

**BOROUGH OF RIVERTON
BURLINGTON COUNTY**

ORDINANCE 2023-05A

**ORDINANCE OF THE BOROUGH OF RIVERTON, COUNTY OF BURLINGTON,
STATE OF NEW JERSEY AMENDING ARTICLE XI OF THE CODE OF THE
BOROUGH OF RIVERTON TO RENAME THE ARTICLE AS THE “HISTORIC
PRESERVATION COMMISSION” AND FURTHER AMENDING AND REVISING
SECTIONS 128-40 THROUGH 128-50 CONSISTENT WITH THE ESTABLISHMENT
OF THE HISTORIC PRESERVATION COMMISSION**

WHEREAS, the Council of the Borough of Riverton (the “Borough”) following a thorough discussion amongst its members and thoughtful consideration of comments provided by the Borough’s residents has determined that the goals and objectives of the Borough would be best served by preserving and protecting designated historic structures within the Borough;

WHEREAS, the Council of the Borough believes that the establishment of a Historic Preservation Commission would achieve these goals and objectives and further finds that establishing this Commission would impose the least amount of burden upon property owners within the Borough when weighed against these goals and objectives.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Borough of Riverton, in the County of Burlington, State of New Jersey as follows:

Section 1. The title of Article XI entitled “Architectural Review” shall be deleted and replaced with the title “Historic Preservation Commission”.

Section 2. Sections 128-40 through 128-50 are hereby deleted in their entirety and replaced as follows:

§ 128-40. **Statutory authority, purpose and objectives.**

A. The Legislature of the State of New Jersey has in N.J.S.A. 40:55D-107 et seq. delegated the responsibility to local governments to adopt regulations designed to promote the protection of certain significant architectural, historical, and structures, sites, or districts for the general welfare of its citizenry.

B. The Borough of Riverton recognizes that it has structures of historic and architectural significance. It is in the interest of the general welfare to preserve these structures and to ensure that new development is compatible and relevant with these structures. This chapter is intended to achieve these purposes and objectives and to promote the preservation of the environment, promote a desirable visual environment through creative development techniques and good civic

design and arrangements, prevent the degradation of the environment through improper use of land, and promote the most appropriate use of land in the Borough.

C. The objectives of this article are:

(1) To safeguard the heritage of the Borough by preserving those parts of the Borough which reflect elements of its cultural, social, economic and architectural history;

(2) To preserve the integrity of design of the buildings and streetscapes within the Historic District, and the preservation of Historic Sites;

(3) To maintain and improve property values;

(4) To preserve and promote the Historic District as an essential element of municipal character and identity and as an important factor in the economy of the Borough;

(5) To foster civic beauty; and

(6) To promote the use of the Historic District and Historic Sites for the education, pleasure, and welfare of the citizens of the Borough and its visitors.

§ 128-41. Designation of Historic Sites and Historic District.

A map of the Borough indicating the Historic Sites and the boundary of the Historic District is incorporated herein by reference and is available to the public from the Borough Clerk.

A. Historic Sites. A list enumerating all Historic Sites is incorporated herein by reference and is available to the public from the Borough Clerk. Historic Sites as designated by this article shall include the following:

(1) all those properties identified as “Contributing” to the Riverton Historic District on the form entitled “United States Department of the Interior – National Park Service – National Register of Historic Places – Registration Form” (“National Register Registration Form”) as certified on November 23, 1998 by James Hall, Assistant Commissioner for Natural and Historic Resources/DSHPO and entered into the National Register of Historic Places by Edson H. Beall on March 5, 1999, including all attachments to that form. A copy of that form is available to the public from the Borough Clerk.

(2) the following properties not within the Riverton Historic District but identified individually by the New Jersey State Historic Preservation Office as eligible for inclusion on the New Jersey Register of Historic Places and appearing in the NJ LUCY GIS database: 11 Bank Avenue (“Anchorage House”) SHPO ID#4191 Opinion Date 3/12/1982 and 408 Thomas Avenue (“Lela Slater Bowen House”) SHPO Opinion Date 2/7/2003.

B. Historic District. Historic District as designated by this article shall include the area within the boundary of the district described on the National Register Registration Form, which defines those boundaries as:

“The Riverton Historic District is bounded by the Delaware River on the north. It extends to the western boundary of the property at 109 Bank Avenue and along that property line and the rear property lines of the houses on the west side of Thomas Avenue to Carriage House Lane. At Carriage House Lane, it turns east, extending along the center of the street to Maple Lane in the center of block 303. From there, it extends along the center of Maple Lane to the rear of the properties fronting on the north side of Second Street where it turns west to Thomas Avenue, incorporating the properties fronting on the south side of Second Street and from there back to the center of Maple Lane. The district line then follows the center of Maple Lane to its juncture with the western boundary of the property at 315 Thomas Avenue. It then proceeds east along the center of Thomas to the property at 410 Thomas Avenue, where it turns south to run along the rear of the properties facing on the south side of Thomas. At its juncture with the rear line of the property at 104 Broad Street it again turns south to incorporate that property, then it proceeds east to cross Broad Street. Immediately across Broad, the line turns north to meet the rear property lines of the houses facing on the south side of Thomas Avenue. From there, the line proceeds eastward to Seventh Street, where it turns south one block to the center of Linden Avenue and from there, east to the rear line of the properties facing on the 100 block of Midway. Following the rear line of those properties south, the district line crosses Elm Terrace to incorporate the property at 2 Midway. It then proceeds along the center of Elm Terrace to the rear of the properties at 2 and 4 Park Avenue, where it meets the Riverton Borough line. This, it follows across Park Avenue and through a portion of the Riverton Country Club property to Thomas Avenue. From there, it follows the rear property lines of the houses facing on the eastside of Shrewsbury Lane (incorporating Shrewsbury Yard), then follows the center of Main Street to Eighth Street. At Eighth Street, the lines turns north, following the street to the rear property lines of the houses facing on the north side of Cinnaminson Street. Turning west, it proceeds to the western boundary of 601 Cinnaminson Street, where it turns northeast to incorporate the building on the Conrail Railroad line at Cedar Street. From there, it again turns west down the center of Fulton Street where it continues on to the eastern boundary of the property at 201 Fulton. From there, it runs along that property line to its meeting with the line of the property at 701 Bank Avenue, and along the eastern boundary of that property to the Delaware River and the point of origin.”

§ 128-42. **Definitions.**

The terms set forth hereinafter shall have the following meaning:

ADMINISTRATIVE OFFICER

The Zoning Officer of the Borough unless a different municipal official or officials are designated by ordinance to handle the administration of this chapter and attend the Planning Board meetings as deemed necessary.

...

APPLICATION FOR DEVELOPMENT

The application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, cluster development, conditional use, zoning variance or direction of the issuance of a permit pursuant to section 25 or section 27 of P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36).

...

CERTIFICATE OF APPROPRIATENESS

A document that states that the Regulated Activity or Demolition that is required to be approved by this HPC pursuant to § 128-45 has been approved by the HPC.

...

DEMOLITION

The razing or destruction, whether entirely or in part, of a building, structure, site or improvement. Demolition includes the removal of a building, structure or improvement from its site. A project that proposes to remove a facade or surface of a building or structure for the sole purpose of immediately replacing such facade or surface with a new facade or surface shall not be considered a Demolition.

...

EMERGENCY REPAIRS

Those immediate remedial actions necessary to preserve the continued habitability of a site or improvement and/or the health and safety of its occupants or others where time will not permit the owner to obtain a Certificate of Appropriateness prior to the undertaking.

...

HISTORIC DISTRICT

One 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 SITE

Any real property, man-made structure, natural object or configuration or any portion or group of the foregoing of historical, archeological, cultural, scenic or architectural significance.

...

HPC

The Historic Preservation Commission of the Borough of Riverton

§ 128-43. Establishment.

A. The Historic Preservation Commission ("HPC") of the Borough is hereby established pursuant to N.J.S.A. 40:55D-107 et seq. The HPC shall consist of five (5) regular members and two (2) alternate members appointed by the Mayor. At least two (2) of the regular members shall be of Classes A and B. The regular members who are not designated as Class A or B shall be designated as Class C. The two (2) alternates must meet the qualifications of Class C and shall be designated "Alternate No. 1" and "Alternate No. 2." The classes are defined as:

(1) Class A: a person who is knowledgeable in building design and construction or architectural history and who may reside outside the Borough.

(2) Class B: a person who is knowledgeable of or who has a demonstrated interest in local history and who may reside outside the Borough.

(3) Class C: any citizen of the Borough who shall hold no other municipal office, municipal position, or municipal employment except for membership on the Planning Board.

B. Terms of regular members.

(1) The initial terms of the appointment of the regular members of the HPC shall be as follows:

(a) One (1) member shall be appointed for a term of two (2) years.

(b) Two (2) members shall be appointed for terms of three (3) years.

(c) Two (2) members shall be appointed for terms of four (4) years.

(2) All subsequent appointments shall be for terms of four (4) years or until appointment and qualification of a successor. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term only.

C. Terms of alternate members.

(1) The initial terms of the appointment of the alternate members of the HPC shall be as follows:

(a) Alternate No. 1 shall be appointed for a term of one (1) year.

(b) Alternate No. 2 shall be appointed for a term of two (2) years.

(2) All subsequent appointments shall be for terms of two (2) years or until appointment and qualification of a successor. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term only.

D. Notwithstanding any other provision, the term of any member who is also a member of the Planning Board shall be coterminous with his membership on the Planning Board.

E. Rules and Organization of the HPC.

(1) The HPC shall elect from its membership a Chairperson and a Vice Chairperson. The HPC shall appoint a Secretary who shall be an employee of the Borough and shall not be an HPC member.

(2) The HPC shall establish a regular schedule of meetings at least once a month or as often as required to meet the needs of its business, to handle emergencies or to meet time constraints imposed by law.

(3) A quorum for the transaction of business shall be three (3) members.

(4) The HPC's Secretary shall keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, determinations, decisions, and applications for Certificates of Appropriateness. A verbatim record of HPC meetings and proceedings shall be kept and made available in accordance with the provisions of the Municipal Land Use Law.

(5) All HPC records and minutes shall be made public records, and all HPC meetings shall comply with the Open Public Meetings Act (N.J.S.A. 10:4-7 et seq.).

(6) The HPC shall adopt written bylaws and procedures for the transaction of its business and for the consideration of applications for Certificates of Appropriateness.

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

(8) A member may be removed by the governing body for cause but only after a public hearing if he or she requests one.

(9) 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. If a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

F. Expenses and costs; employment of experts and staff. The governing body shall make provision in its budget and shall appropriate funds for the expenses of the HPC. The HPC may employ, contract for, and fix the compensation of experts and other staff and services as it shall deem necessary. The HPC shall appoint and receive its legal counsel from an attorney licensed to practice law in this State. Expenditures pursuant to this Section shall not exceed, exclusive of gifts and/or grants, the amount appropriated by the governing body.

G. Powers and duties. It shall be the responsibility of the HPC to:

(1) Prepare a survey of Historic Sites of the Borough pursuant to criteria identified in the survey report.

(2) Make recommendations to the Planning Board and the governing body on the preparation and periodic updating of the historic preservation plan element of the Borough's Master Plan, including but not limited to the addition or deletion of Historic Sites and Historic Districts identified in the Borough's Master Plan.

(3) Make recommendations to the Planning Board and governing body on the historic preservation implications of any plan element of the Borough's Master Plan which has been or may be adopted.

(4) Recommend to the governing body sites and districts to be designated through amendment of this article. The criteria and procedures for designation are set forth in § 128-44.

(5) Review all applications for a Certificate of Appropriateness in accordance with the procedures established in § 128-45.

(6) Advise the Planning Board on applications for development affecting Historic Districts and Historic Sites, in accordance with the procedures established in § 128-53.

(7) Review all applications for permits for Historic Sites or within a Historic District which do not require a Certificate of Appropriateness, and which are not referred by the Planning Board as an application for development. Such reviews shall be in accordance with the procedures established in § 128-54.

(8) Provide other advisory, educational, and informational services to promote historic preservation in the Borough.

§ 128-44. **Designation of Additional Historic Sites and Districts.**

A. Criteria for designation. The HPC shall consider for nomination districts and sites that have integrity of location, design, setting, materials, workmanship, and association and that meet one (1) or more of the following criteria:

- (1) Character, interest, or value as part of the development, heritage or cultural characteristics of the Borough, state or nation.
- (2) Identification with a person or persons who significantly enriched the Borough, state, or nation.
- (3) Site of an historic event which had a significant effect on the development of the Borough, state, or nation.
- (4) Embodiment of distinguishing characteristics of a type, period, or method of construction, architecture, or engineering.
- (5) Identification with the work of a builder, designer, artist, architect, or landscape architect whose work has influenced the development of the Borough, state, or nation.
- (6) Embodiment of elements of design, detail, material, or craftsmanship that render a site architecturally significant or structurally innovative.
- (7) Unique location or singular physical characteristics that make a district or site an established or familiar visual feature.
- (8) Likely to yield information important in prehistory or history.

B. Procedures for designation. Based on the HPC's review of a potential district or site or upon the recommendations of other Borough bodies or of interested parties, the HPC shall consider nomination of a district or a site according to the procedures outlined below:

- (1) The HPC or interested party shall prepare a nomination report for each proposed district or site.
 - (a) For Historic District designations, the report shall include a building-by building inventory of all properties within the district; black and white photographs of representative properties within the district; a property map of the district showing boundaries; and a physical description and statement of significance for the district.
 - (b) For Historic Site designations, the report shall include one (1) or more black-and-white photographs; the tax lot and block number of the property as designated on the Official Borough Tax Map; and a physical description and statement of significance for the site.

(2) The HPC shall refer its nomination report to the Planning Board for review and consideration as an amendment to the Master Plan of the Borough.

(3) The Planning Board may schedule a public hearing on the proposed designation of a district, or site, in accordance with the procedures set forth for adoption or amendment of the Master Plan as set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. At least ten (10) days prior to the hearing, the HPC shall, by personal service or certified mail:

(a) Notify each owner of a proposed Historic Site or of property within a proposed Historic District that his or her property is being considered for historic designation and the reasons therefor.

(b) Advise each owner of the significance and consequences of such designation and of his or her rights to contest such designation.

(c) Notify each owner of the date, time and place of the hearing.

(4) Public notice of the hearing shall be given at least ten (10) days prior to the hearing by publication in the official newspaper of the Borough. A copy of the nomination report shall also be made available for public inspection at least ten (10) days prior to the hearing.

(5) Upon Planning Board review and adoption of the Historic District or Historic Site designation in the Master Plan, the HPC or the Planning Board shall forward the adopted Master Plan to the governing body. The governing body may disapprove or change or take no action on the adoption of an ordinance to implement the Historic District or Historic Site aspects of the Master Plan. Governing body action on Historic District or Historic Site designations shall be otherwise subject to those procedures and statutes which apply to designation and regulation of Historic Districts and Historic Sites, including but not limited to N.J.S.A. 40:55D-65.1 and those that apply to a change of a zoning designation and the adoption, revision or amendment of any development regulation.

(6) Notice of designation shall be made public by publication in the official newspaper of the Borough and distributed to all municipal agencies reviewing development applications and permits. A certificate or letter of designation shall be sent to each owner affected by the designation.

(7) A protest of designation status signed by twenty percent (20%) or more of the property owners within a designated Historic District or by the owner of the property on which there is a designated Historic Site may be filed with the Borough Clerk. Such designation shall not become effective following the filing of such a protest except by the favorable vote of two-thirds (2/3) of all members of the governing body.

§ 128-45. **Certificates of Appropriateness.**

A. A Certificate of Appropriateness issued by the HPC shall be required before a permit is issued for any of the following activities or, if no permit is required, before any work can commence on any of these activities:

- (1) The demolition of a Historic Site or any improvement within a Historic District.
- (2) The relocation of a Historic Site or any improvement within a Historic District.

B. No Certificate of Appropriateness shall be required for any activity which is the subject of an application for development before the Planning Board. Referral of matters/applications for development from the Planning Board shall be handled as per Section 128-53.

C. Emergency repair. When a structure or improvement affecting a Historic Site or within a Historic District requires emergency repair, emergency repair may be performed in accordance with Borough codes without the necessity of first obtaining a Certificate of Appropriateness. Under such circumstances, the emergency repair performed shall be only such as is necessary to protect the health and safety of the occupants of the structure or others and/or to maintain the habitability of the structure. A request for the HPC's review shall be made simultaneously with the onset of emergency repair, and no further work shall be performed on the structure until an appropriate request for approval is made and approval is obtained in accordance with the procedures set forth in this article. Except for temporary stabilization or other work to make the site safe for the public, all work performed under this section shall conform to the criteria set forth in § 128-49.

D. Informal review of concept plan for proposed undertakings. At the request of applicants considering an activity that may require a Certificate of Appropriateness, as set forth above, the HPC shall grant an informal review of a concept plan for the proposed activity for which the applicant intends to prepare and submit an application for a Certificate of Appropriateness. Neither the applicant nor the HPC shall be bound by any informal review.

§ 128-46. **Building Permits.**

A. No building permit shall be issued within the Historic District or for any Historic Site without review by the Administrative Officer.

(1) If the Administrative Officer determines that a Certificate of Appropriateness is required for the requested work, they shall inform the applicant that an HPC hearing for a Certificate of Appropriateness shall be required pursuant to § 128-46. The Administrative Officer shall immediately confer with the Chairperson of the HPC (or their designee) to determine additional submissions likely to be required from the applicant for the Administrative Officer to deem an application for a Certificate of Appropriateness to be complete. The

Administrative Officer shall immediately inform the applicant of the nature of any such additional submissions.

(2) If the proposed work does not require a Certificate of Appropriateness but shall include new construction or changes in exterior or architectural features which are subject to public view from a street, way, place or the Delaware River, the Administrative Officer shall inform the applicant that a non-binding advisory review conducted by the HPC pursuant to § 128-54D shall be required before a Building Permit can be issued.

B. This chapter shall not act to delay permits for repairs that affect the security or safety of the property.

§ 128-47. Applications for Certificate of Appropriateness.

A. Application and Escrow procedure. Application for a Certificate of Appropriateness shall be made on forms available from the Administrative Officer at the Borough. Completed applications shall be delivered to the Administrative Officer at Borough Hall. No application shall be deemed complete until the applicant has established an escrow account with the Borough in order to address fees and expenses associated with the adjudication of the application. Each applicant for a Certificate of Appropriateness shall be required to pay an application fee of \$100.00. The initial amount of the escrow for each individual application for a Certificate of Appropriateness shall be \$2,500.00. The applicant may be required to replenish the same in accordance with the MLUL. Each applicant shall provide The Administrative Officer with an affidavit of service detailing the required notice, undertaken by the applicant in accordance with the provisions of N.J.S.A. 40:55D-12(b).

B. Application information and supporting documents. Application for a Certificate of Appropriateness shall include all forms, completed by the applicant, and the following exhibits:

(1) When the application is for the demolition of a Historic Site, the applicant shall provide the HPC with the following:

(a) Copies of all outstanding code violations which have been placed against the Historic Site by any government official (“Code Violations”).

(b) Photographs and architectural or other drawings necessary to adequately inform the HPC of the nature and extent of Code Violations.

(c) A signed and sealed engineering report by a licensed professional structural engineer who is qualified in New Jersey as an expert witness in the field of historic preservation (“Engineer”). This report shall at a minimum:

(i) Identify all specific structural components whose condition contributes to the Code Violations. For each such component, detail the most economical repair or

replacement method which would be required to correct all Code Violations, with an estimated cost to perform each one.

(ii) Identify any other specific structural components which, in the Engineer's opinion, contribute to a dangerous or unsafe condition. For each such component, detail the most economical repair or replacement method which would be required to preserve the Historic Site by correcting all dangerous or unsafe conditions, with an estimated cost to perform each one.

(iii) Identify any activities, utilities, appliances, or other expenses necessary to make the Historic Site habitable under the New Jersey State Housing Code (N.J.A.C. 5:28) in the opinion of the Construction Official or Administrative Officer, as appropriate. The entire Historic Site need not be made habitable. For each, this report shall detail the most economical repair or replacement method and include an estimated cost to perform each one.

(d) A certification establishing the equalized assessed value of the structure or improvements sought to be demolished.

(e) Any other drawings, specifications, documents, or materials which may assist the HPC in deciding whether a Certificate of Appropriateness should be issued

(2) When the application is for the removal of a structure from a Historic Site to another location or for the demolition of an improvement which is located within a Historic District but is not itself a designated Historic Site, the Chairperson of the HPC (or their designee) may require only those exhibits detailed in this subsection which they may deem necessary to inform the HPC in adjudicating the application.

C. The Administrative Officer of the Borough shall determine if the information submitted with an application for a certificate of appropriateness constitutes a complete application. If it does not, the Administrative Officer shall confer with the Chairperson of the HPC (or their designee) to determine which additional material shall be needed to establish completeness and inform the applicant immediately.

D. Once the Administrative Officer has deemed an application for a Certificate of Appropriateness to be complete, they shall refer the application to the HPC. The HPC shall advise the applicant of the date, time, and place of the public hearing at which his or her application is to be reviewed at least ten (10) days prior to the hearing. An applicant shall appear or be represented at any hearing to consider the application.

E. Each applicant shall make the property which is the subject of the application available to the HPC board members and its professionals/agents for physical inspection on or before the application is to be heard by the HPC.

§ 128-48. **Public Hearings.**

A. Representation of parties. Any owner or owners and all persons having a legal and equitable interest in any property which has been proposed for designation, or is designated as a Historic Site, or for which an application for a building permit or application for development has been made to the Borough may appear in person or be represented by an authorized agent or attorney at any public hearing scheduled by the HPC.

B. Order of procedure. The order of procedure at all public hearings of the HPC shall be as follows:

- (1) Opening of the hearing by the Chairperson;
- (2) Incorporation in the record of the Notice of Hearing in accordance with the Open Public Meetings Act of the State of New Jersey;
- (3) Statement by the Chairperson summarizing the items on the agenda for the meeting;
- (4) Approval of the minutes of previous meetings;
- (5) Review and approval of any resolutions memorializing decisions reached on applications at previous meetings;
- (6) Applications that were heard previously by the HPC and carried to the next hearing date shall be heard under "old business;"
- (7) Applications not previously heard by the HPC shall be heard under "new business."
 - (a) Upon calling the case of a new application, the applicant, or the authorized agent or attorney, shall indicate to the HPC who will be representing the applicant at the hearing and who will be offering testimony regarding that application.
 - (b) An opening statement will be made by the Chairperson or the staff of the HPC regarding the application, specifically what documents and evidence have been submitted to the HPC prior to the hearing date.
 - (c) An opening statement will be made by the owner, authorized agent or attorney representing the applicant, setting forth the overall intent of the proposed activities to be undertaken on the property in question.
 - (d) Following the opening statements, presentations will be made by the identified witnesses and evidence will be given in support of the proposed activities that directly relate to the property which is the subject of the hearing. Documents and other physical evidence that will be submitted to the HPC shall be appropriately designated by the HPC Secretary, using a consecutive numbering system.

(e) The opportunity to cross-examine witnesses shall be in the following order:

[1] Counsel to the HPC;

[2] Members of the HPC;

[3] Members of the Public attending the hearing.

(f) Following a presentation in support of the application, statements, if any, of other interested persons, either for or against the proposed activities, will be heard by the HPC. Such statements shall be limited to such length of time as the HPC shall designate.

(g) Final disposition of any matter subject to public hearing before the HPC shall be in accordance with the applicable provisions contained within the Historic Preservation Ordinance of the Borough of Riverton. Copies of the said final determinations shall be distributed in conformity with the provisions of said ordinance. If the vote taken on a specific application results in a tie, the application shall be deemed denied.

(h) Following the presentation of the oral summation, the HPC shall enter into public deliberations regarding the testimony offered, evidence submitted, and any issues raised by the public, the HPC members or staff relating to the activities proposed to be undertaken by the applicant.

(i) The HPC may advise the applicant and make recommendations in regard to the appropriateness of proposed action and may consider granting approval upon such conditions as it deems appropriate within the intent and purpose of the chapter.

(j) Based upon these deliberations, the HPC shall render a decision setting forth in full its reasons for approving or denying the application. In the case of approval, any conditions placed upon the approval shall be made as a part of the record. In either case, the HPC shall, at the following meeting, pass a resolution memorializing its decision and setting forth the testimony offered, evidence entered in the record, findings of fact, and the conclusions reached on the application.

(8) Following the conclusion of all new business to come before the HPC, it shall take up such other business as may require its attention, including but not limited to: new grant applications; existing grant application projects; seminars; consideration of ordinance changes; consideration of new structures for designation as local landmarks, etc.

(9) Following the discussion of such additional business as noted above, the HPC shall open the meeting to receive any comments or questions from the general public as may be in attendance at the meeting.

(10) Following the presentation to the HPC by any members of the public, the Chairperson shall declare, upon a motion duly made, that the meeting be adjourned.

C. The HPC may, in its discretion, impose reasonable time limits upon the presentation of evidence and statements. The Chairperson of the HPC, at his/her discretion, may alter the order of procedure as circumstances may require and warrant.

D. All testimony offered by witnesses shall be given under oath or affirmation and said testimony may be given by question-and-answer method or, at the Chairperson's discretion, in statement form. Persons wishing merely to state a position for or against a proposed application shall be placed under oath or affirmation.

E. Exhibits shall be marked for identification and shall be offered in an orderly fashion. They shall be made available for examination by any and all parties of interest. Leave to file post-hearing exhibits or information may be sought at the hearing, or thereafter in writing, which may be granted by the Chairperson. In the event leave to file post-hearing exhibits or information is granted, copies shall be served upon interested parties or representatives in person, or by United States mail, by certified mail, return receipt requested, together with a signed statement that this rule has been complied with, which shall be attached to or shall accompany such documents submitted.

F. Hearings shall be conducted in such a manner as shall result in a just and lawful determination of the issues as promptly as circumstances shall permit. The HPC shall make determinations as to the relevance and materiality of evidence. The HPC may require a preliminary statement of the nature of the evidence proposed to be elicited from any witness.

§ 128-49. Standards for review by Historic Preservation Commission.

A. In regard to all applications or advisory services, the HPC shall be guided by the following standards and may ask applicants for additional information to be used in making its determination:

(1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure or site and its environment or to use a property for its originally intended purpose.

(2) The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(3) All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

(4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall be treated with sensitivity.

(6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. If replacement is necessary, the appearance of the new material should match the material being replaced in design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical or pictorial evidence where known rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

(8) Unpainted masonry facades shall not be painted, stuccoed, sided, or obscured in any other way.

(9) Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project.

(10) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural materials and when such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.

(11) Wherever possible, new additions and alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

B. In regard to advisory services for new construction, additions and alterations, the following visual compatibility factors shall be considered:

(1) Height. The height of the proposed building shall be visually compatible with adjacent buildings.

(2) The proportion of a building's front facade. The relationship of the width of the building to the height of the front elevation shall be compatible with the buildings and places to which it is visually related.

(3) The proportion of openings within the facility. The relationship of the width of the windows to the height of the windows in a building shall be visually compatible with the buildings and places to which it is visually related.

(4) The rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with the buildings and places to which it is visually related.

(5) The rhythm of spacing and buildings on streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with the buildings and places to which it is visually related.

(6) The rhythm of entrance and/or porch projections. The relationship of the entrance and porch projections to the street shall be visually compatible with the buildings and places to which it is visually related.

(7) The relationship of materials, texture, and color. The relationship of the materials, texture and color of the facade and roof of a building shall be visually compatible with the predominant materials used in the buildings to which it is visually related.

(8) Roof shapes. The roof shape of a building shall be visually compatible with the buildings to which it is visually related.

(9) The scale of a building. The size of a building, the mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.

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

(11) Exterior features. A structure's related exterior features, such as lighting, fences, signs, sidewalks, driveways, and parking areas, shall be compatible with the features of those structures to which it is visually related and shall be appropriate for the historic period for which the structure is significant.

C. In regard to applications or advisory services for demolition, the following matters shall be considered:

(1) Its historic, architectural, cultural, or scenic significance in relation to the criteria established in this article.

(2) If it is within an Historic District, its significance to the Historic District and the probable impact of its demolition on the character and ambience of the Historic District and the criteria which were the basis of the designation of the Historic District.

(3) Its potential for use for those purposes currently permitted by the Zoning Ordinance.

(4) A Financial Analysis establishing the following:

(a) Demolition may be considered for a contributing structure if the estimated cost of repairs exceeds One Hundred (100%) percent of the Equalized Assessed Value of the structure (i.e. improvements excluding land) that is being sought to be demolished. Repairs in this instance shall include all reasonable activities required to:

- (i) Make the structure safe by correcting existing building code violations and dangerous conditions identified in the engineering report required at § 128-46B(1)(c); and
- (ii) Make the historic contributing structure habitable under the New Jersey State Housing Code (N.J.A.C. 5:28) in the opinion of the Construction Official or Administrative Officer, as appropriate. The entire historic site and contributing structure need not be made habitable.

(b) For non-contributing homes within the Historic District, demolition may be considered if the estimated cost of repairs exceeds Seventy-Five (75%) percent of the Equalized Assessed Value of the structure (i.e. improvements excluding land) that is being sought to be demolished. Repairs in this instance shall include all reasonable activities required to:

- (i) Make the structure safe by correcting existing building code violations and dangerous conditions identified in the engineering report required at § 128-47B(1)(c); and
- (ii) Make the structure habitable under the New Jersey State Housing Code (N.J.A.C. 5:28) in the opinion of the Construction Official or Administrative Officer, as appropriate. The entire structure need not be made habitable.

(5) The nature and results of bona fide attempts to market the property at a price consistent with preservation.

(6) Whether the property can be put to reasonable beneficial use without the approval of the demolition application.

(7) Its importance to the Borough and the extent to which its historical or architectural value is such that its demolition would be detrimental to the public interest.

(8) The extent to which it is of such old, unusual or uncommon design, craftsmanship, texture or material that it would not be reproduced or could be reproduced only with great difficulty and expense.

(9) The extent to which its retention would promote the general welfare by maintaining and increasing the real estate values, generating business, attracting tourists, attracting new residents, stimulating interest and study in architecture and design or making the Borough an attractive and desirable place in which to live.

D. In regard to applications or advisory services for removal, the following matters shall be considered:

(1) The historic loss to the site of the original location and, if the present location is within an Historic District, to the Historic District as a whole.

(2) The reasons for not retaining the improvement at its present site.

(3) The compatibility, nature and character of the current and of the proposed surrounding areas as they relate to the protection of the interest and values referred to in this article.

(4) If the proposed new location is within an Historic District, visual compatibility factors as set forth in Subsection B of this section.

(5) The probability of significant damage to the landmark or structure itself.

(6) If it is to be removed from the Borough, the proximity of the proposed new location to the Borough, including the accessibility to the residents of the Borough and other citizens.

§ 128-50. Action on applications.

A. The HPC shall reach a decision on the application and report such decision to the Administrative Officer within forty-five (45) days of submission or referral of the complete application to the HPC by the Administrative Officer. Nothing herein shall prohibit an extension of time by mutual agreement of the applicant and the HPC.

B. Actions by HPC on applications after a decision is made:

1. If an application is approved, the HPC shall issue a Certificate of Appropriateness, which shall be forwarded to the Administrative Officer or Construction Official, as appropriate.

2. If the HPC disapproves an application, the HPC shall state its reasons, in writing, in resolution form which shall be forwarded to the Administrative Officer or Construction Official, as appropriate.

C. Actions on applications for Certificates of Appropriateness:

1. If the HPC issues a Certificate of Appropriateness, the Administrative Officer or Construction Official, as appropriate, shall issue the permit to the applicant and provide the applicant with a copy of the Certificate of Appropriateness.

2. If the HPC issues a Certificate of Appropriateness with conditions, the Administrative Officer or Construction Official, as appropriate, shall issue the permit to the applicant with the conditions included and provide the applicant with a copy of the Certificate of Appropriateness with the conditions set forth.

3. If the HPC disapproves an application for a Certificate of Appropriateness, the Administrative Officer or Construction Official, as appropriate, shall deny issuance of the permit to the applicant and provide the applicant with a copy of the resolution from the HPC.

4. Failure of the HPC to report within the forty-five (45) day period shall be deemed to constitute a report in favor of the issuance of the permit without conditions.

D. After a Certificate of Appropriateness has been issued, the Administrative Officer or the Construction Official, as appropriate, shall, from time to time, inspect the work approved by the Certificate of Appropriateness and report to the HPC any work not in accordance with such Certificate of Appropriateness. The HPC shall also make inspections of work approved by a Certificate of Appropriateness whenever it considers such to be desirable.

E. A Certificate of Appropriateness shall be valid for a period of two (2) years from the date of issuance unless reasonable extensions are granted by the HPC. If a permit is also required for the activity and is obtained prior to the expiration of said two (2) year period, then the Certificate of Appropriateness shall be valid for the life of the permit and any extensions thereof.

F. Resolution and rationale.

1. Actions taken by the HPC shall be memorialized at the meeting following approval or disapproval by the adoption of a formal resolution setting forth in detail all the reasons for the approval or disapproval of a Certificate of Appropriateness and setting forth any and all conditions imposed, if any, on the grant of approval.

2. The Secretary of the HPC shall immediately upon adoption forward a copy of the resolution to the applicant, the Construction Official, the Administrative Officer, the Borough Planning Board, and the Borough Clerk.

3. The Borough shall, within 10 days of the adoption of such a resolution of memorialization, publish notice thereof in the Borough's official newspaper in the same manner as notice of formal action by the Riverton Planning Board is required for site plan approval, subdivision approvals and the like.

§ 128-51 Effect of approval or denial of Certificates of Appropriateness by Historic Preservation Commission; appeals

A. Approval. Issuance of a Certificate of Appropriateness shall be deemed to be final approval pursuant to this article. Such approval shall neither cause nor prevent the filing of any collateral application or other proceeding required by any other Borough ordinance to be made prior to undertaking the activity concerning the Historic Site or the structure in an Historic District or the demolition.

B. Denial. Denial of a Certificate of Appropriateness shall be deemed to preclude the applicant from undertaking the activity or demolition applied for.

C. Appeals: The granting or the denial of a Certificate of Appropriateness and/or the action of the Administrative Officer and/or Construction Official in reliance upon same may be appealed to the Planning Board in the same manner as an appeal is taken pursuant to N.J.S.A. 40:55D-72. Nothing herein shall be deemed to limit the right of judicial review of the Borough action after an appeal is concluded by the Planning Board.

§ 128-52 Enforcement; violation; notice; failure to comply.

A. Any person who shall undertake any activity which requires a Certificate of Appropriateness, without obtaining the approval of the HPC, shall be deemed to be in violation of this article.

B. Upon learning of the violation, the Administrative Officer and/or Construction Official shall personally serve upon the owner of the property whereon the violation is occurring a notice describing the violation in detail and giving the owner ten (10) days to abate the violation by restoring the site or improvement to the condition it was in prior to the violation. If the owner cannot be personally served within the Borough with said notice, a copy shall be posted on the site and a copy sent to the owner at his last known address as it appears on the Borough tax rolls.

C. In the event that the violation is not abated within ten (10) days of service or posting on site, whichever is earlier, the Administrative Officer and/or Construction Official shall cause to be instituted any appropriate action or proceeding to prevent such unlawful activity; to restrain, correct or abate such violation; to prevent the occupancy of said site or improvement; or to prevent any illegal act, conduct, business or use in or about such site or improvement.

D. If any person shall undertake any activity requiring a Certificate of Appropriateness without first having obtained approval, he or she shall be required to immediately stop the activity, apply for approval in accordance with the provisions of Section 128-47 herein, and take any necessary measures to preserve the site or improvement affected, pending a decision. If the Certificate of Appropriateness is denied, he or she shall immediately restore the site or improvement to its pre-activity status. The Administrative Officer and/or Construction Official is hereby authorized to seek injunctive relief regarding a stop action on restoration in the Superior Court, Chancery Division, not less than ten (10) days after the delivery of notice pursuant to Subsection B hereof.

E. If any activity requiring a Certificate of Appropriateness which would permanently and adversely change a property is about to occur without approval having been issued, the Administrative Officer and/or Construction Official is empowered to apply to the Superior Court of New Jersey for injunctive relief as is necessary to prevent such actions.

§ 128-53 Review by Historic Preservation Commission of applications for development and zoning referred by the Planning Board.

A. The Planning Board shall refer to the HPC every application for development submitted to the Planning Board for development and/or zoning changes in Historic Districts or on Historic Sites or identified in any component element of the Master Plan. This referral shall be made when the application for development is deemed complete or is scheduled for a hearing, whichever occurs sooner. Failure to refer the application as required shall not invalidate any hearing or proceeding. The HPC shall make its recommendations to the Planning Board, 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. In the event the referral from the Planning Board involves any aspect of a demolition, the referral and the handling of the referral by the HPC shall be subject to Section 128-47A-E.

B. The HPC's recommendations shall focus on how the proposed development would affect an Historic Site or Historic District's historic or architectural significance as outlined in § 128-44 and shall be guided by the review standards established in § 128-49. In considering the HPC's recommendations, the Planning Board shall be guided by the same standards.

C. On all matters referred to the HPC which require approval or action by the Planning Board, the decision of the HPC shall be a recommendation only, which may be approved, disapproved, or amended by the Planning Board. If the Planning Board should disapprove or amend the decision of the HPC, it shall state its reasons therefor at a public hearing and in its resolution of memorialization.

§ 128-54 Procedures for Non-Binding Advisory Review.

A. If the Administrative Officer has determined that an application for a building permit requires non-binding advisory review by the HPC pursuant to § 128-43G (7) the Administrative Officer shall submit to the HPC a copy of that application.

B. Upon review of each application, the Chairperson of the HPC may determine that the work described in the application is sufficiently limited in scope and/or impact on the Historic Site and Historic District to allow it to proceed without review by the entire Committee. In such cases, the Chairperson or designee may act in place of the full committee. Such determination shall be made within 14 days of the original application.

C. All other applications shall be submitted to the HPC and the applicant shall be required to attend the next monthly meeting following submission of the application at which time the application will be considered. No building permits shall be issued to applicants who fail to attend the meeting.

D. The applicant shall appear at the HPC meeting with, in addition to the permit application, a minimum of two of the following: a plot plan, plan and elevation drawings, photographs, and/or three-dimensional pictorial drawings representing the changes which are proposed. In addition, the applicant shall provide a verbal or written description of the proposed design and materials, in sufficient detail so that the Committee members can fully understand the scope of the proposed work. When appropriate for significant changes, additions, or construction, signed and dated architectural drawings and specifications shall be provided.

E. If a permit application appears to be consistent with the Standards for Review detailed in § 128-55 C (4), the HPC shall notify the Construction Official that the Committee has no objection to the issuance of the permit to the applicant.

F. If the HPC finds that the permit application is contrary to those standards of the community as set forth in § 128-55, the HPC shall offer the counseling services of the Committee. At any time, the applicant may decline further counseling services, at which point the HRC shall report to the Administrative Officer that the applicant's obligations for this Section have been discharged.

§ 128-55 Standards for Non-Binding Advisory Review.

A. To preserve our community's character, it is the intent of this article that the HPC shall encourage the principle that any alterations or repairs be made in the spirit of the architectural style of the building and that any additions be made in such a manner as not to detract from the building's original style.

B. The HPC may encourage this principle by providing information for the use and edification of the Riverton residents concerning architectural details found in the community. The HPC may refer residents to resources which may assist them in maintaining their residence.

C. In reviewing the applicant's plans, the HPC shall be guided by the following items as well as by § 128-49 and the general standards referred to in the United States Department of Interior's Standards for Rehabilitation, as amended:

(1) The historic or architectural value and significance of the structure and its relationship to the historic value of the surrounding areas.

(2) The details of design for the period of architecture and surrounding neighborhood.

(3) The general compatibility of exterior designs, arrangements and materials proposed to be used.

(4) Any other factor, including aesthetic, which the HPC deems pertinent.

Section 3. If any section, subsection, paragraph, sentence or any other part of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of the Ordinance.

Section 4. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

Section 5. This Ordinance shall take effect after final adoption and publication according to law.

INTRODUCTION						
Roll Call Vote						
Council Member	Motion	Second	Aye	Nay	Abstain	Absent
Corbi						
Fullerton						
Rafter						
Scott						
Quinn						
Wilburn						

ADOPTION						
Roll Call Vote						
Council Member	Motion	Second	Aye	Nay	Abstain	Absent
Corbi						
Fullerton						
Rafter						
Scott						
Quinn						
Wilburn						

CERTIFICATION

I, Michelle Hack, Municipal Clerk of the Borough of Riverton, County of Burlington, and State of New Jersey, do hereby certify the forgoing to be a true and correct copy of an Ordinance which was introduced by the Council of the Borough of Riverton at its meeting of September 19, 2023 with a second reading, public hearing, and final adoption held on October 11, 2023.

Michelle Hack,
Municipal Clerk