



New Jersey Register of Historic Places Act

Understanding and complying with historic preservation laws on the federal, state, and local levels is often key to obtaining the necessary approvals for construction projects. Whether the project is a transportation improvement, commercial development, or a residential subdivision, identifying historic resources that might be impacted by the project is a critical first step toward obtaining project approval. Preservation laws on the federal, state, and local level regulate the treatment of historic properties for both private and public undertakings.

The New Jersey Register of Historic Places Act (NJRHPA) governs projects involving state, county, and local governments and agencies, as well as their lessees or agents. Projects reviewable under the NJRHPA include public undertakings that have the potential to encroach upon, damage or destroy a property listed on the New Jersey Register. Undertakings reviewable under the law include not only new construction, but also the renovation or rehabilitation of an existing building; the purchase, sale, or lease of a property; and even cyclical maintenance. Actions that are not considered undertakings include changes in zoning, issuance of building or demolition permits to private property owners, and routine maintenance activities.

Public entities must comply with the NJRHPA when their actions will impact a building, district, site, or object listed on the New Jersey Register. The impacts may be direct or indirect, beneficial or adverse. The NJRHPA review process begins with submission of a technically and professionally complete Application for Project Authorization (Application) to the Historic Preservation Office (HPO). This Application must be completed in addition to any other cultural resources surveys conducted in compliance with Section 106. When NJDEP permits (e.g., Freshwater Wetlands or CAFRA) require a cultural resources investigation, the Application may be completed in addition to or as a substitute for the architectural survey.

The Application provides key information regarding the project scope, need, and alternatives considered during project development. The effects of the project on the historic resource, and, if necessary, mitigation planned to lessen the project's impacts, are also discussed in the Application. HPO staff reviews the Application using the Secretary of the Interior's *Standards and Guidelines for the Treatment of Historic Properties* to determine whether the proposed action will encroach upon the historic resource. If the HPO determines

that the project will not result in an encroachment, then the project is approved and no further action is necessary. If the project does result in an encroachment, then it is placed on the agenda of the New Jersey Historic Sites Council (Council).

The Council is a gubernatorially-appointed body of 11 citizens, professionals from a variety of affiliated fields, that advises the NJDEP Commissioner on projects subject to the NJRHPA. The Council reviews proposed projects at an open public meeting and makes a recommendation to the Commissioner for final action. The applicant is responsible for notifying property owners within 200 feet of the project, and also informing local and state history and preservation organizations about the public meeting.

At the Council meeting, HPO staff offers their recommendations regarding the Application, and the applicant presents the project to the Council. Members of the public are also invited to comment on the project. The Council then makes a recommendation to the Commissioner regarding the conformance of the project with the Secretary of the Interior's *Standards*, the public benefit of the project, potential alternatives, and measures taken to avoid, minimize, or mitigate the encroachment.

Finally, the Commissioner issues a final decision on the Application. The Commissioner may authorize the project as described in the Application or with conditions, deny the Application temporarily in order to obtain additional information or explore additional alternatives, or deny the application with specific reasons. The entire process, from submission of a technically complete Application to issuance of the Commissioner's final decision, must be completed within 120 days.

In order to navigate the NJRHPA review process successfully, early identification of historic resources subject to the law is critical, as it allows project sponsors to avoid and mitigate impacts from project onset. Proposed amendments to the NJRHPA Rules (N.J.A.C. 7:4) would permit the Council to review projects at the conceptual phase - a change that, if approved, would enable applicants to get feedback on project design early in the planning process.

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