

Chapter 10. Historic sites & districts

40:10-1. Title

This Chapter shall be known as and may be cited as the Newark Landmarks and Historic Preservation Regulations.

40:10-2. Definitions

Administrative Officer shall mean the Historic Preservation Officer. In the event that the Historic Preservation Officer is not appointed, the Director of City Planning or his/her designee shall serve as the Administrative Officer.

Alteration shall mean any act or process that in any way effects a change in the design or outer appearance of a building, structure, object or site, or any part thereof.

Application shall mean an application form and all accompanying documents submitted for approval of a permit for alteration, repair, reconstruction, demolition or relocation of a designated historic site, building, structure or object, or improvement within a designated historic district or review of a development application concerning same.

Archaeological shall mean the science or study of the material remains of past life or activities and the physical site, location, or context in which they are found, as delineated in the Department of Interior's Archaeological Resources Protection Act of 1979.

Architectural shall mean relating or conforming to the rules of Architecture; having or conceived as of having a single unified overall design, form, or structure.

Architectural Feature shall mean the architectural style, design, general arrangement and components of all the surfaces, including but not limited to the kind, texture and color of the building material, and the type and style of all windows, doors, lights, signs and other features appurtenant to such improvement.

Building shall mean any structure, part of a structure, extension thereof, or addition thereto having a roof supported by columns, posts, piers, or walls and

intended for the shelter, business, housing or enclosing of persons, animals, or property.

Certificate of Appropriateness shall mean a document attesting that proposed work within a historic district or affecting a landmark building, structure, object, site or landscape feature has been reviewed and deemed appropriate and consistent with the purpose of this Chapter by the Newark Landmarks and Historic Preservation Commission.

Certificate of No Effect shall mean a document attesting that proposed work within a historic district or affecting a landmark building, structure, object, site or landscape feature has been reviewed by the Historic Preservation Officer and has been deemed not detrimental to the historic district or landmark on which the work is to be done or neighboring buildings, structures, objects, sites or landscape features.

Commission shall mean the Newark Landmarks and Historic Preservation Commission.

Construction shall mean the act of: (a) adding an addition to an existing building or structure; (b) the erection of a new principal or accessory building or structure on a lot or property; or (c) alterations.

Days shall mean calendar days.

Demolition shall mean the dismantling or razing of all or part of any historic site or landscape feature of or any improvement in a historic district.

Development shall mean the division of a parcel of land into two (2) or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or of any mining excavation or landfill, and any use or change in the use of any building or structure, or land or extension of use of land, for which permission may be required pursuant to this Title.

Historic District shall mean one (1) or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and

character of the historic site or sites.

Historic Tree shall mean a tree that has been found to be of notable historic interest to the City because of its age, type, size or historic association and which has been so designated and that designation has been officially made and promulgated as part of the official records of the municipality, county, or state.

Historic Registry shall mean a listing of all historic sites, buildings, districts or structures within the City of Newark as recorded by the City Clerk.

Historic Site shall mean any real property, building, manmade structure, natural object or configuration or any portion or group of the foregoing of historical, archaeological, cultural, scenic or architectural significance.

Improvement shall mean any building, structure, work of art or other object installed upon real property or any part of such improvement.

Minor Application shall mean an application for approval of actions on a designated historic site, building, structure or object which consists of ordinary maintenance and repair as defined herein.

Object shall mean anything constructed, fabricated or created, the use of which does not require permanent or semi-permanent location on or in the ground.

Ordinary Maintenance shall mean the repair or renewal of deterioration, wear or damage to a structure or improvement in order to return same, as nearly as practicable, to its condition prior to the occurrence of such deterioration, wear or damage with materials and workmanship of the same quality and appearance of the structure or improvement.

Reasonable Return shall mean on the average rate of return for properties similar to and in the same area as the improvement parcel under consideration for the purposes of this Chapter for the year proceeding the application as arrived at through certified appraisals, records of sale, and any other research.

Reconstruction shall mean the act or process of reproducing by new construction the exact form and details of a vanished building, structure, or object or part thereof, as it appeared at a specific period of time.

Rehabilitation shall mean the act or process of returning an improvement to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those orations or features of the improvements which are significant to historical, architectural and cultural values.

Relocation shall mean any removal or relocation of a structure or improvement on its site or to another site.

Responsible Person shall mean any person or persons having such right to, title to, or interest in any property or improvement so as to be legally entitled, upon obtaining the required permits and approvals from City agencies, to perform with respect to such property or improvement any demolition, construction, reconstruction, alteration, restoration or other work as to which such person seeks the authorization or approval of the Commission.

Restoration shall mean the act or process of accurately recovering the form and details of an improvement by the removal of later work and/or by the reconstruction of missing earlier work.

Stabilization shall mean the act or process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated building, object, site, structure or landscape feature while maintaining the essential form as it exists at present.

Structure shall mean a combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land. Structure includes, but is not limited to, buildings, signs, fences, tanks, towers, poles, walkways, driveways, streets and roads.

40:10-3. Criteria For Designation

40: 10-3-1. As stated in the U.S. Department of the Interior's National Register Criteria for Evaluation, promulgated pursuant to 16 U.S.C.A. Sec. 470a, the following criteria shall be used by the Commission for its review for designation of historic sites, buildings and districts: the quality of significance in National, State or municipal history, architecture, archaeology, and culture if present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feelings, and association and:

1. That are associated with events that have made a significant contribution to the broad patterns of our history; or
2. That are associated with the lives of persons significant in the past; or
3. That embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
4. That has yielded, or may be likely to yield, information important in prehistory or history.

40: 10-3-2 Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past fifty (50) years shall not be considered eligible for nomination; however, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

1. A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
2. A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure

most importantly associated with a historic person or event; or

3. A birthplace or grave of a historical figure of outstanding importance if there is not other appropriate building, structure or site directly associated with his or her productive life; or
4. A cemetery which derives its primary significance from graves of persons of transcendent importance, from distinctive design features, or from association with historic events; or
5. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
6. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historical significance; or
7. A property achieving significance within the past fifty (50) years if it is of exceptional importance.

40:10-4. Procedures Of Designation

40: 10-4-1. Any interested party may nominate a historic landmark or district for local designation. All applications for nomination shall be submitted to the Division of City Planning. The application form shall be the National Register of Historic Places Registration Form, including all necessary attachments. The Administrative Officer shall review the application for completeness.

40: 10-4-2. The nomination shall be presented initially to the Historic Preservation Commission, followed by the Central Planning Board and then the City Council; however, in any case, a nomination must be reviewed and approved by all these bodies in order to be designated as a local landmark.

40: 10-4-3. Districts and landmarks already listed on the National or State Register of Historic Places as of May 30, 2007 shall automatically be designated a local landmark. The complete list is included as Exhibit A.¹

¹Editor's Note: Exhibit A, referred to herein, may be found on file in the office of the City Clerk.

40:10-5. Uses Of Designated Properties

40: 10-5-1. Nothing contained herein shall affect the present legal use of the designated property.

40: 10-5-2. Use classifications and bulk restrictions as to all such property shall continue to be governed by the general zoning ordinance of the City of Newark and the procedures established therein.

40: 10-5-3. In no case, however, shall any use be permitted which requires demolition, relocation, or alteration of a designated historic building, structure, site or within a designated district so as to adversely affect its character except upon compliance with the terms of this Article.

40: 10-5-4. Each designated historic site or district may be marked by an appropriate plaque in such form as the Commission shall promulgate by regulation.

40:10-6. Removal Of Designation

40: 10-6-1. Upon recommendation of the Commission based upon new and compelling evidence and negative evaluation according to the same criteria and following the same procedures set forth herein for designation, a determination may be made by the Commission to remove designation of a historic site or district.

40: 10-6-2. Such a determination must receive five (5) favorable votes, i.e., the majority of the Commission membership.

40: 10-6-3. A historic site or district shall not be removed from the historic registry of the City of Newark without consideration of the recommendation by the Commission and must be effected by ordinance adopted by simple majority of the Municipal Council.

40:10-7. Actions Requiring Review

40: 10-7-1. No building permit shall be issued or amended nor shall any construction, alteration, ordinary maintenance or repairs, or repairs or demolition be started on a designated historic building, structure or site, or within a designated historic district, prior to review by the Commission.

40: 10-7-2. A permit issued by the Administrative Officer shall be required for any of the following actions to proceed regarding a designated historic site or for any improvement within a designated historic district:

1. Rehabilitation, restoration, reconstruction, repair or alteration or change to any part of the exterior of a building, structure or site, including repainting and residing, if visible from a public street.
2. Additions to a building, structure or site, or within a district if visible from a public street;
3. Relocation of a historic site or within a district;
4. Demolition of a historic site or within a district;
5. New construction on a historic site or within a district;
6. Change in use of a historic site or within a district if such change effects a change in the exterior appearance of the site or improvement.
7. Work within the root zone of an Historic Tree without preservation methods.

40: 10-7-3. All applications for permits pertaining to designated historic sites or improvements in designated Historic Districts shall be referred to the Commission for a written report and decision on the application of the provisions of this Chapter thereto.

40:10-8. Actions Not Requiring Review

40: 10-8-1. Changes to the interior of structures;

40: 10-8-2. Changes not visible to the public from a public street.

40:10-9. Emergency Repairs

40: 10-9-1. In the event an Act of God or any other unexpected event shall cause the responsible person the need for immediate issuance of a permit to commence to stabilize, secure, repair or protect a designated historic site or any improvement in a designated historic district damaged from such event, and the Construction Code Official certifies the

immediate necessity for such issuance, an approval of a permit may be issued in accordance herewith.

40: 10-9-2. Upon notice to the full Commission by telephone, personal contact or other appropriate means of communication, at least three (3) members of the Commission shall convene as soon as possible and such convening members shall proceed to review the current conditions for which the emergency powers of this Chapter have been invoked. Subsequent to review, an approval may be issued upon a majority vote of the members convened. This approval will only apply to work which is deemed necessary for stabilization, securing, repair or protection of the historic site or improvement in a historic district.

40: 10-9-3. All other work subsequent to this must be submitted for review by the Commission under the application procedures found in Section 40:9-11, et seq., of this Chapter.

40:10-10. Informal Review

If work which would require a permit is to take place on a building, structure or site, or within a district, which has already undergone a Commission hearing and has been recommended for designation as a historic site or district, but has yet to be reviewed by the Municipal Council, the applicant shall follow the same procedure herein set forth for property already designated at which point the Commission may make recommendations as to the appropriateness of the work and its impact on this historic fabric of the site or district.

40:10-11. Application Procedures

40: 10-11-1. Persons seeking to undertake actions requiring review as per the provisions of this Chapter must submit a completed application to the Commission.

40: 10-11-2. A complete application shall consist of:

1. A completed application form.
2. For all structures and additions thereto, architectural drawings or rendering of details of the exterior of the structure, including but not limited to: cornices, brackets, windows/fenestration, brickwork, mortar, window trim and moldings, heads and sills, porches,

balusters, porch frieze, projecting elements, doors and bays shall be included with the application if available.

3. If such drawings are not available, the Commission shall have the right to require whatever documentation of the work to be performed as is necessary to make an informed decision.

4. For all structures, a detailed narrative description of the proposed scope of work (construction, alterations, repair, restoration, etc.).

5. Current photographs of the improvement.

6. Specification sheets listing all materials to be used including catalogue lot sheets, sample paint chips, etc.

40: 10-11-3. The Historic Preservation Officer shall forward the complete application to the Commission for its report, except in those instances described herein where the Chairperson of the Commission may issue the approval.

40:10-12. Commission Review Of Development And Zoning Applications

40: 10-12-1. The Central Planning Board and Board of Adjustment shall make available to the Commission every application for development submitted to either board for development in historic zoning districts or on historic sites designated on the zoning or official map or identified in any component element of the master plan.

40: 10-12-2. This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner.

40: 10-12-3. The Commission may provide its advice, which shall be conveyed through its delegation of one of its members or staff to testify orally at the hearing on the application and to explain any written report which may have been submitted.

40: 10-12-4. If a recommendation of the Commission is rejected, the Central Planning Board or Board of Adjustment, as the case may be, shall include the reasons for rejecting the recommendation in the findings of its decision on the application.

40:10-13. Commission Review Of Application For Permits

40: 10-13-1. At the request of any person seeking to undertake actions requiring review as per the provisions of this Chapter, the Commission shall schedule a hearing on his or her application. The applicant shall not be required to appear or to be represented at the meeting in which the application is being considered.

40: 10-13-2. Completed applications for approval of a permit shall be submitted to the Administrative Officer a minimum of fourteen (14) days prior to a Commission's regularly scheduled meeting.

40: 10-13-3. Applications for minor alterations and ordinary maintenance and repair may be reviewed by the Historic Preservation Officer who, at his or her discretion may issue a Certificate of No Effect, may require additional submittal information and/or refer the application to the Commission upon being deemed complete. In making such a determination the Historic Preservation Officer shall consider factors, including, but not limited to the effect of the proposed work in creating, altering, destroying or affecting the architectural features of the landmark building, structure, object, site or landscape feature upon which such work is to be done and the relationship between the results of such work and the architectural features of neighboring buildings, structures, objects, sites and landscape features. In appraising such effects and relationships, factors of aesthetic, historical and architectural values and significance, architectural style, design, arrangement, texture, material and color in addition to any other pertinent matters shall be considered.

40: 10-13-4. For all applications not issued a Certificate of No Effect, the Commission shall render a decision within forty-five (45) days the application is deemed complete. If approved, such approval shall be known as a Certificate of Appropriateness.

40: 10-13-5. If the Commission should fail to act within forty-five (45) days, the permit shall be deemed approved. Nothing herein shall prohibit an extension of time by mutual agreement between the applicant and the Commission.

40: 10-13-6. The Commission may advise the Administrative Officer or the applicant, as the case may be, and make recommendations with regard to the appropriateness of the proposed action. These recommendations may become part of the conditions for approval of an application or the basis for the rejection of an application.

1. If an application is approved with or without the imposition of conditions, a permit shall be issued promptly.

2. If the Commission disapproves an application, the Administrative Officer shall issue the permit and the Commission shall state its reasons in writing to the applicant within fourteen (14) days of such decision.

40: 10-13-7. An approval shall be valid for a period of one (1) year from the date of issue unless reasonable extensions are granted by the Commission. Requests for extensions shall be made by written request and shall rest in the sound discretion of the Commission.

40:10-14. General Standards

40: 10-14-1. The following standards, The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, promulgated pursuant to 16 U.S.C.A. Sec. 470a, shall guide the Commission's and Central Planning Board's decision/making concerning all applications and approvals described herein.

1. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

2. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the designated historic property and its environment would be unimpaired.

3. Construction of historic designs that were never built shall not be undertaken.

4. New additions, alterations or new construction in a historic landscape shall be visually differentiated from the old and shall be compatible with the historic character of the landscape.

5. Replacement of missing historic plant material or vegetation features shall be substantiated by documentary or physical evidence. The replacement plant material or features shall match the historic appearance, function and where possible, species or variety.

6. A property shall be used for its historic purpose, or shall be placed in a new use that requires minimal change to the defining characteristics of the property and its environment.

7. The historic character of a property shall be retained and preserved. The removal of historic materials, vegetation, or alteration of features and spaces that characterize a property shall be avoided.

8. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or historic features from other properties shall be avoided.

9. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

10. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

11. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary or physical evidence.

12. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials or vegetation shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

13. Significant archaeological resources shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

40:10-15. Standards For Protection

40: 10-15-1. Before applying protective measures, which are generally of a temporary nature and imply future historic preservation work, an analysis of the actual or anticipated threats to the property shall be made.

40: 10-15-2. Protection shall safeguard the physical condition or environment of a property or archaeological site from further deterioration or damage caused by weather or other natural, animal or human intrusions.

40: 10-15-3. If any historic material or architectural features are removed, they shall be properly recorded, and, if possible, stored for future study or reuse.

40:10-16. Standards For Stabilization

40: 10-16-1. Stabilization shall reestablish the structural stability of a property through the reinforcement of load bearing members or by arresting material deterioration leading to structural failure. Stabilization shall also reestablish weather resistant conditions for a property.

40: 10-16-2. Stabilization shall be accomplished in such a manner that it detracts as little as possible from the property's appearance. When reinforcement is required to reestablish structural stability, such work shall be concealed wherever possible so as not to intrude upon or detract from the aesthetic and historical quality of the property, except where concealment would result in the alteration or destruction of historically significant material or spaces.

40:10-17. Standards For New Construction

40: 10-17-1. In considering whether to approve or disapprove an application for new construction on a designated historic site or in a designated historic district, the Commission shall be guided by standards of the Secretary of the Interior and the following visual compatibility standards.

40: 10-17-2. New construction need not replicate historic older buildings or structures, but may reflect contemporary design standards so long as the design and construction is compatible with surrounding historic structures. Building height, width, mass and proportion affect the degree of compatibility between the old and the new.

1. Site and Setting: A developer intending to utilize historic resource as a part of a development must consider the context of the resource's original site by honoring the original historic intention of the resource and integrating it respectfully into the new development.
2. Building Height: Height should be visually compatible with adjacent buildings. The apparent physical size, scale and height should relate to existing resources.
3. Openings on Frontal Façades: The width and height of windows, doors, and entries must harmonize in scale and proportion with the width and height of windows, doors, and entries of buildings and structures of historic significance in the surrounding environment.
4. Relationship of Unbroken Planes to Void (i.e. Punctured Planes) in Front Façades: The relationship of unbroken planes (i.e. walls) to voids (i.e. windows and doors) on the façade of a building or structure should be aesthetically harmonious with that of buildings and structures of historic significance in the surrounding environment.
5. Relationship of Vacant Land to Buildings/Structures: The relationship of a building or structure to the vacant land between and adjoining buildings or structures should not violate the existing paradigmatic spatial relationship of historically significant structures to the vacant land between said structural projects can be varied in form by using setbacks to create open spaces and landscaping when desirable to provide harmonious visual transitions between new construction and the adjacent historic properties.
6. Relationship of Exterior Projections to the Street: The relationship of exterior projections to the street in new construction should be aesthetically harmonious with the relationship of exterior projections to the street in the surrounding existing buildings of historic

significance.

7. Relationship of Major Exterior Building Materials: The major exterior building materials on the façade of a building or on a structure should reflect the predominant major building materials existent on the façades of historically significant buildings and on structures in the surrounding environment.
8. Roof Forms: The roof form and slope of a building or structure is a major element in the visual image of the building. Therefore designers must take care to honor paradigmatically in new construction the existing historic roof forms and slopes so as not to violate the aesthetic harmony of the whole.
9. Rooftop Mechanical Structures and Rooftop Structures. Applications for the addition of rooftop mechanical structures, egress, mechanical bulkheads, utilitarian skylights or additions consisting of living space shall only be granted if such structures comply with the historic zoning regulations contained in Chapter 40:9 of this Title, as well as with the following requirements:
 - a. If the roof of the subject building on which such an addition is being proposed is not a significant feature of its design;
 - b. If the addition is not visible from a public thoroughfare or right-of-way;
 - c. If the building on which the addition is proposed does not possess a significant roof silhouette and where such addition does not interrupt the roof or skyline;
 - d. If the materials of the addition are not in the nature of utilitarian rooftop additions and if they are architecturally consistent with the existing roofscape;
 - e. The addition does not adversely affect the unified aesthetic of historic buildings in the district of which the subject building is a part;
 - f. Where the historic building on top of which the addition proposed is located is in or adjacent to a historic residential district such features shall be set back from the edge of the roof at least one (1) foot for each one (1) foot by which such features project above the roofline. However, no setback shall be required where the parapet wall is at least as tall as the rooftop mechanical structure.
10. Continuity in Visual Imagery of Appurtenances: Appurtenances of a building or structure such as walls,

fences and landscaping shall honor the relationship of appurtenances to buildings of historic significance in the surrounding environment.

11. Scale of Buildings: Scale of buildings and structures shall be in scale with the buildings and structures of historic significance.

12. Signage: Signs which are out of keeping with the character of the environment in question should not be used. Excessive size and inappropriate placement on buildings result in visual clutter. A sign should be designed to relate harmoniously to exterior building materials and colors. A sign should express a simple clear message with wording kept to a minimum.

13. Site Planning: The site planning of landscaping, parking facilities, utility and service areas, walkways, and appurtenances must reflect the site planning of landscaping, parking facilities, utility and service areas, walkways and landscape feature reticulate to buildings or structures of historic significance.

40:10-18. Standards For Relocation

40: 10-18-1. A permit to relocate a designated historic site or an improvement in a designated historic district, must receive five (5) favorable votes, i.e., the majority of the Commission membership.

40: 10-18-2. In considering whether to approve or disapprove an application for a permit for the relocation of a designated historic site or improvement in a designated historic district, the Commission shall be guided by the following considerations:

1. Whether the historic character and aesthetic interest in the building, structure or object contributes to its present setting;
2. Whether there are definite plans for the area to be vacated and what the effect of those plans on the character of the surrounding area will be;
3. Whether the building, structure, or object can be moved without significant damage to its physical integrity; and
4. Whether the proposed relocation area is compatible with the historical and architectural character of the building, object or structure.

40:10-19. Standards For Demolition

40: 10-19-1. A permit to demolish a designated historic site or an improvement in a designated historic district must receive five (5) favorable votes, i.e., the majority of the Commission membership.

40: 10-19-2. In considering whether to approve or disapprove an application for a permit to demolish a designated historic site, historic tree, or an improvement in a designated historic district, the Commission shall be guided by the following considerations:

1. Its historic architectural and aesthetic significance;
2. Its use;
3. Its importance to the City and the extent to which its historic or architectural value is such that its removal would be detrimental to the public interest;
4. The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it could not be reproduced or could be reproduced only with great difficulty;
5. The probable impact of its removal upon the ambience of the historic district;
6. The structural soundness and integrity of the building so as to comply with the requirements of the State Uniform Code;
7. The effect on the remaining portion of building, structure, site, object or landscape feature in cases of partial demolition.

40: 10-19-3. In the event that a structure is unsafe or unsound so as to pose a danger to health or safety, the power and authority of the City of Newark to demolish the structure, as otherwise provided by law, shall not be impaired or altered in any way by the provisions of this Chapter. The City shall be exempt from making an application to the Commission but shall notify the Commission prior to the demolition.

40: 10-19-4. If an application to demolish is denied, the applicant shall follow the appeal process detailed herein for denial of a permit.

40:10-20. Local Guidelines

The Commission shall utilize locally generated guidelines or historic preservation aids in addition to the Secretary of the Interior's Standards.

40:10-21. Effect Of Project Approval Or Denial; Appeals

40: 10-21-1. If a permit is approved, then the applicant may proceed to perform the work approved in the permit in compliance with the conditions attached.

40: 10-21-2. If a permit is denied, the applicant is precluded from undertaking the activity applied for.

40: 10-21-3. An applicant dissatisfied with the action of the Commission relating to the issuance or denial of a permit shall have the right to appeal to the Board of Adjustment pursuant to NJSA 40:55D-70a within twenty (20) days after receipt of notification of such action.

40: 10-21-4. The applicant shall be advised by the Clerk of the Board of Adjustment of the time and place of the hearing at which the appeal will be considered, and shall have all rights defined under N.J.S. 40:55D-70a.

40: 10-21-5. If the Board of Adjustment affirms the Commission's denial, the applicant may seek legal remedies as afforded by law.

40: 10-21-6. If, in the case of an appeal, the Board of Adjustment determines there is an error in any order, requirement, decision or refusal made by the Administrative Officer pursuant to a report submitted by the Commission, the Board of Adjustment shall include the reasons for its determination in the findings of its decision thereon.

40:10-22. Enforcement

40: 10-22-1. If any person shall undertake any activity vis-a-vis a historic building, structure, tree, or site, or within a historic district, without first having obtained a permit to do so, such person shall be deemed to be in violation of this Chapter.

40: 10-22-2. Upon learning of the violation, the Administrative Officer shall serve upon the owner or responsible party of the lot whereon the violation is occurring a notice describing the violation in detail and giving the owner fourteen (14) business days to abate the violation by restoring the historic site or improvement to its status quo ante. If the owner cannot be personally served within the municipality, the notice shall be deemed to have been officially served if a copy has been posted on site and a copy sent by certified mail, return receipt requested, to the owner at his last known address as it appears on the municipal tax rolls.

40: 10-22-3. In the event that the violation is not abated within fourteen (14) days of service or posting on site, whichever is earlier, the Administrative Officer shall cause to be issued a summons and complaint, returnable in the Municipal Court, charging violation of this Chapter.

40: 10-22-4. Any person violating any of the provisions of this Historic Preservation Ordinance of the City of Newark shall, upon conviction thereof, be subject to the penalties set forth for violation of the zoning ordinance.

40: 10-22-5. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

40: 10-22-6. Fines not paid within the time period set by law shall convert to a tax lien placed against the property and shall be recorded with the City of Newark Property Tax Office and the Essex County Register of Deeds and Mortgages.

40: 10-22-7. The Administrative Officer shall inspect work approved by a permit and report to the Commission the results of such inspections.

40:10-23. Preventive Maintenance

40: 10-23-1. The structural integrity of all historic sites and improvements in historic districts shall be preserved against decay and deterioration by being kept free from the following structural defects by the responsible person:

1. Deteriorated or inadequate foundation.

2. Defective or deteriorated floor supports or any structural members of insufficient size to carry imposed loads with safety.
3. Members of walls, partitions or vertical supports that split, lean, list or buckle due to defective material or deterioration.
4. Structural members of ceilings and roofs, or other horizontal structural members, which sag, split or buckle due to defective materials or deterioration or are of insufficient size to carry imposed loads with safety.
5. Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration or are of insufficient strength to carry imposed loads with safety.
6. Lack of weather protection.

40: 10-23-2. The responsible person shall repair the improvement within a specified period of receipt of a written order to correct defects or repairs to any improvement as provided in paragraph a. above, so that such improvement shall be preserved and protected in accordance with the purposes of this Article.

40: 10-23-3. Any such order shall be in writing, state the actions to be taken with reasonable particularity and shall specify dates for compliance which may be extended for a reasonable period of time upon request to allow the responsible person to secure financing, labor and/or materials. Any such order may be appealed to the Board of Adjustment within twenty (20) days of receipt of same.

40: 10-23-4. That taking of an appeal or the commencement of any court action hereunder shall not operate to stay any order requiring structures to be secured or requiring temporary support unless the Board of Adjustment or a court expressly stays such order.

40:10-24. Municipal Responsibility

40: 10-24-1. It is recognized that the intent and purposes of this Article would not be fully served if the City were to control the actions of others but fail to apply similar constraints to itself. Accordingly, a permit shall be required before final approval of any

City actions on public as well as private lands, streets, easements and rights-of-way for actions affecting designated historic sites, buildings, trees, or districts.

40: 10-24-2. This requirement shall be deemed to include any action by any party which requires the approval or concurrence of the City or any City agency and which is not otherwise covered by the provisions of the Article.

40:10-25. Rules Of Interpretation

40: 10-25-1. This Article shall be liberally construed to effect the purposes set forth herein. In the event that this Chapter conflicts with State law, State law shall take precedence.

40: 10-25-2. In the event that any portion of this Article is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Article actually adjudged invalid and shall not be deemed to affect the operation of any other portion hereof.

40:10-26. General

40: 10-26-1. No duties or powers of the Commission shall supersede or infringe on the powers of other City boards.

40: 10-26-2. All ordinances and all provision thereof inconsistent or conflicting with the provisions of this Article are hereby repealed to the extent of such conflict or inconsistency.

40:10-27. Injunctive Relief

In the event that any action which would permanently change adversely the historic building, structure, site or district, such as demolition or removal, is about to occur without an approval having been issued, the Administrative Officer shall apply to the Municipal Council for such injunctive relief as is necessary to prevent the destruction.

40:10-28. Newark Landmarks & Districts Maps

See maps on pages 211–235.