

ORDINANCE #2018-450
HISTORIC PRESERVATION ORDINANCE

**AN ORDINANCE OF THE VILLAGE OF LOCH ARBOUR, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY ESTABLISHING A HISTORIC
DISTRICT AND ADOPTING CERTAIN REGULATIONS AND
GUIDELINES FOR THE HISTORIC DISTRICT PURSUANT TO
RESOLUTION 2018-93**

Section 1. TITLE

This Ordinance shall be known and cited as the "Historic Preservation Ordinance of the Village of Loch Arbour."

Section 2. HISTORIC DISTRICT ESTABLISHED

There is hereby established within the Village of Loch Arbour (hereinafter referred to as the "Village") a "Historic District" (hereinafter referred to as the "District"). The boundaries of the District are coterminous with the boundaries of the Village.

Section 3. PURPOSES AND INTENT

This Ordinance has the following general purposes and intent:

- A. To promote the goals of the Historic Preservation Element of the Village's Master Plan.
- B. To maintain and preserve the historic character of housing units in the District.
- C. To ensure that new buildings and substantial modifications to existing buildings be compatible with the historic character of the architecture in the District.
- D. To promulgate procedures and provide for guidelines for accomplishing the purposes of this Ordinance without imposing undue hardships on residents of the District seeking to renovate existing homes.

Section 4. DEFINITIONS

As used in this Ordinance, the following terms shall have the meanings indicated:

ACCESSORY BUILDING shall mean a building, which is customarily associated with and is subordinate and incidental to the principal building, and exceeds a 40 square foot footprint and/or five (5) feet in height at its peak.

ADDITION shall mean any extension or increase in the size, floor area or height of a building.

ALTERATION, MAJOR shall mean the addition, change or modification of major architectural elements to a building, which effects the design, shape, pitch or existence of the roof including, but not limited to, main roofs, dormers, roofs of bay or cantilevered windows; pediments, parapets, towers, porches, cupolas, Porte Cochere and balconies, as well as alterations, including demolition of non-linear (e.g. oval, Palladian, etc.) window frame outlines. Major alterations would additionally include changes by additions or complete conversion or alteration of the traditional predominant substance, texture or finish of a building (e.g. changing from wood to stucco, stucco to brick), and changes by additions or complete conversion or alteration of columns and railings on any exterior elevation.

ALTERATION, MINOR as distinct from alteration, major, shall mean the replacement or renewal of existing work, requiring a building permit, of a building; with the same or architecturally equivalent materials, equipment or parts, that are made in the ordinary course of maintenance and that do not cause a major alteration of the building, nor result in a request for any other relief from the Planning Board.

ARCHITECTURAL DRAWINGS shall mean drawings prepared, signed and sealed by a New Jersey licensed Architect, or drawings prepared so as to clearly and unambiguously indicate proposed new work and the existing building (in the case of an addition or modification). Drawings shall include a site plan, floor plans and elevations in sufficient scale and detail to convey the intended new work. The elevation drawings shall indicate all features (i.e. dormers, windows, roofs, trim, etc.) and surface finishes proposed for the project. Plans shall indicate the intended use of all rooms, terraces, Porches, etc.

ARCHITECTURAL ELEMENT, MAJOR is a distinguishing original feature, and shall mean an architectural component/design/style/object, which clearly expresses the time period in which a building was built. For the purpose of administration of this ordinance the following are considered Architectural Elements, Major: (a) Roof shape/pitch and existence of roofed items, including main roof, dormer roof, roof of roofed windows, pediments/parapets, tower roof, Porte-cochere roof, porch roof, balcony roof; (b) Non-linear (e.g. oval, Palladian, etc.) window frame outlines; (c) Predominant surface/finish of the building; (d) Columns and railings.

BOARD shall mean the Planning Board established pursuant to the provisions of the Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq.)

BUILDING shall have the same definition as set forth in the Developmental Ordinance of the Village.

CERTIFICATE OF APPROPRIATENESS shall mean that certificate issued by the Board, that is required prior to undertaking rehabilitation, restoration, renovation, alteration or demolition, undertaken of buildings, accessory buildings or garages in the District.

DEMOLITION shall mean the partial or total razing, dismantling or destruction of any building or of any improvement within the Village.

EMERGENCY REPAIR shall mean an immediate and temporary repair necessary only to allow the continued habitability of a building and/or to protect the health and safety of any occupants and/or the community at large.

GARAGE shall have the same definition as set forth in the Developmental Ordinance of the Village.

IMPROVEMENT shall mean any building or any part thereof constructed or installed upon real property by human endeavor and intended to be kept at the location of such construction or installation.

ORDINARY REPAIR shall mean repairing any deterioration, wear or damage to a building, accessory building, garage or part thereof, to return the same as nearly as practicable to its condition prior to such deterioration, wear or damage.

PRINCIPAL BUILDING shall mean any BUILDING, as defined in the Developmental Ordinance of the Borough, which is not an ACCESSORY BUILDING or GARAGE.

PORCH shall have the same definition as set forth in the Developmental Ordinance of the Village.

Section 5. AUTHORITY GRANTED TO PLANNING BOARD

5.1 Statutory Authority

The Village of Loch Arbour Planning Board shall have and exercise, to the same extent and subject to the same restrictions, all of the powers of a historic preservation commission established pursuant to N.J.S.A. 40:55D-107 *et seq.*, and as may be amended from time to time. At least one Board member shall meet the qualifications of a Class A member as defined by N.J.S.A. 40:55D-107(b) and at least one Board member shall meet the qualifications of a Class B member as defined by N.J.S.A. 40:55D-107(b).

5.2 Historic Preservation Powers of the Planning Board

The Planning Board shall have the following preservation powers:

- A. For any and all applications for development and applications for zoning and/or building permits for proposed improvements to, or demolition of, any and all existing or proposed buildings within the District, to review said application for the purpose of determining whether the application is, and to require that it be, consistent with the Village's goal of maintaining and preserving the historic character of buildings in the District, and to require that any such development or improvement be compatible with, and not detract from, the historic character of the architecture in the District.
- B. For all Major Alterations and Minor Alterations proposed within the District and that do not otherwise require any land use board approval, to review said proposed alterations and require that said alterations, in order to be permitted, be consistent with the Village's goal of maintaining and preserving the historic character of the architecture in the District and be compatible with, and not detract from, that historic character.
 - 1) Minor Alterations, as defined herein, may be reviewed and approved solely by the Board Chairman or such other Board member who has been appointed Chairman of the Board's historic preservation commission functions, acting on behalf of the entire Board.
- D. To grant or deny Certificates of Appropriateness as provided for herein.

Section 6. HISTORIC REVIEW PROCESS

6.1 Requirement and Application for a Certificate of Appropriateness

- A. A Certificate of Appropriateness is required in the District for the following actions:
 - 1. Any change, rehabilitation, restoration, reconstruction, improvement or alteration to the exterior of a building, accessory building or garage, which would constitute a Major Alteration or Minor Alteration, as defined herein.
 - 2. Additions to any building, accessory building or garage as defined herein.
 - 3. Demolition of any building, accessory building or garage as defined herein.

4. New construction of any building, accessory building or garage as defined herein.

- B. The Construction Official shall not issue a building permit for any action requiring a Certificate of Appropriateness absent the Planning Board issuing such a certificate approving that action in its entirety, except in the case of an Ordinary Repair (as defined herein), or an Emergency Repair (as defined herein) or in the event of the Board's failure to act in the time prescribed in N.J.S.A. 40:55D-111. The Construction Official shall refer any applicant for a building permit who has not obtained a Certificate of Appropriateness to the Board for the purpose of obtaining such a certificate.
- C. Application for a Certificate of Appropriateness shall be made to the Board by submission of such application forms made available by the Village for such purpose, together with the required fees, plans, and drawings or renderings, including such additional copies as the Board may require for such applications.

6.2 Hearings on Applications for Certificates of Appropriateness

- A. Within 90 days of receipt of a complete application for a Certificate of Appropriateness and for any other relief that may be sought by the applicant, the Secretary of the Planning Board will schedule a public hearing on the application to take place at a regular meeting of the Board. The presence of the property owner or his legal representative is required.
- B. Hearings will be conducted pursuant to the administrative procedures established in the Developmental Ordinance of the Village of Loch Arbour as amended, as well as other statutory requirements of the State of New Jersey for the conduct of Planning Board Hearings.
- C. Any application for a Certificate of Appropriateness, other than one solely proposing a Minor Alteration, as defined herein, shall require the applicant to advertise and give public notice to owners of property within two hundred (200) feet of the proposed project, in accordance with the procedure for development applications. The applicant shall be responsible for sending out the appropriate notices and shall be responsible for paying the cost of the proceedings. On the date of the hearing, the applicant shall be required to provide the Planning Board with an Affidavit of Mailing and an Affidavit of Publication as proof of fulfilling the notification and advertisement requirements specified herein.

6.3 Determination by the Board

Upon completion of review by the Board, the Board may:

- A. Approve, approve with conditions, or deny any application requiring the issuance of a Certificate of Appropriateness.
 - 1. When denying a Certificate of Appropriateness, the Board shall state the reasons for its decision.
 - 2. Upon a favorable decision approving, or approving with conditions any application, the Planning Board shall issue a Certificate of Appropriateness.
- B. A Certificate of Appropriateness granted by the Board shall authorize the Construction Official to issue a building permit if all other conditions and legal requirements for issuing that permit have been satisfied.
 - 1. The Certificate of Appropriateness shall be valid for one (1) year from the date it is issued by the Board. Two (2) extensions of six (6) months each may be granted by the Planning Board, at their discretion, upon written request by the applicant and the applicant's appearance before the Board to substantiate the basis upon which the Board should grant any such extension. Any such request for an extension must be submitted before the expiration of the certificate sought to be extended.
- C. If a Certificate of Appropriateness has been denied, the Construction Official or his agent shall not issue a building permit.
 - a) The Construction Official or his agent may stop work at any site which does not fully comply with an issued Certificate of Appropriateness or this Ordinance.
- D. If, after a Certificate of Appropriateness has been issued, a change in the scope of the approved work becomes necessary or desired by the applicant, the applicant shall immediately halt all ongoing activity and re-apply to the Board for a new or amended Certificate of Appropriateness pursuant to the procedures set forth in this Ordinance.

Section 7. GUIDELINES AND GENERAL CRITERIA FOR CERTIFICATE OF APPROPRIATENESS APPLICATION

7.1 Guidelines

The Planning Board shall establish and, where appropriate, amend and/or supplement, "Design Guidelines for the Historic District," for use in the Planning Board's review of all development applications and applications for Certificates of Appropriateness in the District. Such guidelines shall not constitute "requirements," but rather are intended to provide the Planning Board with flexible guidelines in deciding an application for a Certificate of Appropriateness and effectuating the purposes of this Ordinance.

7.2 Criteria for Issuance of a Certificate of Appropriateness

The following shall be required for the grant of a Certificate of Appropriateness for all proposed work requiring such a certificate:

(1) All work shall be compatible with the existing structures, landscapes and streetscapes within the District.

(2) The work shall not adversely affect the ambiance, character, and appearance of the District and the relationships among structures and between structures and public ways in the District.

(3) The work shall not adversely affect the exterior architectural features and setting of an existing structure and its historical and architectural interest.

(4) The work shall not result in structural elements that are out of scale with the other structural elements in the surrounding area.

(5) Every structure shall be and remain visually compatible with the structures and places to which it is visually related.

(6) The height of a structure shall be visually compatible with adjacent structures.

(7) The relationship of the width of a structure to the height of the front elevation shall be visually compatible with structures and places to which it is visually related.

(8) The relationship of the width of windows to the height of windows in a structure shall be visually compatible with the structures and places to which it is visually related.

(9) The relationship of solids to voids in the front facade of a structure shall be visually compatible with the structures and places to which it is visually related.

(10) The relationship of a structure to the open space between it and adjoining structures shall be visually compatible with the structures and places to which it is visually related.

(11) The relationship of a structure's entrance and porch projections to the street shall be visually compatible with the structures and places to which it is visually related.

(12) The relationship of materials and texture of the facade and roof of a structure shall be visually compatible with the predominant materials used in the structures to which it is visually related.

(13) The roof shape of a structure shall be visually compatible with structures to which it is visually related.

(14) If proposed, appurtenances such as walls and open-type fencing shall form cohesive walls of enclosure along a street, to the extent necessary to maintain visual compatibility of the main structure with the structures and places to which it is visually related.

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

(16) A structure shall be visually compatible with structures and places to which it is visually related in its directional character, whether this be vertical character, horizontal character, or non-directional character.

(17) Work to restore all or part of a structure shall return the structure, or that part covered by the application, to the known or reasonably conceived appearance (including design elements, architectural details, and textures) it had when it was first constructed or when it was remodeled, if the remodeling occurred before 1950. Notwithstanding the foregoing, the Board may permit (a) modifications that are necessary or beneficial to contemporary living and consistent with the architectural design and character of the structure, and (b) modifications that improve structures lacking architectural merit and not in character with the District and which will result in a structure that is in character with the District.

(18) Existing materials, if they are the original materials of the original structure or remodeling which is being restored, should, where reasonably possible, be maintained and repaired rather than replaced.

(19) In the event that replacement of materials is necessary, the new material should match the material being replaced in composition, design, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications

of original features. This is not intended to require that the new material be identical to the material being replaced. Material adequately mimicking the material being replaced is acceptable, and may sometimes be preferable where of greater durability than the material being replaced.

(20) Architectural details of the original construction or remodeling which is being restored or altered should be retained. This includes, but is not limited to, cornices and their brackets, window trims such as molded lintels, porch elements such as posts, balustrades, and spindles, and windows, particularly the number and size of the individual panes.

(21) The original roofing material should be maintained or repaired, and, if replacement is needed, it should be of the same material and size. If the same material is not available, a substitute material should be of the same shape, texture, and size.

(22) Storm windows and doors should be as unobtrusive as is reasonably possible.

(23) Period trim that defines the character of a structure should be retained. It should not be covered by application of aluminum or vinyl.

(24) Synthetic siding (aluminum or vinyl) is acceptable, but the width of the siding shall be appropriate for the period of the building's construction and not detract from the character of the District.

(25) Windows should be divided into the number of lites or panes appropriate to the style of the building. True divided lites are preferred, but snap-in mountings are acceptable.

(26) Shutters should be of a height and width so that they appear capable of being closed. They are not appropriate on double, bay, or picture windows.

(27) Doors should have the number and type of panels suitable to the style of the building.

(28) Demolition of a building, accessory building or garage in this District shall not be permitted unless (a) the structure has been condemned by applicable procedures, (b) the condition of the structure is such that the cost of necessary restoration or repairs make such restoration or repairs unfeasible, or (c) it can be shown that the structure has no significant architectural or historic value.

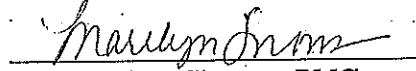
Section 8. VIOLATIONS AND PENALTIES

Any person, firm or corporation that shall violate the terms of this ordinance shall be subject to the violations and penalties set forth in the Developmental Ordinance.

Section 9. This Ordinance shall become effective twenty days after its final passage and publication as required by law.

CERTIFICATION

I, Marilyn Simons, Clerk of the Village of Loch Arbour, do hereby certify the above to be a true copy of the Ordinance adopted by the Board of Commissioners after a public hearing thereon on the 20th day of November, 2018.



Marilyn Simons, RMC
Village Clerk
Village of Loch Arbour

Introduction: October 22, 2018

First Publication: October 25, 2018

Public Hearing/Adoption: November 20, 2018

Final Publication: November 29, 2018

VILLAGE OF LOCH ARBOUR
RESOLUTION 2018-93

UPON MOTION of Mayor Fernicola, seconded by Commissioner D' Angelo, carried, that the following resolution be adopted:

WHEREAS, N.J.S.A. 40:55D-65.1 provides that a governing body may, at any time, adopt, by affirmative vote of a majority of its authorized membership, a zoning ordinance designating one or more historic sites or historic districts that are not based on identifications in the historic preservation plan element, the land use plan element or community facilities plan element, provided the reasons for the action of the governing body are set forth in a resolution and recorded in the minutes of the governing body;

WHEREAS, the reasons identified by the Board of Commissioners of the Village of Loch Arbour, for the adoption of a zoning ordinance designating the Village of Loch Arbour as a historic district, include, but are not limited to, the following:

1. The entire Village of Loch Arbour was originally surveyed, platted and the street grid laid out in 1883. The development of the Village followed shortly thereafter and a majority of the homes in the Village were constructed in the early 1900s. An extraordinary number of the homes constructed during this period of original development remain in place today.
2. The 1985 US Army Corps of Engineers "Cultural Resources Reconnaissance" contained documentation of "Historic Architecture" and noted that Allenhurst specifically contained a significant number of homes constructed in the Spanish Mission, Jacobean, Mediterranean & Colonial Revival Styles. The report also noted that there was a harmony in the styles found in both Allenhurst and Loch Arbour.
3. A Monmouth County Historical Sites Survey from 1980 to 1982 identified six specific residential properties in Loch Arbour worthy of historical recognition as examples of specific architectural styles that were prevalent in the late 19th and early 20th centuries. These examples include structures designed and constructed in the Colonial Revival, Craftsman Bungalow, Tudor Revival and Queen Anne (Victorian) styles. The six structures identified in the Monmouth County Historical Sites Survey (as noted above) remain intact today.
4. A recent article prepared by NJ Advance Media for NJ.Com and later published in the Star Ledger entitled, "The Old Home Capital of All NJ Counties," found that Loch Arbour had the largest percentage of homes constructed prior to 1939 of any town in any county in New Jersey. The above referenced post listed the percentage of homes in Loch Arbour having been constructed prior to 1939 as 90.45%, with the town with the second highest percentage of pre-1939 homes being Glen Ridge (Essex County) at 69.82%.
5. Research by Shore Point Architecture, PA into the Tax Map and Sanborn Map data and field verified, via an actual field reconnaissance survey of the Village during the week of 10/15/18 to 10/19/18, that there are 139 residential lots in the Village and 107 of the structures located on the 139 residential lots were constructed prior to 1939. This equates to a percentage of 77% of the existing housing stock having been constructed prior to 1939. Shore Point Architecture, PA also found that 111 of the existing structures were constructed prior to 1945, which equates to 80%. Even these slightly lower percentages of pre-1939 houses (as compared to the NJ.Com report) confirms that Loch Arbour is the municipality with the highest percentage of its housing stock dating from pre-1939 of any municipality in New Jersey.

6. Because Loch Arbour was developed as a resort town and because the real estate was marketed to wealthy individuals, many of the homes constructed were designed by architects working in the prevalent styles of the times. A field survey conducted by Shore Point Architecture, PA, confirms that the existing housing stock includes many original Colonial Revival, Mediterranean (Spanish) Revival, Queen Anne (Victorian), Craftsman Bungalow and Tudor Revival styles. The unusually high percentage of homes that are original and of these styles establishes a unique character in the Village.
7. The historic properties and overall character of the environment they establish in the Village is irreplaceable and worthy of special designation and preservation. These historic properties and the overall historic character of the Village provide both economic and cultural value and define Loch Arbour as a unique place.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Village of Loch Arbour, Monmouth County, New Jersey, on this 22nd day of October 2018, that it has complied with N.J.S. 40:55D-65.1, by setting forth the above reasons for historic district designation, and does hereby submit a certified copy of this Resolution to demonstrate evidence of said compliance.

Recorded Vote:

	AYE	NAY	ABSENT	ABSTAIN
Commissioner Cheswick	x			
Commissioner D' Angelo	x			
Mayor Fernicola	x			

CERTIFICATION

I, Marilyn Simons, Clerk OF THE VILLAGE OF LOCH ARBOUR, do hereby certify the above to be a true and exact copy of the resolution adopted by the Board of Commissioners of the Village of Loch Arbour at their Meeting held the 22nd day of October, 2018.



Marilyn Simons, RMC
Village of Loch Arbour