

2. In matters that require approval of the Hudson-Essex Passaic Soil Conservation District, the Planning Board or Zoning Board of Adjustment shall condition their approval on the final determination made by the said soil conservation district.

## **§300-13 HISTORIC PRESERVATION ORDINANCE**

### **§300-13.1 Title**

This Chapter shall be known as and may be cited as the City of Paterson Historic Preservation Ordinance. The membership, powers and duties of the Historic Preservation Commission (hereafter, Commission) are set forth herein.

### **§300-13.2 Definitions**

The following as used in this chapter shall have the meaning and scope herein given:

1. Administrative Officer shall mean the Historic Preservation Professional (HPP) appointed as per the provisions of this Chapter. In the event that the Historic Preservation Professional is vacant, the Principal Planner of the City of Paterson shall serve as the Administrative Officer of this chapter.
2. 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.
3. 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.
4. 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.
5. 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.
6. Architectural Feature shall mean the architectural style, design, general arrangement and components of all the parts and 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, cornices, ornaments, brackets, parapets, roofs, foundations, cladding, framing and other features appurtenant to the building, structure, object or improvement.
7. Architectural Survey shall mean a complete document of such similar title and intent that is executed, compiled, drafted by qualified historic preservation professionals and/or New Jersey licensed planning or building professionals in a methodology and format accepted and derived

by the State of New Jersey Historic Preservation Office. One example that is herein referenced is the most current Architectural Survey of the City of Paterson.

8. 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.
9. 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 City of Paterson Historic Preservation Commission or the Historic Preservation Professional as provided herein.
10. Certificate of No Effect shall mean a document attesting that proposed work within a historic district or affecting a designated landmark building, structure, object, site or landscape feature has been reviewed by the Historic Preservation Professional 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.
11. Certified Local Government (CLG) shall mean the New Jersey Department of Environmental Protection, Natural & Historic Resources, Historic Preservation Office (HPO) program that offers municipalities the opportunity to participate more directly in state and federal historic preservation programs. Participation in the CLG program requires that a municipality execute a Programmatic Agreement to have a historic preservation ordinance and a historic preservation commission conforming to the specifications of both the Municipal Land Use Law and the National Park Service approved CLG guidelines. As a CLG, the community is eligible to apply for Historic Preservation Fund (HPF) grants for a variety of local preservation activities. The level of funding is contingent upon the annual appropriation from the National Park Service. Grant applications are available from the HPO annually.
12. Commission shall mean the City of Paterson Historic Preservation Commission.
13. 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) all alterations to existing building or structure.
14. Days shall mean calendar days.
15. 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.
16. Design Review shall mean the process to discuss a project or request a formal review of a project by the Historic Preservation Commission. The project will be evaluated based upon the Secretary of the Interior's Standards for the Treatment of Historic Properties and any other design guidelines established for the building, site or district, or through this ordinance.
17. Design Guidelines shall mean locally-developed criteria which assist property owners, developers, architects, and others in making decisions about the appropriate treatment of

historic resources (i.e. buildings, structures, etc.) when planning repair, rehabilitation, restoration, landscape, or new construction projects. These criteria are also used by the Commission in evaluation of project proposals. Guidelines explain in more detail how to achieve the goals of Design Standards.

18. Design Standards shall mean broad methodology that assist long-term preservation of a property's significance through the preservation of historic materials and features. The goals of the standards are achievable by consulting the Guidelines.
19. Development shall mean any division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mixing, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.
20. Great Falls National Historic Landmark District (a/k/a "Great Falls Historic District") shall mean the area depicted as such on the map entitled "Paterson Great Falls National Historical Park – Proposed Boundary, numbered T3/80,001, and dated May 2008, and any maps which replace or supplement said map.
21. Great Falls National Historic Park (a/k/a "National Park; Paterson Great Falls National Historical Park; PAGR") shall mean the area established by Congress as such 16 U.S.C. § 410III(b)(1)(A) as depicted on the map entitled "Paterson Great Falls National Historical Park – Proposed Boundary, numbered T3/80,001, and dated May 2008, and any maps which replace or supplement said map.
22. 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.
23. Historic Preservation shall mean a) the application of strategies that promote the identification, evaluation, documentation, registration, protection, treatment, continued use, and interpretation of historic resources; b) the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.
24. Historic Preservation Professional (HPP) shall mean an employee or consultant with a graduate degree in Historic Preservation or a closely related field of study, plus a minimum of two years of professional experience applying the theories, methods, and practices of Historic Preservation that enables professional judgments to be made about the identification,

evaluation, documentation, registration, or treatment of historic properties in the United States and its Territories.

25. Historic Landmark shall mean the same as Historic Site.
26. Historic Site shall mean any real property, building, man-made structure, object, lot, location, park, monument, street, neighborhood, district, or any other feature of the environment that can be situated collectively or individually of historical, archaeological, cultural, scenic or architectural significance.
27. Improvement shall mean any building, structure, work of art or other object installed upon real property or any part of such improvement
28. Local Landmark shall mean the same as Historic Site or Historic District as designated by City Council pursuant to this ordinance or included within the Master Plan Historic Preservation Plan element.
29. Major Work shall mean any external modification of the type that under the Uniform Construction Code (UCC) would require a federal, state or local development approval or permits, or any construction of new "structures" as defined by the UCC. On publicly-owned lands, any work that may not require local development approvals or permits shall be considered as major work if such work on private lands would require a local development approval or permit.
30. Match shall mean either an exact or an approximate replication. If not an exact replication, the approximate replication shall be so designed as to achieve a harmonious result which exhibits the color, texture and dimensions of the original features(s).
31. Minor Application shall mean an application for approval of actions on a designated historic building, structure or object that consists of ordinary maintenance and repair as defined herein. In accordance with the UCC, a repair is confined to an area of less than 25% of the overall area of that constituent element (i.e. roofing, brickwork, fascia boards, etc.)
32. NPS shall mean National Park Service.
33. 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.
34. Ordinary Maintenance shall mean the repair or renewal of deterioration, wear or damage to a structure or improvement in order to return same as closely as possible 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, replacement or improvement.
35. Paterson Register of Historic Places shall mean a listing of all historic sites, buildings, districts, structures and objects within the City of Paterson as recorded by the City Clerk under Sec. IV of this chapter.
36. PAGR shall mean Paterson Great Falls National Historical Park.

37. 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 preceding the application as arrived at through certified appraisals, records of sale, and any other research.
38. 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.
39. 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.
40. Relocation shall mean any removal or relocation of a structure or improvement on its site or to another site.
41. Replacement shall mean the identical re-establish of a feature as an integral part of a rehabilitation project based on the essential form and detailing of that feature from other physical or historic evidence. Replacement of the entire feature with the same material is preferable.
42. 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.
43. 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.
44. 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.
45. Streetscape shall mean the appearance or view of a street and its associated features.
46. 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.
47. Temporary shall mean lasting, enduring or serving for a limited time by design, intent or fact.

**§300-13.3 Designation of the Historic Preservation Professional**

1. The Director of the Division of Historic Preservation shall serve as the Historic Preservation Professional (HPP), who is the Administrative Officer for the purposes of this Chapter.
2. The HPP must meet the minimum professional qualifications outlined in the Certified Local Government (CLG) programmatic guidelines. These include a graduate degree in Historic Preservation or a closely related field of study, plus a minimum of two years of professional experience applying the theories, methods, and practices of Historic Preservation that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic properties in the United States and its Territories.
3. In the absence of a Director of the Division of Historic Preservation, the City of Paterson Principal Planner shall serve as the Administrative Officer for the purposes of this Chapter.

**§300-13.4 Paterson Register of Municipal Historic Places**

1. The Municipal Clerk of the City of Paterson shall maintain a list of designated municipal historic places, also known as Local Landmarks. The list shall be designated "The Paterson Register of Municipal Historic Places."
2. The Paterson Register of Municipal Historic Places ("Register") shall include all historic sites and historic districts within in the City of Paterson designated by the City Council or by the Planning Board in the Historic Preservation Element of the Master Plan.
  - A. The list shall include all designations made by municipal ordinance.
  - B. The Register shall be available for public inspection both in hard copy and electronically.
  - C. Each entry in the Register shall include the effective date of adoption of the ordinance or code provision which creates the historic designation, as well as a citing reference to same.
3. Upon the designation of additional properties, the City of Paterson Municipal Clerk shall be charged with the responsibility to add the locations to the list within 60 days of passage by the City Council.

**§300-13.5 Designation of Historic Sites, Landmarks, Objects, and Districts**

1. Criteria for Designation
  - A. 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 also 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, feeling, 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, archaeological information important in prehistory or history.
- B. The designation of historic districts, sites, buildings, structures, and objects within the boundaries of the City of Paterson by the Municipal Council represents that a district, site, building, structure, or object:
- (1) Is fifty (50) or more years of age; and
  - (2) Qualifies as "significant" according to the Criteria for Significance set forth in this Section; and
  - (3) Possesses "integrity" of location, design, setting, materials, workmanship, feeling, and association, meaning that its features (including its potential archaeological deposits) have not been seriously disfigured or compromised at the time of consideration by irreversible and/or inappropriate alterations.
- C. For the purposes set forth herein, "significance" is determined in whole or part by the site's ability to meet one or more of these specific criteria:
- (1) Possesses a high degree of historic, architectural, cultural, social, or aesthetic value;
  - (2) Is associated with events that have made a significant contribution to the patterns of national, regional, or state history, or of Paterson's history, considered in international, national, regional, or local terms;
  - (3) Is associated with the lives of persons significant to the nation, state, or region, or in Paterson's past;
  - (4) Embodies the distinctive characteristics of a type of architecture or structure, including a "local vernacular"; or of a cultural and /or architectural period in which Paterson had a part; or exhibits the use of special materials or of materials of special local origin;
  - (5) Represents the work of a master engineer, designer, architect, artist, craftsperson, or other professional either by local or larger reputation;
  - (6) Possesses qualities of high artistic or aesthetic interest;

- (7) Is a significant composite of elements, even if the individual parts may not be distinguished by themselves;
  - (8) Has archeological potential, that is, has, or may yet yield important information related to history or pre-history; or
  - (9) Is already listed or qualifies as eligible for listing on the New Jersey or National Register of Historic Places.
- D. 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.

## 2. Procedures of Designation

- A. Any person, including the Commission, may propose a historic for designation and inclusion on the Register of Municipal Historic Places. The Commission may make studies and surveys of sites, buildings and districts in order to determine if same meets the criteria set forth herein for designation as historic sites or historic districts and may make its own recommendations for designation and inclusion on the Register.



- B. Nominations for designation and inclusion on the Register of Municipal Historic Places shall be presented to the Historic Preservation Commission, followed by consideration for designation by the Municipal Council pursuant to N.J.S.A. 40:55D-65.1 or action by the Planning Board pursuant to N.J.S.A. 40:55D-28b (10) indicating the location and significance of historic sites and historic districts designated to the Register of Municipal Historic Places or listed on, or eligible for, listing to the National or State Registers. In the event that a nomination is passed by the Municipal Council before the Planning Board, the Planning Board shall have thirty-five days from receipt pursuant to N.J.S.A. 40:55D-26 to hear the nomination and to take formal action, otherwise the nomination shall be deemed as passed.
- C. No historic building, structure, site or district shall be so designated without first being reviewed by the Commission. The recommendation of the Commission shall be secured in accordance with the provisions herein.
- D. All nominations shall be submitted in a form approved by the Commission including, but not limited to, the State of New Jersey and the National Register of Historic Places Nomination Forms.
- (1) Nominations for designation of historic sites and historic districts shall be submitted to the HPP, who will review the application for completeness.
  - (2) The completed applications shall be presented to the Commission at its first meeting following receipt of the application. After having reviewed all documents relating thereto, the Commission shall determine whether or not the application should be accepted for its review.
  - (3) At the same meeting, the Commission shall set a date for a public hearing (which may be a regularly scheduled meeting of the Commission) on all requests that have been accepted for review.
  - (4) At least fifteen (15) days prior to the public hearing, public notice by publication in the official newspaper shall be given notifying interested parties that the site or district has been nominated for designation. The notice shall include information as to where and when the application may be reviewed, as well as information regarding the consequences of the proposed designation and the opportunity to be heard regarding such designation.
  - (5) At the scheduled public hearing, the Commission shall afford a reasonable opportunity for the presentation of facts and the expression of views by responsible persons and/or interested parties, and may take the testimony of witnesses and receive evidence.
  - (6) After full consideration of the evidence brought forth at the hearing, the Commission shall make a recommendation and issue a report recommending designation or non-designation of historic site or historic district to the Planning Board or the Municipal Council. In the case of the Planning Board, it shall review

the Commission's report and shall issue a final report recommending designation or non-designation of the historic site or district on the zoning map of the City of Paterson to the Municipal Council.

- (7) The Commission's recommendation report shall include the following information:
- i. An explanation of the significance or lack of significance, integrity or lack of integrity of the nominated site or district as it relates to the criteria for designation.
  - ii. The relationship of the nominated site or district to the ongoing efforts by the Commission to identify and nominate all potential areas, sites, structures and buildings that meet the criteria for designation.
  - iii. A map showing the location of the nominated site or district and the boundaries of same.
  - iv. An explanation of the criteria for designation applied and how the proposed site meets those criteria.
- (8) If the recommendation of the Planning Board is that the proposed site or district not be designated in the ordinance, any new nomination for the same property or district should be based upon a showing of substantial information in redress of the Planning Board's comments.
- (9) Upon favorable action by the Municipal Council, the nominated historic site or district shall be designated on the Zoning Map of the City of Paterson and the Planning Board shall list it in the City of Paterson Register of Historic Places.
- (10) Historic districts, site and landmarks listed on the National or State Register of Historic Places shall automatically be designated to the City of Paterson Register of Historic Places and shall be considered landmarks, historic sites or historic districts under the provisions of this Chapter.

### 3. Uses of Designated Properties

- A. Nothing contained herein shall affect the present legal use of the designated property.
- B. Use classifications and bulk restrictions as to all such property shall continue to be governed by the general zoning ordinance of the City of Paterson and the procedures established therein.
- C. 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 Chapter.
- D. Each designated historic site or district may be marked by an appropriate plaque in such form as the Commission shall promulgate by regulation.

4. Removal of Designation.
  - A. 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
  - B. Such a determination must receive five (5) favorable votes, i.e., the majority of the Commission membership.
  - C. A historic site, landmark or district shall not be removed from the City of Paterson Register of Historic Places without consideration of the recommendation by the Commission and must be affirmed by ordinance adopted by simple majority of the Municipal Council.

#### **§300-13.6 Historic Marker Program**

1. The Paterson Historic Marker Program is hereby established to commemorate persons, events, municipal historic landmarks and districts prominently identified with the history of the Nation, State, or the City of Paterson.
2. A Historic Marker consists of an engraved bronze plaque or sign, erected at suitable historic sites, denoting and describing locations, events and occasions of historic significance in the City of Paterson.
  - A. Historic Marker shall be privately sponsored and not funded by the City
  - B. No Marker shall be erected to commemorate living persons.
  - C. Each proposed marker and location shall be reviewed and edited by the Historic Marker Committee of the Paterson HPC and verified by the Executive Director of the HPC.
  - D. In order for an historic event to be eligible for commemoration with a marker, the event must have occurred at least fifty years ago. Likewise, a person must have attained their historic significance at least fifty years ago in the City of Paterson. There are exceptions if the event or person is of extraordinary historic significance to the Nation.
  - E. Markers shall be erected in a safe location, at or close to the places being commemorated, and where they will be visible to the traveling public.
  - F. Any individual or group may nominate a location or occasion of historic interest for historic marker commemoration.
3. The City of Paterson Historic Preservation Commission shall have the exclusive responsibility to receive, review and approve or deny applications for historic markers in accordance with this Ordinance and criteria, rules, regulations and standards promulgated by the Historic Preservation Commission.

**§300-13.7 Historic Preservation Commission**

1. Membership. The Commission shall be made up of seven (7) members and two (2) alternate members, each appointed by the Mayor without confirmation of the Council, and shall consist of the following:
  - A. Class A: At least two (2) members who may reside outside the City who are knowledgeable in building design and construction, and possesses by completed education, license, or significant professional practice and experience from the disciplines of planning, folklore, cultural anthropology, curation, conservation, landscape architecture, architecture, engineering, history, architectural history, prehistoric, historic and industrial archaeology. The City can request from the HPO an exemption from this requirement by demonstrating that a reasonable effort has been made to appoint qualified professionals. However, when any of these disciplines is not represented, the commission shall obtain professional expertise as outlined in the CLG programmatic guidelines.
  - B. Class B: At least two (2) members who may reside outside of the city and have a demonstrated interest, competence, or knowledge in historic preservation and local history.
  - C. Class C: Two (2) members who are residents of the City of Paterson and who have demonstrated knowledge or an interest in the history and heritage of the City of Paterson. These members shall hold no other municipal office, position or employment except for membership on the Planning Board or Zoning Board of Adjustment.
  - D. Two (2) alternate members whom shall possess the same qualifications as a Class C member. At the time of their appointment, the Mayor shall designate regular members by Class and the alternate members as "Alternate No. 1" and "Alternate No.2."
  - E. Of the regular members, a total of at least one less than a majority shall be of Classes A and B.
2. Terms. Regular members shall serve for a period of four (4) years and the term of an alternate member shall be two (2) years, except for the term of any member common to the Historic Preservation Commission and the Planning Board, which shall be for the term of the membership on the Planning Board; and the term of any member common to the Historic Preservation Commission and the Zoning Board of Adjustment shall be for the term of the membership on the Zoning Board of Adjustment.
3. Vacancies.
  - A. A vacancy occurring otherwise than by the expiration of a term shall be filled for the unexpired term only.
  - B. A member may only be removed, after a public hearing if he requests it, by the City Council for cause.

- C. The Mayor shall fill any vacancy on the Commission within sixty (60) days of the position becoming vacant. A vacancy occurring by the expiration of a term that is not reappointed by the Mayor prior to the expiration date shall be considered reappointed by hold over. In this circumstance only, the Mayor may replace a hold over within sixty (60) days and the replacement shall serve for the remainder of the term. In the case that a replacement is not made within sixty (60) days from the beginning of the held-over term, the held-over commissioner cannot be replaced and shall be considered reappointed; and shall continue to serve in full force and effect for the remainder of the term.
4. Officers and Meetings.
- A. Chairperson and a Vice-Chairperson: At its first meeting and every year at the first meeting after June 30, the Commission shall elect a Chairperson and a Vice-Chairperson who shall be Commissioners.
  - B. Secretary: The Commission shall select a Secretary who may or may not be a member of the Commission or a municipal employee. The Secretary shall, at minimum, keep minutes and records of meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, decisions and applications.
  - C. Meetings: The Commission shall meet not less frequently than once per month or as often as required to meet the needs of its business, to handle emergencies, or to meet time constraints imposed by law. Additional meetings may be called by the Chairperson or Vice Chairperson when the regular meetings are inadequate to meet the needs of its business or to meet time constraints imposed by law.
5. Staff and Special Services.
- A. Professional Staff
    - (1) At its discretion, the Commission may utilize for professional staff services of the Division of Historic Preservation, which is headed by the Director of Historic Preservation. In any case the lead staff member, herein referred to as the Historic Preservation Professional (HPP), to the Commission must meet the minimum professional qualifications outlined in the Certified Local Government programmatic guidelines.
    - (2) The HPP, or his designee, shall attend the Commission's evening meetings and other evening meetings and events as required from time to time in the conduct of Commission business; The HPP shall be appropriately compensated for such services and attendance beyond normal City work hours. The professional services rendered include but are not limited to technical briefs, background and presentations on matters coming before the Commission for advice, actions and recommendations when requested; organization of and participation in public events in representation of the Commission; and when requested,

delivery of testimony on behalf of the Commission either in person or in written form.

B. Legal and Other Services

- (1) The Commission shall obtain its legal counsel from the City of Paterson Corporation Counsel unless the City Council, by separate appropriation, provides funding for separate legal counsel for the Commission. The duties of the attorney for the Commission are to advise and consult with the Commission on all legal questions pertaining to the proper and efficient conduct of the Commission in the discharge of its statutory duties; to render formal written opinions to the Commission when requested to do so; to attend all workshops and public meetings of the Commission; to consult with the HPP, Chairperson, Corporation Counsel and other city attorneys in connection with all proposals for Ordinances, revision of Ordinances, the Master Plan, revisions of the Master Plan, capital expenditure programs and any and all references from the Municipal Council to the HPP, staff and Commission; to coordinate in conjunction with the HPP and the Division of Historic Preservation staff in the preparation and formulation of all of the above assigned legal duties and such other legal duties which may arise from time to time in connection with the operation of the Commission in carrying out its mandated responsibilities.
- (2) The Commission shall select a Secretary in accordance with this Section who shall, at minimum, keep minutes and records of meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, decisions and applications. The Secretary shall attend the Commission's evening meetings and other evening meetings and events as required from time to time in the conduct of Commission business; organization of and participation in public events in representation of the Commission. If the Secretary is not a City employee, appointment, compensation and duties shall be reflected in resolution form. If a City employee, the Secretary shall be appropriately compensated for such services and attendance beyond normal City work hours.
- (3) The Commission shall be empowered to accept gifts, bequeaths, or other designations of funding or property to further its goals of preservation, conservation, promotion, and rehabilitation.

- C. If applicable, funding approval for staff and special services is subject to the existing Memorandum of Agreement between the City of Paterson and the State of New Jersey Department of Community Affairs. Funds shall not be expended without prior commitment and approval by the State in accordance with said Agreement.

6. Voting

- A. Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be

delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

- B. Four members shall constitute a quorum. A majority vote of those present and voting shall prevail.
  - C. No member of the Commission shall be permitted to act on any matter in which he has, either directly or indirectly, and personal or financial interest.
7. Expenses and Costs.
- A. The Commission may employ, contract for, and fix the compensation of experts and other staff and services as it shall deem necessary, or elect to accept staff and services assigned by the city Administration who may be employees. The Commission shall obtain its legal counsel from the municipal attorney at the rate of compensation determined by the City Council, unless the Council, by appropriation, provides for separate legal counsel for the Commission.
  - B. The Council shall make provisions in the municipal budget and appropriate such funds as it deems necessary for the expenses of the Commission, and expenditures pursuant to this section shall not exceed, exclusive of gifts or grants, the amount appropriated by the Council for the Commission's use.
  - C. The Commissioners shall be entitled to reimbursement of actual expenses reasonably and necessarily incurred in the performance of their official duties, and other compensation as referred to in this Article.
  - D. All members shall be required to attend a qualified historic preservation training event, such as a workshop or conference, each year at the expense of the city, pursuant to the requirements of the CLG programmatic agreement.
  - E. If applicable, funding approval for expenses and costs is subject to the existing Memorandum of Agreement between the City of Paterson and the State of New Jersey Department of Community Affairs. Funds shall not be expended without prior commitment and approval by the State in accordance with said Agreement.
8. Rules and Regulations. The Commission shall adopt, and may from time to time amend, by-laws concerning its administration, internal management, meeting schedules and procedures for conducting meetings and processing applications, provided that all meetings are open to the public as provided for in the "Open Public Meetings Law" (N.J.S.A. 10:4-6 et seq.). The Commission may elect a sub-committee made up of three (3) members, one of whom shall be the Commission Chairman, or it may designate its staff, to perform the following:
- A. Meet from time to time to review preliminary applications and determine, based on the criteria in §300-13.2.C, whether review by the full Commission is required.

- B. If a preliminary application does not require full Commission review, the sub-committee shall have the authority to recommend the approval, approval with conditions or denial of the application.
9. Powers and Duties. The Commission shall have the power and duty to act according to the provisions of this ordinance. Specifically, the Commission shall:
- A. Review and make written recommendations to the Construction Official on all applications for new construction, reconstruction, demolition, restoration, exterior or interior replacement, alteration or other work which would change the exterior appearance of any structure or site, including the erection or removal of signs and other improvements in the Great Falls Historic District, Downtown Commercial Historic District or within other historic districts or sites listed on the Paterson Register of Historic Places, that are referred to it from the Construction Official pursuant to N.J.S.A. 40:55D-111 and other provisions of the City of Paterson Zoning Ordinance.
  - B. Review and make written recommendations on all applications for development and all other improvements in any historic site or landmark or within any historic district that are referred to it by the Zoning Officer, Planning Board and Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-110 and other provisions of the City of Paterson Zoning Ordinance.
  - C. Develop and, from time to time, recommend amendment of specific regulations and standards for reviewing and approving any changes to structures in any historic site or landmark or within any historic district.
  - D. Develop, implement and, from time to time, amend criteria, rules, regulations and standards for reviewing, approving and installing Historic Markers.
  - E. Undertake the necessary studies, surveys and prepare reports to identify, record and maintain an inventory of all buildings, sites, places, structures, objects or landscape features of significant historical or architectural value and significance in the City which have the potential of being included as a historic district or historic landmark, including such recommendations on the Historic Preservation Plan Element of the Master Plan. Such findings and recommendations shall be presented to the City Council for action thereon, and further to the Planning Board by referral as per N.J.S.A. 40:55D-26, and also, where appropriate, to applicable County, State and Federal agencies, for the recognition of historic districts and landmark buildings, places and structures upon other registers of historic places.
  - F. Prepare a survey of historic sites and potential historic sites in the City of Paterson pursuant to criteria identified in the survey report, and that is compatible and coordinated with the statewide Inventory of the New Jersey State Historic Preservation Office (N.J.S.A. 40:55D-109a).
  - G. Advise the Planning Board on inclusion of historic sites in the recommended capital improvement program (N.J.S.A. 40:55D-109c).



- H. Make recommendations to the Planning Board on the Historic Preservation Plan Element of the Master Plan and on the implications for preservation of historic sites or potential historic sites of any other master plan elements (N.J.S.A. 40:55D-109b).
- I. Provide written reports to the Construction Official, Zoning Officer, Principal Planner and other staff, officers and elected officials on the application of the Zoning Ordinance provisions concerning historic preservation in the municipality, and to coordinate with local, County, State, Federal or national societies, governmental bodies and organizations to maximize their contributions to the intent and purposes of this Article.
- J. Review all proposed National Register of Historic Places nominations in the city in accordance with NJ CLG Guidelines.
- K. Request the Corporation Counsel to seek injunctive or other relief for violations of this Article or other actions contrary to the intent and purpose of this Article.
- L. Refer to the Division of Community Improvements and the Construction Official to inspect and enforce applicable codes and provisions of this Article.
- M. Carry out such other advisory, educational and informational functions as well as promote historic preservation in the municipality, and to maximize the City's knowledge and enjoyment of these historic resources and, as appropriate, promote these assets beyond the boundaries of the City (N.J.S.A. 40:55D-109f).
- N. The powers and duties of the Commission shall not conflict with the powers and duties of any other Board or Commissions in the City of Paterson.

### **§300-13.8 Government Consultation**

1. National Park Service – Congress authorized the establishment of the Paterson Great Falls National Historical Park in 16 U.S.C. § 410111 (2009) and directed the acquisition of lands for the creation of the National Park and the management of the future uses of the lands within the Great Falls National Historic Landmark District. The goal of the PAGR is to address the historical, cultural and natural resources associated with the Great Falls Historic District.
  - A. Review by the National Park Service
    - (1) All properties located within the Great Falls National Historic Landmark District shall be subject to review by the Commission as set forth herein.
    - (2) Upon receipt of an application for review as required herein that is related to land use development, proposed alteration to any historic resource, land, building or structure that may affect the Great Falls National Historic Landmark District, the Commission shall notify the NPS of same.
      - i. The Commission shall deliver, mail, fax or e-mail a copy of the application and/or all materials received which relate to the proposed

project to the NPS within fourteen (14) days of its receipt of such application.

(3) No real estate asset currently in public ownership shall be conveyed out of public ownership without the Park Service first approving a management and/or development plan.

i. In the event any real estate asset currently in public ownership within the Great Falls National Historic Landmark District whose redevelopment may impact the National Park is to be conveyed out of public ownership, a management and/or development plan shall be submitted by the Commission for review and approval in writing by the NPS.

ii. Such submission shall be made by the Commission by certified mail or other acknowledged form of transmission within 60 days of its receipt of the said management and/or development plan.

iii. If approved by the NPS, the approved management plan shall be included as a recorded restriction within the deed, as an attachment thereto, or it shall be recorded with the County Registrar of Deeds separately and incorporated by reference.

(4) The Commission shall work with the NPS to foster appropriate and compatible uses and building treatments within the Great Falls Historic Landmark District that will serve the objectives of preservation, education and visitor accommodations.

2. State of New Jersey – The Commission shall coordinate with the State of New Jersey and all applicable political subdivisions in ensuring compliance with historic preservation laws and rehabilitation building codes.
3. County of Passaic – When applicable, the Commission will coordinate with the County of Passaic and the Passaic County Historical Society to further the shared goals of preservation and education.

### **§300-13.9 Actions Requiring Review; Permits Required**

1. A permit issued by the Construction Official 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:
  - A. Rehabilitation, restoration, reconstruction, repair or alteration or change to any part of the exterior of a building, structure or site, including repainting and residing, replacement of windows, doors, roofing and all other architectural elements;
  - B. Additions to a building, structure or site, or within a historic district;

- C. Relocation of a historic site or within a historic district;
  - D. Demolition, partial demolition or removal of any portion or element of a historic site or within a historic district;
  - E. New construction on a historic site or within a historic district;
  - F. Change in use of a historic site or within a historic district.
2. No building permit shall be issued or amended, nor shall any construction, reconstruction, restoration, interior or exterior replacement, demolition, alteration, ordinary maintenance or repairs, or any other work, including the erection or removal of signs, be started on a designated historic building, structure or site, or within a designated historic district, prior to review by the Commission.
  3. All applications for permits pertaining to designated historic sites or improvements in historic districts shall be referred to the Commission for a written report and decision on the application of the provisions of this Article thereto.

#### **§300-13.10 Actions Not Requiring Review**

1. Changes to the interior of historic structures shall not require review except:
  - A. In cases that proposed interior changes are visible from the exterior of the structure;
  - B. In cases that the architectural significance of the historic structure is closely related to the use and layout of its interior spaces (i.e. churches, courthouses, public buildings, etc.) and/or the character defining features and finishes of the spaces.

#### **§300-13.11 Emergency Repairs**

1. In any instance in which the Construction Official certifies to the Commission that the work proposed by the applicant is necessary to remove or rectify a condition dangerous to the safety of the occupants or to the general public, the Commission shall schedule a special meeting to be held within seven (7) days of receipt of the completed application. The Construction Official in his or her certification shall indicate to the Commission what proposed work the applicant can take which will rectify the condition dangerous to the safety of the occupants or the general public. The Commission shall recommend that work, consistent with the certification of the Construction Official, which will have the most minimal impact on the historic nature, quality or character of the building. If the Commission determines that the Construction Official has provided the requisite certification, the Commission shall issue a letter of recommendation of approval or conditional approval to the Construction Official.
2. 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. Upon notice to the Chairman or Commission staff by telephone, personal contact or other appropriate means of communication, at least three (3) members of the Commission shall convene immediately and such convening members shall proceed to review the current conditions for which the emergency powers of this Article 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.

3. All other work subsequent to this must be submitted for review by the Commission under the application procedures found herein.

### **§300-13.12 Informal Review**

If work is to take place on a building, structure or site, or within a district, which is listed on any architectural survey or 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.

### **§300-13.13 Application Procedures**

1. Persons seeking to undertake actions requiring review as per the provisions of this Section must submit a completed application to the Commission which shall be accompanied by twelve (12) copies of each of the following, or as otherwise outlined to the Applicant by the Commission staff:
  - A. A completed application form, available at the Division of Historic Preservation, the Division of Planning and Zoning and Division of Community Improvements.
  - B. Appropriate signed architectural/engineering drawings, site plans, sketches and renderings delineated at a minimum of 1/8-inch scale unless otherwise agreed to by the HPP. Professional scaled drawings must be submitted in 24x36 inch size on standard bond paper. On each of these materials will be printed a title block to include: the project name and address; scale and date of drawing; revision number or version; delineator and firm name, address, license number and contact numbers; a directional (north) arrow, if appropriate.
  - C. Current photographs of existing structure(s), objects, site, streetscape to include as appropriate to the application: façades, elevations, ancillary structures, amenities, streetscape, overall site setting, current conditions details and other pertinent details

and overviews. Photographs must be numbered and notated on a separate page included with the application. Photographs may be digitally printed several to a page or be standard photographic prints.

- D. Available historic photographs and/or drawings from local public resources, including but not limited to: the Local History Room of the Paterson Public Library; the Paterson Museum; the Passaic County Historical Society; the New Jersey State Library and the State Historic Preservation Office.
- E. Existing professional consultation reports, studies, and written testimony, regarding the proposal, to include findings of fact, opinions and recommendations, prepared by appropriately accredited firms and/or individuals. Topics of interest include, for example, as appropriate to the proposal and its issues: engineering, architecture and planning, environmental assessment, cultural resources, archaeology and historical analysis. Such reports and testimony shall be dated and identify the author, firm and credentials, and shall document its referenced sources. Pursuant to fulfilling its Powers and Duties to evaluate the application, the Commission may, at its discretion, require submission of certain professional reports by the applicant if they do not already exist, or if a preexisting report is expired, outdated or inadequate.
- F. Specifications of materials to be used for all aspects of the proposal being reviewed, including but not limited to: catalog cut sheets, sample paint chips, manufacturer product specifications, plan notations, etc.
- G. A detailed and complete proposal description explaining the proposed construction, demolition, alterations, minor alterations, ordinary maintenance and repair or other proposed changes.
- H. Application fees as specified under Article III, 300-3.1.
- I. The staff shall forward the complete application to the Commission for its report, except in those instances described herein where the HPP or Chairperson may issue a Certificate of No Effect.

#### **§300-13.14 Commission Review of Development and Zoning Applications**

1. The Planning Board and Board of Adjustment shall refer to the Commission every application for development submitted to either Board for development in historic districts or on historic sites designated on the zoning or official map or on the Paterson Register of Historic Places or identified in any component element of the master plan.
2. This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner.

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.
4. If a recommendation of the Commission is rejected, the 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.

### **§300-13.15 Commission Review of Application for Permits**

1. At the request of any person seeking to undertake actions requiring review as per the provisions of this Article, the Commission shall schedule a hearing on his or her application except if otherwise provided for in this Section. The Applicant shall not be required to appear or to be represented at the meeting in which the application is being considered.
2. Applications must be submitted to the Commission staff a minimum of twenty (20) business days prior to the regularly scheduled meeting of the Historic Preservation Commission at which the application is to be considered. The staff shall review the application for completeness and notify the applicant within five (5) days of receipt as to completeness of the application. For the purpose of scheduling, applications to the Commission must be deemed by staff to be complete at least ten (10) days prior to the hearing date. At least ten (10) days prior to the hearing, the applicant shall post a notice of the hearing on the property on a form provided by the Division of Historic Preservation.
3. Upon an application being deemed complete, such minor applications for minor alterations and ordinary maintenance and repair may be reviewed by the Historic Preservation Professional who, at his or her discretion may issue a Certificate of No Effect, or may require additional submittal information and/or may refer the application to the Commission upon being deemed complete. In making such a determination, the Historic Preservation Professional shall consider factors, including, but not limited to:
  - A. 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;
  - B. 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 also be considered.

4. Upon completion of the review, the HPP may suggest any changes or alterations to the Applicant that would bring the application into appropriate parameters for issuance of a Certificate of No Effect. The Applicant may decide to accept the conditions, by

- A. Agreeing to an extension of time beyond the given 45-day period during which they will provide for changed application documents and plans as required by the HPP, or
- B. At the discretion of the HPP, in cases where changed documents are not required, the Applicant may agree to changes and alterations that shall be listed on the Certificate of No Effect.

If the Applicant rejects the proposed changes or alterations, the application will be scheduled for a Commission review.

5. For all applications not issued a Certificate of No Effect, the Commission shall render a decision within forty five (45) days from when the application is deemed complete. The Commission may advise the Construction Code Official 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. If approved, such approval shall be known as a Certificate of Appropriateness.
6. Nothing herein shall prohibit an extension of time by mutual agreement between the applicant and the Commission.
7. If the Commission should fail to act within forty-five (45) days, the application shall be deemed approved, except in such cases where an extension of time by mutual agreement between the applicant and the Commission is in effect.
8. If an application is approved with or without the imposition of conditions, the Commission staff shall notify the Construction Code Official by issuance of a Certificate of Appropriateness, which shall also clearly stipulate any additional conditions to the application, who shall promptly issue a permit after his review requirements have been also satisfied.
9. If an application is not approved, the Commission staff shall notify the Construction Code Official by issuance of a Letter of Denial, and the Construction Code Official shall not issue the permit.
10. A permit 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.

### **§300-13.16 Standards for Review**

1. General standards
  - A. The following standards, and 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 Planning Board's decision making concerning all applications and approvals described herein.
    - (1) New additions, exterior alterations, or infill 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 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 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 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.



(14)The Development Design Standards in Article IV in the Land Use Ordinance to the extent deemed appropriate by the Commission.

2. Standards for protection

- A. 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.
- B. 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.
- C. If any historic material or architectural features are removed, they shall be properly recorded, and, if possible, stored for future study or reuse.

3. Standards for stabilization

- A. 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.
- B. 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.

4. Standards for new construction

- A. 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.
- B. 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 Facades: 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 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 spatial relationship of historically significant structures to the vacant land between said structural projects.
- (5) Relationship of Major Exterior Building Materials: The major exterior building materials on the facade of a building or on a structure should reflect the predominant major building materials existent on the facades of historically significant buildings and on structures in the surrounding environment.
- (6) 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 the existing historic roof forms and slopes in consideration of new construction so as not to violate the aesthetic harmony of the whole streetscape.
- (7) Continuity in Site Elements: site elements such as retaining walls, fences and landscaping shall be aesthetically consistent with existing site elements in adjacent historic structures.
- (8) Scale of Buildings: Scale of buildings and structures shall be in scale with existing adjacent buildings and structures.
- (9) Signage: Signs which are out of keeping with the character of the existing streetscape shall not be used. In addition to overall signage standards found under Article V, additional signage standards for historic preservation review are found under Article V, Section 500-8.6/E.

#### 5. Standards for relocation

- A. 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.
- B. 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.
- C. Additional Requirements. If the Commission has approved the relocation of a historic site, the Commission may also require archaeological and architectural documentation and / or monitoring of either or both of the existing site and the new site where the building is to be moved as a condition for approval. Copies of all professional reports generated from these activities will be filed with the Commission, the City of Paterson Free Public Library and the Passaic County Historical Society. The scope of services for such a report will be determined by the Commission in consultation with its staff and other qualified consultants.
6. Standards for demolition
- A. 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.
  - B. In considering whether to approve or disapprove an application for a permit to demolish a designated historic site 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 Construction Code;
    - (7) The effect on the remaining portion of building, structure, site, object or landscape feature in cases of partial demolition.
    - (8) In the event that a structure is unsafe or unsound so as to pose a danger to health or safety, the Emergency Powers section of this Section shall be used.
    - (9) If an application to demolish is denied, and the applicant desires to appeal the decision, the applicant shall follow the appeal process detailed herein for denial of a permit.

(10) In cases of questionable structural integrity or soundness, whether opportunities for investigation and remediation have been pursued and exhausted.

- C. Additional Requirements. If the Commission has approved a demolition for a historic site, the Commission may require archaeological and architectural documentation and/or monitoring of the demolition as a condition for approval. Such activities shall be compliant with cultural resource and archaeological practices required for compliance with the NJ State Historic Preservation Office standards for data recovery and documentation, and shall culminate in a professional report of all activities, including mapping, inventory and disposition of cultural resources discovered or collected. Copies of all professional reports generated from these activities will be filed with the HPC, the City of Paterson Free Public Library and the Passaic County Historical Society. The scope of services for such a report will be determined by the commission in consultation with its staff and other qualified consultants if required. The Commission may also request the applicant to provide certain other documentation and professional reports to the extent necessary to fulfill its considerations listed herein. Engineering reports shall be conducted by and contain conclusions and recommendations certified by a licensed engineer who has a clear understanding and experience with successful historic preservation and rehabilitation projects in the typology of architecture in question for demolition. The engineer's experience and understanding shall be demonstrated in writing and illustrations as well as in any oral testimony provided.

### **§300-13.17 Local Guidelines**

In addition to the Secretary of the Interior's Standards and others applicable in this ordinance, the Commission may promulgate and utilize locally-generated guidelines, literature, publications and technical briefs in historic preservation best practices.

### **§300-13.18 Effect of Project Approval or Denial; Appeals**

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.
2. If a permit is denied, the applicant is precluded from undertaking the activity applied for.
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 N.J.S. 40:55D-70a within twenty (20) days after receipt of notification of such action.
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.

5. If the Board of Adjustment affirms the Commission's denial, the applicant may seek legal remedies as afforded by law.
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 Construction Code Official 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.

### **§300-13.19 Enforcement**

1. If any person shall undertake any activity vis-à-vis a historic building, structure 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 Article.
2. Upon learning of the violation, the Construction Code Official, Subcode Official or his designee 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 or registered agent at his/her last known address as it appears on the municipal tax rolls.
3. In the event that the violation is not abated within fourteen (14) days of service or posting on site, whichever is earlier, the Construction Code Official shall cause to be issued a summons and complaint, returnable in the Municipal Court, charging violation of this chapter.
4. Any person violating any of the provisions of this Historic Preservation Ordinance of the City of Paterson shall, upon conviction thereof, be subject to the penalties set forth for violation of the zoning ordinance.
5. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
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 Paterson Property Tax Office and the Passaic County Register of Deeds and Mortgages.
7. The Construction Official or his designee shall inspect work approved by a permit and report to the HPP or Commission the results of such inspections.

**§300-13.20 Preventive Maintenance**

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:
  - A. Deteriorated or inadequate foundation.
  - B. Defective or deteriorated floor supports or any structural members of insufficient size to carry imposed loads with safety.
  - C. Members of walls, partitions or vertical supports that split, lean, list or buckle due to defective material or deterioration.
  - D. 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.
  - E. 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.
  - F. Lack of weather protection.
  - G. 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 Chapter.
  - H. 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.
  - I. 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.

**§300-13.21 Municipal Responsibility**

1. It is recognized that the intent and purposes of this Chapter 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 or districts.

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 Chapter.

### **§300-13.22 Rules of Interpretation**

1. This Chapter shall be liberally construed to affect the purposes set forth herein. In the event that this chapter conflicts with State law, State law shall take precedence.
2. In the event that any portion of this Chapter 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.

### **§300-13.23 Injunctive Relief**

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

## **§300-14 PERFORMANCE AND MAINTENANCE GUARANTEES**

### **§300-14.1 Performance Guarantees.**

- A. As condition of final site plan approval or prior to the recording of a final subdivision plat, the applicant shall file with the City a performance guarantee sufficient in amount not to exceed one hundred twenty percent (120%) of the cost of all required improvements or uncompleted portions thereof as estimated by the City Engineer pursuant to N.J.S.A. 40:55D-53.4 for improvements deemed necessary or appropriate, including streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyors monuments, water mains, culverts, storm sewers, sanitary sewers or other means of sewerage disposal, drainage structures, erosion control and sedimentation control devices, and public improvements of open space and in the case of site plans only, on-site improvements and landscaping. The City Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost shall be appended to each performance guarantee posted by the obligor. The City shall not require that more than ten percent (10%) of said guarantee shall be made in cash. The form and sufficiency of the guarantee shall be subject to approval of the City Attorney. Performance guarantees shall be expressly conditioned upon the developer's full compliance