

2005

AN ORDINANCE

AMENDING FILE OF THE COUNCIL NO. 45 OF 1996 REGARDING THE COMPREHENSIVE PROGRAM FOR HISTORIC PRESERVATION IN THE CITY OF SCRANTON BY UPDATING THE LIST OF HISTORIC PROPERTIES

WHEREAS, the City of Scranton and Concerned Citizens for the Preservation of Historic Scranton, Inc. have settled a lawsuit filed to 87-CV-0056 in the United States District Court for the Middle District of Pennsylvania; and

WHEREAS, as part of that Agreement, the City of Scranton agreed to Amend File of the Council No. 45 of 1996, subject to approval of Council, to include an updated list of historic properties.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SCRANTON that File of the Council No. 45 of 1996 is hereby Amended to include the updated list of historic properties which list is attached hereto and made a part hereof.

SECTION 1. In all other respects, File of the Council No. 45 of 1996 shall remain in full force and effect.

SECTION 2. If any section, clause, provision or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The City reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

SECTION 3. This Ordinance shall become effective immediately upon approval.

SECTION 4. This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of Legislature, April 13, 1972, Act No. 62, known as the "Home Rule Charter and Option Plans Law" and any other applicable law arising under the laws of the State of Pennsylvania.

Approved 03/04/05
[Signature] Mayor

[Signature] City Clerk
Certified Copy
CERTIFIED COPY
[Signature] City Clerk

Introduced in Council on above date and referred to Committee on February 17, 2005
Rules
[Signature]
City Clerk

Scranton, Pa. March 3, 2005
Sixth Order: February 24, 2005
[Signature]

Passed by The Council
March 3, 2005
receiving the affirmative votes of Council Persons
McTiernan, Evans, Pocius, Courtright, DiBileo
Negative NONE
[Signature] President

Scranton, Pa. MARCH 13, 1996
Committee on Rules reports favorably
on the within ordinance.

Introduced in Council on above date
and referred to Committee on FEBRUARY 28, 1996

March 6, 1996

RULES

Frank J. Naughton

City Clerk

Chairman

John J. P...

FILE OF COUNCIL NO. 45

1996

AN ORDINANCE
(AS AMENDED)

AMENDING FILE OF COUNCIL NO. 38 OF 1976 BY REDEFINING AND DELINEATING THE POWERS AND JURISDICTION OF THE CITY OF SCRANTON COMMISSION FOR ARCHITECTURAL AND URBAN DESIGN REVIEW; AND PRESCRIBING REGULATIONS PROCEDURES AND ESTABLISHING A COMPREHENSIVE PROGRAM FOR HISTORIC PRESERVATION WITHIN THE CITY OF SCRANTON.

WHEREAS, the City of Scranton possesses unparalleled historic, artistic and cultural resources that foster the health, prosperity and welfare of its people and warrant preservation and consideration as a matter of public policy; and

WHEREAS, the Mayor and Council of the City of Scranton created the Commission for Architectural and Urban Design by Ordinance No. 38 of 1976 as an historic landmarks commission; and

WHEREAS, recent amendments to the National Historic Preservation Act of 1966 afford the means for the City of Scranton to participate actively in the process of nominating properties of national, state or local significance for listing in the National Register of Historic Places through the Certified

CERTIFIED COPY

Frank J. Naughton
City Clerk

WHEREAS, the City of Scranton desires to conform to the Federal guidelines for a Certified Local Government; and

WHEREAS, the Pennsylvania Constitution, at Article I, § 27, was amended in 1971 to provide for the right of the people to the preservation of the historic and aesthetic values of the environment; and

WHEREAS, the powers and duties of the Commission for Architectural and Urban Design are unique and do not conform to the powers and duties of any other existing City Agency; and

WHEREAS, the History Code 37 Pa. C.S.A. § 102 (g) provides "it is in the public interest for the Commonwealth, its citizens and its political subdivisions to engage in comprehensive programs for historic preservation for the enjoyment, education and inspiration of all the people, including future generations"; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SCRANTON that:

SECTION 1. PURPOSES:

The purposes of this Ordinance are:

- (a) To protect those areas of the City of Scranton which are of historic, architectural, cultural, archaeological, educational, and aesthetic merit to the City of Scranton, the State and the Nation;
- (b) To awaken, in our people, an interest in our historic past;
- (c) To promote the use and reuse of the areas of the City of Scranton

for the culture, education, health, pleasure and the general welfare of the people of the City of Scranton, the State and the Nation;

(d) To strengthen the economy of the City of Scranton by stabilizing and improving property values; and

(e) To encourage new buildings and developments that will be compatible with existing historic and architecturally significant buildings and districts.

SECTION 2. SCOPE:

The Commission for Architectural and Urban Design Review shall recommend the designation of Historic Districts or landmarks and shall perform certain procedures relating to the issuance of permits for the alteration, construction, erection, reconstruction, restoration, demolition or razing of any building or structure, in whole or in part, located in an Historic District or landmark within the City of Scranton.

SECTION 3. DEFINITIONS:

For the purposes of this Ordinance, all words used in the present tense include the future tense. All words in the plural number include the singular number and all words in the singular number include the plural number, unless the natural construction of the word clearly indicates otherwise. The word "shall" is mandatory and not directory.

ALTERATION: Any change, modification or addition to a part of or all of the exterior of any building or structure, which is visible from a

public street or way.

APPLICANT: One who applies for a Certificate of Appropriateness.

APPLICATION: A request for permission to alter, reconstruct, repair, restore, demolish or raze all or part of a landmark; or construct, alter, reconstruct, repair, restore, demolish or raze all or part of any building or structure located in an Historic District or landmark. An application shall contain the information and documentation required for the scope of the proposed work. (refer to SECTION 7. regarding exception for interior alterations or modifications).

BUILDING: Any enclosed or open structure which is a combination of materials to form a construction for occupancy and/or use, including mobile homes and trailers, to be used for any reason whatsoever.

BUILDING CODE OFFICIAL: The Building Code Official, or his designee, for the City of Scranton.

BUILDING PERMIT: Any approval statement issued by the Building Code Official, or his designee, authorizing the construction, alteration, reconstruction, repair, restoration, demolition or razing of all or part of any building or structure.

BUILDING PERMIT APPLICATION: The request filed by any person with the Building Code Official that seeks authorization to construct, alter, reconstruct, repair, restore, demolish or raze all or part of any building or structure.

CERTIFICATE OF APPROPRIATENESS: The approval statement, which certifies the appropriateness of an applicant's request to construct, alter, reconstruct, repair, restore, demolish, raze, sandblast and/or chemically clean the exterior of all or part of any building or structure located in an Historic District or landmark.

CERTIFICATE OF ECONOMIC HARDSHIP: The approval statement wherein the applicant's request to perform specific work on a building or structure located in an Historic District or certified as a landmark is permitted after consideration of the financial concerns and limitations of the applicant are set made known and accepted with or without modification.

CITY: The City of Scranton.

CITY CLERK: The clerk of the City of Scranton.

CITY COUNCIL: The legislative branch of the governing body of the City of Scranton.

CITY ENGINEER: the licensed, registered professional engineer, employed by the City of Scranton, whose duties include, but are not limited to, ensuring that buildings and structures are structurally safe and fit for habitation or their intended use.

CITY SOLICITOR: The legal representative of, and for, the City of Scranton.

COMMISSION: The Commission for Architectural and Urban

Design Review created through the enactment of this Ordinance and governed by the provisions contained herein.

COMMONWEALTH: The Commonwealth of Pennsylvania.

CONSTRUCTION: Any and all work necessary for the erection, alteration, reconstruction, repair or restoration of any building or structure from a combination of materials.

DEMOLITION: the dismantling or tearing down of all or part of any building or structure.

GOVERNING BODY: the Mayor and council of the City of Scranton.

HISTORIC DISTRICT: The geographic areas delineated in accordance with the provisions of this Ordinance possessing a significant concentration, linkage or continuity of buildings, structures, sites or objects united by past events, plan or physical development which contain historical, architectural, cultural, archaeological, educational or aesthetic merit. An Historic District may comprise an individual site or individual elements separated geographically but linked by association, plan, design or history.

HISTORIC DISTRICT MAP: The official map adopted by the Governing Body of the City of Scranton which shall be filed of record in the Office of the City Clerk.

HISTORIC PRESERVATION OFFICER: The City employee who shall provide technical assistance to the Commission for Architectural and

Urban Design Review including, but not limited to: reviewing all Applications for Certificates of Appropriateness; attend all meetings of the Commission and, in conjunction with the Superintendent of Building Inspection and the Council of the City of Scranton, ensure that the purposes of this Ordinance and the decisions of the Commission are adhered to.

INCENTIVE PLAN: A coordinated effort wherein Federal, State and Local agencies provide funds for the preservation of a structure which has been determined to be located within the Historic District or certified as a landmark.

LANDMARK: An individual site, element or building which demonstrates historical, architectural, cultural, archaeological, educational or aesthetic merit.

MAYOR: The Chief Executive of the City of Scranton.

NATION: The United States of America.

PERMANENT SITE FURNISHINGS: Objects, or equipment serving a particular site, that are intended to last indefinitely; e.g. outdoor lighting, flagpoles, benches, statues, fountains, etc.

PRESERVATION: The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an 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.

PUBLIC STREET OR WAY: Any land dedicated to public use or passage including, but not limited to, streets, alleys, parks, pedestrian rights-of-way, whether constructed, dedicated or proposed.

RECONSTRUCTION: the act or process of accurately depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

REHABILITATION: the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

NOTE: The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and code-required work to make properties functional is appropriate within restoration, preservation and rehabilitation projects.

REPAIRS: Any and all work involving the replacement of existing work with equivalent material for the purpose of maintenance, but not including any addition, change or modification in construction.

REPLICATE: To make an exact copy; duplicate.

RESTORATION: The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular

period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

SIGN: Any device, structure or object for visual communication, including its structure and component parts, that is used for the purpose of bringing the subject thereof to the attention of people, but not including any cloth flag of any public, quasi-public, civic, charitable or religious group.

STATE: The Commonwealth of Pennsylvania.

STRUCTURE: Any constructed, erected or placed material, or combination of materials, in or upon the ground, including, but not limited to, buildings, mobile homes, permanent site furnishings, radio towers, sheds, signs and works of art.

WORK OF ART: The term "work of art", as used in this Ordinance, shall apply to, and include, all mural decorations, statues, bas-reliefs, sculptures, monuments, fountains, arches, ornamental gateways and other structures of a permanent character, intended for ornament or commemoration.

SECTION 4. THE COMMISSION:

(a) MEMBERSHIP:

Membership of the Commission shall consist of nine (9) residents of the City of Scranton, not in the employ of the City of Scranton, who shall serve without remuneration and shall be composed of the following:

- (1). One (1) Registered Architect
- (2). One (1) Registered Engineer
- (3). One (1) licensed Contractor
- (4). One (1) licensed Real Estate Broker
- (5). One (1) member of the Architectural Heritage Association.
- (6). One (1) property owner whose property is located within an Historic District or who owns a Landmark property.
- (7). One (1) member who, by professional training or occupation, is an Urban Planner, Architectural Historian, Archaeologist, Historic Preservationist, or has professional expertise in a field closely related to historic preservation or discipline such as American Studies, American Civilization, Cultural Geography or Cultural Anthropology.
- (8). One (1) property owner at-large, and
- (9). One (1) other person who, by training, experience or interest, is qualified to carry out the duties as a member of the Commission.

The members of the Commission shall be governed by the Code of Ethics as contained in the Administrative code of the City of Scranton and in this regard shall not participate in the discussion, or in any vote taken, on any proposal before the Commission in which they have any financial interest either directly or indirectly.

(b) APPOINTMENT; TERMS OF MEMBERSHIP:

Members of the Commission shall be appointed by the Mayor, with the advice and consent of City Council, and shall serve for a period of five

(5) years. The terms of those members initially appointed shall be staggered so that no more than two (2) terms expire in any one year. Qualified replacements shall be appointed by the Mayor, with the advice and consent of City Council, within a period of ninety (90) days after the expiration of the former member's term. Members shall not serve more than two (2) consecutive five (5) year terms. No member shall be reappointed until five (5) years after the completion of their previous two (2) consecutive terms of service to the Commission.

(c) ORGANIZATION OF THE COMMISSION:

The Commission may establish its own by-laws, rules of procedure subject to the approval of the Governing Body of the City of Scranton and the provisions of the Local Agency Act, establish offices and elect officers from its own membership. For the conduct of any meeting and the taking of any action, a quorum shall not be less than a majority of the Commission as a whole. Any action taken at any meeting shall require the affirmative vote of a majority of the quorum. The Commission shall keep full public records of its business and shall submit a report of its activities to the Mayor and City Council at least once a year.

(d) REMOVAL OF MEMBERS:

Any Commission member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by the Mayor.

(e) EXPENDITURES FOR SERVICE:

The Commission may expend funds for legal, secretarial, clerical, consultant and other technical assistance required to achieve the aims of this Ordinance. Commission members shall serve without compensation except that the City of Scranton may reimburse Commission members for expenses incurred in the performance of their duties. The Commission shall adhere to the competitive bidding requirements as contained in the Administrative Code of the City of Scranton.

(f) COMPLIANCE WITH THE SUNSHINE ACT:

The Commission shall comply with the requirements for meetings under the Sunshine Act, 65 P.S. § 271, et. seq.

SECTION 5. POWERS AND FUNCTIONS OF THE COMMISSION:

(a) ADVICE TO GOVERNING BODY OF THE CITY OF SCRANTON:

The Commission shall recommend to the Governing Body of the City of Scranton whether an application for a Certificate of Appropriateness should be approved. The Commission shall also recommend the designation of Landmarks and Historic Districts to the Governing Body of the City of Scranton.

(b) USE OF CRITERIA:

The criteria to be used by the Commission in making its reports/recommendations to the Governing Body of the City of Scranton concerning the issuance of Certificates of Appropriateness shall include the

effect of the proposed change upon each of the following:

- (1) the broad historical values representing the cultural, political, economical or social history of the City of Scranton;
- (2) the relationship of the structure to historic personage or events;
- (3) the specimen architectural types representative of a certain period, style or method of construction;
- (4) the general historical and architectural nature of the Landmark or Historic District, or of other buildings and structures in the immediate proximity;
- (5) the appropriateness of exterior architectural features which can be seen from a public street or way; and
- (6) the general design, arrangement, texture, material and color of the building, structure or Landmark and the relationship of such factors to similar features of adjacent buildings and structures in the Historic District or the immediate vicinity.

SECTION 6. LANDMARKS AND HISTORIC DISTRICTS:

(a) DESIGNATION OF LANDMARKS AND THE CREATION OF HISTORIC DISTRICTS:

The Commission shall prepare, in accordance with the criteria set forth in Section (b) of this Section, recommendations for consideration by the Governing Body of the City of Scranton of those buildings, structures, sites, objects or areas to be designated as LANDMARKS or included in an HISTORIC DISTRICT or HISTORIC DISTRICTS. After receipt of the recommendations of the Commission, the Governing Body of the City of Scranton may, after notice to all affected property owners and the opportunity for all affected property owners to be present at a hearing to

designate any building or structure as a LANDMARK or determine the BOUNDARIES OF ANY HISTORIC DISTRICT, consider for adoption, an Ordinance which shall designate LANDMARKS and shall define, in accordance with the criteria set forth in Section (b) of this Section, the BOUNDARIES OF THE HISTORIC DISTRICT OR HISTORIC DISTRICTS. All LANDMARKS and individual sites or areas included within an HISTORIC DISTRICT OR HISTORIC DISTRICTS shall be placed on the Historic District Map and kept on file in the Office of the City Clerk.

(b) CRITERIA FOR DESIGNATION OF A LANDMARK OR AN HISTORIC DISTRICT:

A building, complex of buildings, structure, site, object, or area may be designated a LANDMARK or an HISTORIC DISTRICT if it:

- (1) has significant character, interest or value as part of the development, heritage, or cultural characteristics of the City, Commonwealth, or Nation, or is associated with the life of a person significant in the past; or
- (2) is associated with an event of importance to the history of the City, Commonwealth, or Nation; or
- (3) reflects the built environment of an era characterized by a distinctive architectural style; or
- (4) embodies distinguishing characteristics of an architectural style, or engineering specimen; or

(5) is the work of a designer, architect, landscape architect, or engineer whose work has significantly influenced the historical, architectural, economic, social, or cultural development of the City, Commonwealth, or Nation; or

(6) contains elements of design, detail, materials or craftsmanship which represent a significant innovation; or

(7) is part of or related to a square block or other distinctive area which should be preserved according to an historic, cultural or architectural motif; or

(8) owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community, or City; or

(9) has yielded, or may be likely to yield, information important in pre-history or history; or

(10) exemplifies the cultural, political, religious, ethnic, economic, social or historical heritage of the community.

(c) REVIEW AND AMENDMENT OF THE HISTORIC DISTRICT MAP:

The Commission shall, upon the written request of a resident of the City of Scranton, or at least once every five (5) years, review the boundaries of the Historic District Map to ensure the appropriateness of an HISTORIC DISTRICT or HISTORIC DISTRICTS included therein, in accordance with the criteria contained in Section 6, Subsection (b). Any recommendations

for amendments to the Historic District Map may be acted upon by the Governing Body of the City of Scranton in accordance with the procedure contained in Section 6, Subsection (a).

(d) RECOMMENDATIONS CONCERNING MONIES FOR HISTORIC PRESERVATION:

(1) The Commission shall make recommendations Governing Body of the City of Scranton concerning the creation of economic incentives and the use of grants, gifts, and budgetary appropriations to promote the preservation of buildings, structures, sites, objects or districts of historic importance to the City.

(2) With the prior approval of the Governing Body of the City of Scranton, the Commission may prepare grant applications and submit proposals to appropriate funding agencies, in order to promote the preservation of buildings, structures, sites, objects or districts of historic importance to the City.

(e) RECOMMENDATIONS REGARDING HISTORIC PRESERVATION ACTION BY THE CITY OF SCRANTON:

The Commission may make recommendations to the Governing Body of the City of Scranton that the City purchase any building, structure, site or object of historic significance where private preservation is not feasible, or that the City acquire facade easements, development rights, or any other property interests that would promote historic preservation.

(f) PROMOTION OF INCREASED PUBLIC AWARENESS:

The Commission may develop educational programs or publicity aimed at increasing public awareness of the value of architectural, cultural, and historic preservation.

(g) INCENTIVE PLAN:

The purpose of an incentive plan is to provide a means to allow a reasonable use without the demolition of the building or structure, or its important architectural elements. The Commission, in cooperation with other City agencies and departments, and the property owner, may prepare a report and recommend to the Governing Body of the City of Scranton an incentive plan to assure the use of the building or structure. The incentive plan may include, but not be limited to, loans or grants from the City of Scranton, or other public or private sources, acquisition by purchase or eminent domain, building and safety code modifications to reduce the cost of maintenance, restoration, rehabilitation or renovation, changes in applicable zoning regulations, including a transfer of development rights, or waiver of the provisions of this Ordinance sufficient to allow reasonable use of the building or structure.

(h) GOVERNING BODY CONSIDERATION OF INCENTIVE PLAN:

(1) Upon receipt of a report from the Commission recommending an incentive plan to assure reasonable use of a property, the Governing Body of the City of Scranton shall give prompt consideration to the determination of economic hardship and the report of the Commission,

including the recommended incentive plan. The Governing Body of the City of Scranton shall approve, or disapprove, the Commission's recommended incentive plan to allow reasonable use of the building or structure within ninety (90) days immediately following the Commission's report.

(2) If approved by the Governing Body of the City of Scranton, the City Clerk shall mail a copy of the legislative approval (and incentive plan) to the property owner within five (5) days following enactment of the of the legislation; the City Clerk will also provide copies to the Commission and other appropriate City agencies and Departments.

(i) **ISSUANCE OF CERTIFICATE OF ECONOMIC HARDSHIP BY THE COMMISSION:**

(1) Upon receipt of a copy of the Governing Body's action authorizing an incentive plan for an applicant's building or structure, the Commission shall in accordance with the authorizing legislation, issue a **CERTIFICATE OF ECONOMIC HARDSHIP** within thirty (30) days. The certificate of Certificate of Economic Hardship may be subject to conditions including, design guidelines for subsequent construction not inconsistent with the standards set forth by the Secretary of the Interior's guidelines for the Rehabilitation of Historic Buildings. The Certificate, and any applicable conditions, shall be mailed to the applicant within five (5) days of its issuance. The **CERTIFICATE OF ECONOMIC HARDSHIP** shall be valid for a period of one hundred eighty (180) days from its date of issue.

CERTIFICATES OF ECONOMIC HARDSHIP shall not be transferrable from the applicant to another subsequent owner of the same property.

(2) Upon presentation by the applicant of a valid CERTIFICATE OF ECONOMIC HARDSHIP, the Building Code Official shall issue a CERTIFICATE OF APPROPRIATENESS to the applicant within five (5) days which will enable the applicant to apply for a building permit from the City of Scranton.

SECTION 7. CERTIFICATE OF APPROPRIATENESS
REQUIREMENTS:

No person shall reconstruct, alter, repair, restore, demolish, raze, sandblast, or chemically clean, in whole or in part, any LANDMARK or erect, construct, reconstruct, alter, repair, restore, demolish, raze, sandblast or chemically clean, in whole or in part, except for interior alterations, demolition of partitions, or interior modifications, any building or structure located within an HISTORIC DISTRICT, without first obtaining a CERTIFICATE OF APPROPRIATENESS. A CERTIFICATE OF APPROPRIATENESS shall be required not only for work which would require a building permit according to the currently enacted Building Code of the City of Scranton, but also for all work affecting general design, arrangement, texture, and material, which can be seen from a public street having a minimum legal right-of-way of thirty-three (33) feet including utility installations or other public improvements. This includes, but is not limited to, the following:

- (1) sandblasting;
- (2) chemical cleaning;
- (3) stucco, or other applied textures;
- (4) replacement or major repair of windows, cornices, trim or other non-structural elements;
- (5) signs required to have a Permit under the City's Zoning Ordinance; and
- (6) other work affecting the visual appearance of the structure as defined in this section.

SECTION 8. DUTIES OF THE BUILDING CODE OFFICIAL:

(a) ISSUANCE OF PERMITS:

The Building Code Official shall be responsible for the issuance of permits for any work that would affect the general design, arrangement, texture, or material of any LANDMARK or any building or structure in any HISTORIC DISTRICT, when the results of such work are capable of being viewed from a public street having a minimum legal right-of-way of thirty-three (33) feet. Permits shall be required for such work, even if a Permit is not required according to the currently enacted Building Code of the City of Scranton. This includes, but is not limited to, the following:

- (1) sandblasting;
- (2) chemical cleaning;
- (3) stucco or other applied textures;
- (4) replacement or major repair of windows, cornices, trim or other non-structural elements;

- (5) signs; and
- (6) other work affecting the visual appearance of the building or structure as defined in this Section.

No such permit shall be issued by the Building Code Official until a Certificate of Appropriateness has been issued.

(b) CONDUCT OF OFFICE:

Upon receipt of an Application for a Permit for work to be done pursuant to this Ordinance on a LANDMARK or in any HISTORIC DISTRICT, the City of Scranton Building Code Official shall notify the Historic Preservation Officer, and shall act in accordance with the following requirements:

- (1) The City of Scranton shall forward within three (3) working days to the Commission, a copy of the Application containing the information and documentation required for the scope of the proposed work.
- (2) The City of Scranton Building Code Official shall maintain a record of all such applications. The record shall include details of the handling and disposition of the same and shall be in addition to, and appropriately cross-referenced to, other building inspection records.
- (3) The City of Scranton Building Code Official shall require applicants to submit an original and no more than three (3) copies of the application and information/documentation required for the scope of the proposed work to allow compliance with the foregoing.

(4) Upon receipt of the decision of the Governing Body of the City of Scranton on the application, the Building Code Official shall approve (or disapprove) the permit in accordance with the decision of the Governing Body of the City of Scranton, and shall so notify the applicant.

(5) The City of Scranton Building Code Official shall institute any proceeding at law or in equity necessary for the enforcement of this Ordinance in the same manner as in the enforcement of the Building Code of the City of Scranton.

(c) HAZARDOUS BUILDINGS OR STRUCTURES:

In the event that the application involves a building or structure which presents a clear and present danger to the public, or if said building or structure has been rendered unfit for habitation because of fire, explosion, or other similar cause, the terms of this Ordinance may be waived to the extent that the applicant can proceed to render the subject property safe under the terms of the Building Code of the City of Scranton. If the property cannot be made safe, and the City Engineer, after a survey, certifies that there is a clear and present danger to the public if the building structure is allowed to stand, then the building or structure may be demolished. However, any other changes made to the subject property must be approved, finally, under the terms of this Ordinance.

SECTION 9. PROCEDURE FOR CONSIDERATION OF APPLICATION:

(a) APPLICATION:

Upon receipt by the Commission of an Application for Certificate of Appropriateness, the Commission shall schedule a meeting to consider the advice/report which the Commission will give to the Council of the City of Scranton.

(b) NOTICE:

The applicant shall be given not less than ten (10) days written notice, by registered mail, return receipt requested, of the time and place of said meeting, and shall be invited to appear to explain their reasons for the application. The applicant may waive, in writing, this notification period. If the applicant is not the owner of the property, then the owner of the property shall be given not less than ten (10) days written notice by registered mail, return receipt requested, of the time and place of said meeting, and shall be invited to appear.

(c) MEETING:

At the meeting, which may be at the time and place scheduled for a regularly scheduled Commission meeting, the Commission shall review the application, hear the applicant, owner, or other interested person (s) and determine whether the criteria for a certificate of appropriateness have been met.

(d) DECISION:

The Commission shall notify the applicant of its decision as soon as possible, by certified mail, return receipt requested, but no later than thirty

(30) days after the submission of the application to the Building Code Official. If the Commission decides to recommend the granting of a Certificate of Appropriateness, the Commission shall, simultaneously with notifying the applicant, submit its advice/report, in writing, to the Governing Body of the City of Scranton; if the Commission, on the basis of the information received at the meeting, and from its general knowledge and background information, decides to recommend against the granting of a certificate of appropriateness, it shall indicate to the applicant the changes, if any, in the plans and specifications which would enable the applicant to meet the requirements of this Ordinance. The Commission shall withhold its report from the Governing Body of the City of Scranton for a period of five (5) days following its notice to the applicant that the Commission intends to recommend against the granting of a certificate of appropriateness. This grace period, which is intended to allow the applicant time to decide whether or not to make the suggested changes, may be extended by an additional fifteen (15) days upon written request of the applicant. At the expiration of this grace period, the Commission shall forward its advice/report to the Governing Body of the City of Scranton, including any pertinent information regarding suggested changes to the proposed plan/application in question, and the applicant's response(s) to said suggested changes. Nothing in this Section shall be construed as a waiver by the Governing Body to entertain legislation approving the issuance of a

Certificate of Appropriateness in the event the Commission recommends against granting the Certificate of Appropriateness.

SECTION 10. NOTICE TO THE GOVERNING BODY OF THE CITY OF SCRANTON:

The Commission shall submit its advice/report, in writing, to the Governing Body of the City of Scranton within thirty (30) days of the date of the submission of the application to the Building Code Official, unless the time limitation is waived, in writing, by the applicant. This thirty (30) day period shall be extended, automatically, by the number of grace period days given pursuant to SECTION 9. Should the Commission fail to provide its advice/report to the Governing Body of the City of Scranton within the time limits specified herein, it shall be deemed as a matter of law that the Commission has recommended that the Governing Body of the City of Scranton issue the subject Certificate of Appropriateness, and the applicant may notify the Building Code Official accordingly. Should the Commission decide to provide its advice/report to the Governing Body of the City of Scranton, it shall be in writing, and it shall include the following:

- (1) the exact location of the area in which the work is to be done;
- (2) the exterior changes to be made, or the exterior character of the structure to be constructed or erected.
- (3) a list of the surrounding structures with their general exterior characteristics and the names of their owners;
- (4) the effect of the proposed change(s) upon the general historical and architectural nature of the area;

- (5) the appropriateness of the exterior architectural features which can be seen from a public street or way;
- (6) the general design, arrangement, texture, and material of the building or structure, and the relation of such factors to similar features of the buildings or structures in the area;
- (7) the opinion of the Commission (pro and con) as to the appropriateness of the work proposed as it will preserve, destroy, the historical or visual aspects and nature of the area.
- (8) Photographs of the subject property and the surrounding properties.

SECTION 11. RESPONSIBILITIES OF THE GOVERNING BODY OF THE CITY OF SCRANTON:

(a) RECEIPT OF COMMISSION ADVICE/REPORT:

Upon receipt of the written advice/report of the Commission, or, absent the Commission's advice/report, notification to the Building Code Official of the City of Scranton, the Governing Body of the City of Scranton shall consider within forty five (45) working days the question of directing the Building Official to issue a Certificate of Appropriateness authorizing a permit for the work covered by the application.

(b) NOTICE:

The applicant shall be advised by the City Clerk of the City of Scranton, by certified mail, return receipt requested, of the time and place of the meeting at which time the application will be considered and the applicant shall be advised that they have the right to attend the meeting and be heard as to their reasons for filing the application. If the applicant is not

the owner of the property, then the owner shall be notified in the same manner.

(c) CRITERIA AND PROCEDURES:

In determining whether or not to certify the appropriateness of the proposed erection, reconstruction, alteration, restoration, demolition, or razing of all or part of any building or structure, the Governing Body of the City of Scranton shall consider the same factors as considered by the Commission, set forth in SECTION 5 (b) of this Ordinance, as well as the advice/report of the Commission. Any Hearing shall be conducted in accordance with the provisions of 53 P.S. § 10908 (2), (3), (4), (5), (6), (8), and (9), except that the time periods shall be those prescribed by this Ordinance.

(d) DECISION:

If the Governing Body of the City of Scranton concurs with the application, the Governing Body of the City of Scranton shall issue a Certificate of Appropriateness directing the Building Code Official to issue a permit for the work proposed. The Building Code Official shall notify the applicant of the issuance of the appropriate permit if authorized by the Governing Body of the City of Scranton's granting of a Certificate of Appropriateness, in writing, within three (3) days from the Governing Body of the City of Scranton's decision, by Certified Mail, Return Receipt Requested. If the Governing Body of the City of Scranton does not concur

with the application, it shall do so in writing and copies shall be given to the applicant, the Commission, and to the Pennsylvania Historical and Museum Commission, where applicable, by Certified Mail, Return Receipt Requested. The notice, rejecting the application, shall indicate what changes, if any, in the application's plans and specifications would enable the applicant to meet the requirements of this Ordinance.

SECTION 12. WORKS OF ART

(a) PRESERVATION AND LOCATION OF WORKS OF ART:

The Commission shall also consider the preservation and existing location of Works of Art in Historic Districts and may make recommendations for changes in location thereof.

(b) COMMISSION REVIEW OF WORKS OF ART:

No work of Art shall be erected in an Historic District or placed upon any street, park, public building or structure, or other property belonging to the City, until such Work of Art, and its proposed location, have been reviewed by the Commission and a course of action is recommended to the Governing Body of the City of Scranton. No Work of Art, or public building or structure, in an Historic District may be removed, relocated, demolished, razed or altered in any way without the recommendation of the Commission to the Governing Body of the City of Scranton.

(c) PUBLIC FUNDS:

The Commission shall recommend that Works of Art be a part of any new construction, begun after the effective date of this Ordinance, in an Historic District which is funded with public monies, in whole or in part, and may recommend that one percent (1%) of the total public funding of said new construction be used for Works of Art.

SECTION 13. PUBLIC PROPERTY IN AN HISTORIC DISTRICT:

(a) APPROVAL OF DESIGN OF BUILDING, STRUCTURE OR SITE:

No design for a building, bridge, approach, gate, stairs, fence, lamp, street furniture, other structure or addition which shall be erected in an Historic District or upon any street or property which is owned, leased or occupied by the City, or any agency thereof, shall be implemented without the recommendation of the Commission to the Governing Body of the City of Scranton. The Commission's recommendation shall not be binding on the Governing Body.

(b) ALTERATIONS, LOCATION AND DEMOLITION:

No arch, bridge, approach, permanent sign, or property of any person intended to extend, or extending, over or upon any City sidewalk or street, City park or property in an Historic District shall be erected, altered, or demolished without the recommendation of the Commission to the Governing Body of the City of Scranton. The Commission's recommendation shall not be binding on the Governing Body.

(c) SUBMISSION AND RE-SUBMISSION OF DESIGN
DRAWINGS AND/OR MODELS:

The Commission shall require submission of drawings and/or models of designs of municipal property located in an Historic District for its approval, including materials and colors intended for exterior use. After an alteration or change in design is made upon advice from the Commission, or otherwise, the design drawings and/or models shall be re-submitted to the Commission. If the Commission recommends approval of the Design to the Governing Body of the City of Scranton, these drawings and/or models shall be retained by the City's Building Code Official until completion of the project.

SECTION 14. UNCERTAINTY IN BOUNDARIES:

Should a dispute arise as to the boundaries of the Historic District (s), the Historic District Map shall be the final authority. Where uncertainty exists as to the boundaries of an Historic District, the following rules shall apply:

(a) where Historic District boundaries are indicated as approximately following the centerline or street-line of streets or centerline of alley-line of alleys, such boundaries shall be construed to extend to the centerlines of said streets or alleys.

(b) where Historic District boundaries are so indicated that they are approximately parallel to the street-lines, the alley-lines of alleys, or the limits of rights-of-way, such boundaries shall be construed as being parallel

thereto and at such distance therefrom as indicated on the Historic District Map. If no distance is given, such dimension shall be determined by the use of the scale as shown on the Historic District Map.

(c) where Historic District boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries.

(d) where Historic District boundaries are indicated as approximately following a body of water, such lines shall be construed as coincident with the shoreline of said body of water.

(e) where physical or cultural features existing on the ground are at variance with those shown on the Historic District Map or in other circumstances not covered by the above, the Commission shall interpret the boundaries of the Historic District and refer the findings of the Commission to the Council of the City of Scranton for action.

SECTION 15. CONFLICT WITH OTHER LAWS:

Should any provisions set forth in this Ordinance be found to conflict with any law of the United States or of the Commonwealth of Pennsylvania, such Federal and/or State law shall govern, and this Ordinance shall be construed accordingly. Such conflict shall not affect the validity of this Ordinance.

SECTION 16. VIOLATIONS AND PENALTIES:

(a) NOTICE OF VIOLATIONS:

The Building Code Official shall serve a NOTICE OF VIOLATION

on the person in violation of this Ordinance, or of a plan approved thereunder, or in violation of a permit of Certificate of Appropriateness issued under the provisions of this Ordinance. Such notice shall direct the abatement of said violation.

(b) PROSECUTION OF VIOLATION:

If the violation is not abated within the time specified in the notice of violation, the Building Code Official and the City Solicitor shall institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation.

(c) VIOLATION PENALTIES:

Any persons who shall violate the provisions of this Ordinance or who shall fail to comply with any of the requirements thereof or who shall conduct activities in violation of a permit or a Certificate of Appropriateness issued under the provisions of this Ordinance, or who shall, without having applied for, and received, an appropriate permit, conduct activities for which a permit is required under the terms of this Ordinance, shall be guilty of a SUMMARY OFFENSE punishable by a fine not exceeding \$300.00 per day, plus costs, or imprisonment for a period of up to ninety (90) days if such fine and costs be not paid. Each day that a violation continues unabated shall be deemed a separate offense.

SECTION 17. APPEALS:

An Applicant for a Certificate of Appropriateness, or a property

owner of a property designated Historic, aggrieved by an adverse decision of the Governing Body of the City of Scranton, or any person(s) who has actively participated in opposition to the application for a Certificate of Appropriateness and clearly demonstrates a particularized harm will be caused by the approval of the application, may file an appeal with the Court of Common Pleas of Lackawanna County, PA or any other Court having jurisdiction over the matter, within thirty (30) days after the issuance of the Governing Body of the City of Scranton's decision on the application, the Historic designation of a Landmark property or an Historic District. Failure to file an appeal within the time frame herein specified shall preclude an appeal on said decision of the Governing Body of the City of Scranton.

Upon the filing of an appeal and during its pendency before the Court, all work under appeal shall be stayed unless the City Engineer, or the Building Code Official, certifies to the Governing Body of the City of Scranton, in writing, that such stay would cause imminent peril to life or property, in which case the work shall not be stayed, other than by a restraining order which may be granted by any Court having jurisdiction. Any interested party may petition the Court having jurisdiction to order such appellants to post Bond as a condition of continuing the proceedings before the Court. The question of whether or not such petition should be granted, and the amount of the Bond shall be within the sole discretion of

Section, clause, portion or provision. The City reserves the right to amend this Ordinance, or any portion thereof, from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance and the effective administration thereof.

SECTION 20. REPEAL:

All Ordinances, or portions of Ordinances, inconsistent herewith are hereby repealed. The enactment of this Ordinance, however, shall not affect or prevent any pending or future prosecution of any existing violation of any Ordinance superseded by this Ordinance. Any existing violation of any Ordinance superseded by this Ordinance is also a violation of the provisions of this Ordinance.

SECTION 21. AMENDMENTS:

The Commission may recommend amendments to this Ordinance which shall not take effect until an Ordinance amending this Ordinance is enacted by the Governing Body of the City of Scranton in accordance with the Home Rule Charter of the City of Scranton and State Law.

SECTION 22. FEES:

In order to cover the costs of advertising, the expenses of the Commission, and a proportional part of the Historic Preservation Officer's salary used for these reviews, a fee of \$150.00 is imposed for a Certificate of Appropriateness, which shall be made payable to the Treasury of the City of Scranton and paid to the Building Code Official upon application.

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SECTION 23. PRESENT LANDMARKS AND HISTORIC DISTRICTS:

When all Members of the Commission are appointed they shall prepare a list of Landmarks and Historic Districts within the City of Scranton pursuant to Section 6 hereof and submit its recommendation to the Governing Body within sixty (60) days.

SECTION 24. EFFECTIVE DATE OF ORDINANCE:

This Ordinance shall become effective when the Mayor appoints all members to the Commission pursuant to Section 4 hereof. For purposes of this Section, the Commission shall be fully empaneled when Council accepts the appointments of all members.

SECTION 25. OTHER:

This Ordinance is enacted by the Council of the City of Scranton under the authority of the Act of the Legislature, April 13, 1972, Act No. 62, known as the "Home Rule Charter and Optional Plans Law", and any other applicable law arising under the laws of the Commonwealth of Pennsylvania.

Passed by The Council

MARCH 13, 1996

receiving the affirmative votes of Council Persons

WALSH, HAZZOURI, NOONE & POCIUS

Negative - NONE, (MR. BARRETT - ABSENT)

John J. Pocius

President

Approved March 26 1996

James P. Connors

Certified Copy

Frank J. Naughton
3-27-96

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City C