates that the proposed work meets the standards of Section 6.D. (5)a.

(b) Subdivision for purposes other than new construction shall not be subject to the provisions of this Article.

b. Preservation at Another Location:

i. Deed covenants, easements, or other appropriate mechanisms must be developed to provide that: any rehabilitation of a building or feature must be performed in accordance with the Secretary of Interior's Standards for Rehabilitation (36 C.F.R. 67): and the structure or feature must be protected and maintained sufficiently to preserve those qualities that make it significant.

ii. The relocation of the resource must be designed to minimize the damage to the resource and to preserve those qualities that make it significant. The relocation shall be undertaken in accordance with the Secretary of the Interior's publication, "Moving Historic Buildings".

iii. The resource shall be recorded to the requirements of the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation prior to removal from its original location. Minimally this will include the preparation of a site plan, sufficient archaeological investigation to document the resource and any associated features, appropriate photographs and/or drawings, and a narrative description of any historic functions or processes carried out at the site.

iv. If the relocation will involve construction or maintenance of a sign at the new location, the provisions of Section 6. D. (5) a. iii. of this

Article will apply.

- v. If the relocation site is within an historic district and the project will involve new construction or an alteration or addition to the landmark at the new location, the provisions of Section 6.D. (5) a. iv. of this Article shall apply.

- c. Recordation:

In the event that the proposed work involves the disturbance of an archaeological site or the demolition of, or additions or alterations to, a building or structure, issuance of a Certificate of Appropriateness shall be conditioned upon full documentation of the affected resource by a qualified professional according to the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation, including the Guidelines for Recovery of Scientific, Prehistoric, Historic and Archaeological Data (36 CFR 66).

- E. Determination by the Municipal Agency

Within 45 days of receipt of a complete application for a Certificate of Appropriateness, the Planning Board, Board of Adjustment or Historic Preservation Commission, as the case may be, may approve, disapprove or approve with conditions the issuance of a Certificate of Appropriateness upon determining that the proposed plans are or are not in conformity with this Article. Failure to act within the 45 day period shall be deemed to constitute approval of the issuance of a Certificate of Appropriateness without conditions.

- F. Issuance of a Certificate of Appropriateness

Issuance of a Certificate of Appropriateness shall be deemed to be the final action pursuant to this Article, subject to the provisions of Section 6H hereof. Such approval shall neither cause nor prevent the filing of any collateral application or other proceeding required by any other article or ordinance to be made prior to undertaking the action requested concerning the landmark, historic district site or Pinelands Designated site. A Certificate of Appropriateness shall be valid for a period of one year.

- G. Denial of a Certificate of Appropriateness

Denial of a Certificate of Appropriateness shall be deemed to be a final action pursuant to this Article and shall preclude the applicant from undertaking the activity applied for concerning the landmark, historic district site or Pinelands Designated site.

H. Pinelands Commission Review

Any Certificate of Appropriateness which is subject to the Pinelands Area review procedures specified in Section 6C(1)g of this Article shall be submitted to the Pinelands Commission for its review pursuant to (REFERENCE TO EXISTING ORDINANCE PROVISIONS REGARDING NOTIFICATION OF THE PINELANDS COMMISSION). No such Certificates of Appropriateness shall take effect until this review has been completed.

I. Emergency Provision

Notwithstanding any other provisions of this Section, in any case where the Construction Code Official determines that alteration, remodeling or demolition of a designated structure is necessary to remedy a condition that is dangerous to life, health or safety, a Certificate of Appropriateness which is required under the provisions of this Section may be issued with the signature of the Mayor under the following conditions:

- (1) The Certificate of Appropriateness shall describe and justify the action which is being taken to correct the condition.
- (2) The action which is being taken shall be the minimum necessary to correct the condition.
- (3) If the proposed work involves a Pinelands Designated site or if it involves development associated with a landmark or historic district subject to the Pinelands Commission review pursuant to - (REFERENCE TO EXISTING ORDINANCE PROVISIONS REGARDING NOTIFICATION OF THE PINELANDS COMMISSION) of this ordinance, the Construction Code Official shall immediately seek the concurrence of the Pinelands Commission with regard to the action being taken in accordance with N.J.A.C. 7:50-6.158.
- (4) The Certificate of Appropriateness shall require that the standards of Section 6.D. of this Article shall be applied to the extent possible.

J. Right of Judicial Appeal

Nothing herein shall be deemed to limit the right of any party to judicial review of a decision by the Planning Board, Board of Adjustment or Historic Preservation Commission on a Certificate of Appropriateness.

7. Development in Undesignated Areas

A. Actions Requiring a Cultural Resource Survey

- (1) No person shall carry out any development within the Pinelands Area without first obtaining approval from an approval agency in accordance with N.J.A.C. 7:50-3.38.
- (2) All applications for development approval which are located within (REFERENCE TO ALL PINELANDS TOWN AND VILLAGE ZONES) shall be accompanied by a cultural resource survey unless such requirement is waived pursuant to Section 7.R.(2) of this Article.
- (3) All applications for approval of major development within (REFERENCE TO ALL OTHER ZONES WITHIN THE PINELANDS AREA) shall be accompanied by a cultural resource survey unless such requirement is waived pursuant to section 7.B. (2) of this Article.

B. Waiver of Survey Requirement

- (1) The requirement for a cultural resource survey within the Pinelands Area may be waived if a letter of interpretation that a survey is not required has been issued by the Pinelands Commission or, absent any Pinelands Commission determination, upon a waiver of the requirement by the Planning Board or the Board of Adjustment.
- (2) The Planning Board or Board of Adjustment may waive the survey requirement if it determines that:
 - a. There is insufficient evidence of cultural activity on the project site or, in the case of archaeological resources, within the vicinity; or
 - b. The evidence of cultural activity on the site lacks the potential for historical significance because further recording of the availability data will not contribute to a more comprehensive understanding of Pinelands culture; or
 - c. The evidence of cultural activity on the site fails to meet the criteria for designation set forth in the definitions of landmarks and historic districts.

C. Survey Requirements

The cultural resource survey shall be completed according to guidelines established by the Planning Board after consultation with the Historic Preservation Commission. Surveys shall only be undertaken by individuals who meet the professional qualifications published in the Code of Federal Regulations, 36 CFR 61. At a minimum the survey shall include the following:

- (1) Background research on the natural environment, i.e., soils, vegetation, drainage, topography, land use and geomorphology;
- (2) Documentary background research sufficient to determine the presence of recognized historic or prehistoric sites of consequence. This research shall include a determination as to the presence of any historic districts, landmarks, or Pinelands Designated sites in the project area as well as any sites listed on the National or State Register of Historic Places;
- (3) Consultation with professional and a vocational archaeologists, architectural historians and other preservationists knowledgeable with the area;
- (4) A thorough surface inspection of the entire project area;
- (5) Sufficient archaeological excavations, if appropriate, to determine the nature and extent of any cultural resources encountered or anticipated;
- (6) Sufficient documentation, including photographs as appropriate, of any architectural resources to allow a determination as to their level of preservation and significance; and
- (7) A final report which details the results of the preliminary research and the field investigation and includes an opinion as to the eligibility of any cultural resources uncovered according to the criteria set forth in the definition of a "landmark" in (REFERENCE TO "DEFINITIONS" SECTION OF THE ORDINANCE). Should a site be determined not to be significant, the evaluation must determine whether the resource constitutes a site with sufficient remains pursuant to N.J.A.C. 7:50-6.157(a). A site with sufficient remains is one which presents graphic evidence of a cultural activity (that is, human alteration of the natural landscape for purposes of occupation or extended use) but which is not found to be significant.

D. Protection of Identified Sites

- (1) The Planning Board or Board of Adjustment, as the case may be, shall review the results of the cultural resource survey to determine if the proposed action will have an effect upon any site it deems eligible for landmark or historic district status or Pinelands Designation. Before making any such determination, the Board shall solicit the opinion of the Historic Preservation Commission with regard to the eligibility of any sites for designation.
- (2) If the Board determines that no site eligible for landmark or historic district status or Pinelands Designation will be affected by the development as proposed, no further action pursuant to this Article shall be required.
- (3) If the Board determines that the proposed development will have an effect upon an eligible site and does not meet the standards set forth in Section 6D of this Article, it shall deny a Certificate of Appropriateness and immediately recommend designation of the eligible site to the Pinelands Commission and the (MUNICIPAL GOVERNING BODY).
- (4) Should the Pinelands Commission or the (MUNICIPAL GOVERNING BODY) not enact such recommended designation within one year of its receipt from the Planning Board, the standards of section 7 of this Article shall thereafter not apply to the site in question.

This provision in no way shall be construed to inhibit Pinelands Designation or Planning Board administration of the standards of this Article pursuant to Pinelands Designation.

- (5) If additional documentation of sites determined to have sufficient remains will provide information beyond that provided in the application for development or the cultural resource survey, these sites shall be documented to include:
 - a. A narrative description of the resource and its cultural environment;
 - b. Photographic documentation to record the exterior appearance of buildings, structures, and engineering resources;
 - c. A site plan depicting in correct scale the location of all

buildings, structures, and engineering resources; and

- d. A New Jersey State Inventory form for buildings and a narrative description of any process or technology if necessary to elaborate upon the photographic record.

E. Discoveries After Construction Has Commenced

If archaeological data is discovered on a site, at any time after construction has commenced, the developer shall immediately cease construction, notify the Planning Board, the Historic Preservation Commission and the Pinelands Commission, and take all reasonable steps to protect the data in accordance with the Guidelines for Recovery of Scientific, Prehistoric, Historic and Archaeological Data (36 CFR 66).

Within ___ days after it has been notified by the developer, the Planning Board shall determine whether a cultural resource survey will be required and shall notify the Pinelands Commission of its determination.

If a survey is required, it shall be completed according to the requirements of Section 7C of this Article. The Planning Board shall review the results of the cultural resource survey and solicit the opinion of the Historic Preservation Commission with regard to the eligibility of any sites for designation, according to the criteria set forth in the definition of a "landmark" in (REFERENCE TO "DEFINITIONS" SECTION OF THE ORDINANCE).

If the Planning Board determines that a site eligible for designation will be affected by the development, resumption of construction shall be conditioned upon full documentation of the affected resource by a qualified professional according to the Guidelines for Recovery of Scientific, Prehistoric, Historic and Archaeological Data (36 CFR 66).

8. Violations

Any person who undertakes an activity regulated by this Article without first having obtained a Certificate of Appropriateness shall be in violation of this Article. Prior to prosecution for such a violation, the (LOCAL OFFICIAL DESIGNATED FOR ENFORCEMENT) shall serve upon the owner notice of the violation, describing in detail its nature and the action which the owner must take to abate the violation. If the owner cannot be personally served with the notice, a copy shall be posted on the site and a copy shall be sent, certified mail, return receipt requested, to the owner at his last known address as it appears on the municipal tax rolls. In

the event that the violation described within the notice is not abated within the time provided within such notice, the owner shall be deemed in violation of this ordinance and shall be subject to the penalties set forth in (REFERENCE TO APPROPRIATE SECTION OF THE ORDINANCE).

4. Preventive Maintenance

A. Need for Maintenance of Landmarks

Recognizing the need for preventive maintenance to insure the continued useful life of landmarks and structures in historic districts, the (MUNICIPAL GOVERNING BODY) hereby declares that code enforcement pertaining to landmarks and structures in historic districts is a high municipal priority.

B. Procedures for Maintenance of Landmarks and in Historic Districts

In the event that any landmark or improvement in an historic district deteriorates to the point that, in the best estimate of the Construction Code Official, the cost of correcting the outstanding code violations equals more than twenty-five (25%) percent of the cost of replacing the entire improvement on which the violations occur, the (MUNICIPAL OFFICIAL DESIGNATED FOR ENFORCEMENT) shall serve personally or by certified mail, a notice on the owner of the landmark or improvement listing the violations, the estimate of cost for their abatement, and the replacement cost of the improvement and stating that if the owner does not take all necessary remedial action within ninety (90) days, or such extensions as the (MUNICIPAL GOVERNING BODY) shall for good cause grant, the municipality may, at the expiration of 90 days, enter upon the property and abate such violations itself and cause the cost thereof to become a lien on the property.

- (1) Upon receipt of such notice the owner may, within 10 days after such receipt, notify the (MUNICIPAL GOVERNING BODY) of his wish to have a hearing as to the allegations and estimates set forth in the notice. Such hearing shall be conducted by the (MUNICIPAL GOVERNING BODY) and shall, so far as possible, be a formal adversary proceeding in which the Construction Code Official shall establish the matters alleged in the notice by a preponderance of the evidence.

If a hearing is requested, the (MUNICIPAL GOVERNING

BODY) will within 10 days following the hearing serve on the owner an opinion in writing setting forth the conclusions and the reasons therefor.

- (2) Thereafter, if the owner does not comply, the Construction Code Official 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.
- (3) The Construction Code Official shall then certify to the (MUNICIPAL GOVERNING BODY) the cost of such work, plus all administrative, clerical and legal costs and overhead attributable thereto and shall present same to the (MUNICIPAL GOVERNING BODY).
- (4) The (MUNICIPAL GOVERNING BODY) 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.

SECTION 3. Revise and add as appropriate the following definitions in (REFERENCE TO "DEFINITIONS" SECTION OF THE ORDINANCE):

ADDITION - the construction of a new improvement as part of an existing improvement when such new improvement changes the exterior appearance of the existing improvement.

ALTERATION - any work done on any improvement which is not an addition and which changes the exterior appearance of any improvement.

CERTIFICATE OF APPROPRIATENESS - a certificate issued by the Planning Board, Board of Adjustment or the Historic Preservation Commission in accordance with (SECTION NUMBER) of this ordinance for the subdivision, construction, alteration, additions to, relocation, improvement, removal, or demolition of a landmark, historic district or part thereof, or a Pinelands Designated site or a site which has been determined to be eligible for landmark status.

DEMOLITION - the razing of any improvement or the obliteration of any natural feature of a lot.

HISTORIC DISTRICT - one or more landmarks and intervening surrounding property significantly affecting or affected the quality and

character of the landmark or landmarks.

IMPROVEMENT - any structure or part thereof constructed installed upon real property by human endeavor and intended to be kept at the location of such construction or installation for a period of not less than sixty consecutive days.

LANDMARK - any real property, man-made structure, natural object or configuration or any portion or group of the foregoing which has been formally designated in the master plan as being significant because it possesses integrity of location, design, setting, materials, workmanship, feeling and association which reflects significance in American history, architecture, archaeology or culture under one or more of the following criteria:

- a. it is associated with events of significance to cultural, political, economic or social history; or
- b. it is associated with the lives of persons or institutions of significance to cultural, political, economic or social history; or
- c. it represents the work of a master, or possesses high artistic value or embodies the distinctive characteristics of a type, period or method of construction of significance to cultural, political, economic or social history; or
- d. it has yielded or is likely to yield information significant to history or prehistory.

All landmarks must be so designated by the (MUNICIPAL GOVERNING BODY) in accordance with the provisions of (SECTION NUMBER) of this ordinance and shall be deemed to include the lots on which they are located.

PINELANDS DESIGNATED - the term used for any real property designated by the Pinelands Commission as an historic or prehistoric resource of importance in accordance with N.J.A.C. 7:50-1.1 et seq. Pursuant to the Pinelands Comprehensive Management Plan, the Township recognizes that these resources must be protected in a manner comparable to that afforded to landmarks.

REPAIR - any work done on any improvement which is not an addition to

the improvement and which does not change the exterior surface of any improvement.

SECTION 4. Severability and Relation to Other Ordinances and Statutory Provisions

- A. If any section, part, phase, or provision of this ordinance or the application thereof to any person be adjudged invalid by any court of competent jurisdiction, such judgement shall be confined in its operation to the section, part, phrase, provision, or application directly involved in the controversy in which such judgement shall have been rendered and it shall not affect or impair the validity of the remainder of this ordinance or the application thereof to other persons.

- B. In the event of an inconsistency, ambiguity or overlapping of requirements between this ordinance and any other requirement enforced by the township, the more restrictive shall apply, to the extent that state or federal legislation has not pre-empted the township's power to enforce more stringent standards.

- C. Nothing contained herein shall supercede the powers of other local legislative or regulatory bodies. Nothing contained herein shall relieve any property owner of complying with the requirements of any other state statutes or municipal ordinances or regulations.

SECTION 5. Effective Date

This ordinance shall take effect immediately after passage and publication in the manner provided by law and upon compliance with N.J.A.C. 7:50-6.45, concerning revision of this ordinance by the Pinelands Commission.

THE PINELANDS COMMISSION
September, 1988

Federal Appointee James W. Coleman, Jr.

Gubernatorial Appointees

Candace McKee Ashmun Far Hills

B. Rudd Chavooshian Trenton

Thomas Darlington New Lisbon

James W. Hyres Jackson

Stephen V. Lee, III Chatsworth

Judith Norcross Moorestown

Richard J. Sullivan, Chairman Hamilton Square

County Appointees

Ann Auerbach Camden

Alan Avery Ocean

William J. Brown Cape May

Michael J. Hogan Burlington

Brian Lefke Atlantic

K. Brian McFadden, Vice-Chairman Cumberland

Vicki Snyder Gloucester

Terrence D. Moore Executive Director