

This is the ordinance  
that was recommended  
by the citizen's committee.

A PROPOSED PRESERVATION ORDINANCE FOR WHITPAIN TOWNSHIP

cc: 55s  
JFC  
RMP  
RAC  
MEM  
JPA  
PC  
mg  
6/30/01  
msd  
mg  
PC

This is the ordinance  
that the Brandywine  
Conservancy is  
suggesting we adopt.  
There are 180 properties  
classified. Most are  
class II. PC

Written by:

PRESERVATION OF WHITPAIN (POW)

Remo Chiatti

Mary Ann Martino

Frances McAliley

Peter Nyce

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Paula Shiner

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## Overview

The following is an overview of the attached draft ordinance that the members of Preservation of Whitpain will present to the Board of Supervisors for their review.

Please note the PHMC's Bureau for Historic Preservation will review and comment on the draft of this ordinance to ensure conformity with the Historic District Act.

1. The purpose of this ordinance is to protect the integrity of Whitpain Township's historic resources.
2. All historic resources (districts, buildings, structures, sites) shall be described in writing in the Historic Resources Map of Whitpain Township. The Historic Resources Map delineates three classifications of historic resources in the Township. This map shall be located in the Township office and made available for public inspection.
3. A Historical Architectural and Archaeological Review Board (HAARB) will be created. The ten members of the HAARB will be appointed by the Board of Supervisors. All HAARB members must be property owners who reside in the Township.
4. The HAARB shall give recommendations to the Board of Supervisors regarding the issuance of permits for the erection, alteration, reconstruction, repair, restoration, or demolition of all or part of any building, structure, or site listed on the Historic Resources Map.
5. The HAARB shall consider applications for building permits at its next regularly scheduled meeting or special meeting. The applicant shall be notified of the meeting at least ten (10) days in advance.
6. The HAARB shall render a recommendation on an application for a permit no later than forty-five (45) working days after the meeting.
7. If the HAARB decides to advise against the granting of permit, it shall indicate to the applicant changes in plans or specifications that would protect the historical integrity of the building, structure, or site. The HAARB will withhold its written report to the Board of Supervisors for five (5) days to allow the applicant to decide whether or not to make the suggested changes in plans.
8. Upon receipt of a written report from HAARB, the Board of Supervisors shall consider at its next regularly scheduled meeting the question of issuing a permit for work covered by the application. The applicant shall be advised of the time and place of the meeting.
9. The applicant has the right to submit a claim of unreasonable economic hardship as a result of HAARB's action. The applicant must present evidence that he/she is unable to obtain a reasonable return or a reasonable beneficial use from a resource. The HAARB will explore solutions that would relieve the applicant's hardship. If the HAARB chooses to explore such options, the HAARB shall recommend the matter to the Board of Supervisors.

**DRAFT****Ordinance No.\_\_\_\_\_****Whitpain Township**

An Ordinance of Whitpain Township defining historic districts, buildings, and sites, providing for the appointment of a Historical Architectural and Archaeological Review Board (HAARB) to give recommendations to the Board of Supervisors regarding the issuance of Certificates of Appropriateness in connection with the granting or refusal of permits for the erection, alteration, restoration, reconstruction, demolition, or razing of any building or site defined historic or in a historic district and for appeals from such refusals and providing for the notification to the Pennsylvania Historical and Museum Commission (PHMC) of the adoption of this Ordinance and obtaining from the Commission a certificate as to the historical significance of the district(s), building(s) structure(s) or site(s).

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## ***Article I Legal Authorization and Purposes***

### **Section 100 Legal Authorization**

Pursuant to authority contained in the Act of June 13, 1961, Public Law 282, No. 167, as amended there is hereby defined historic district(s), building(s) structure(s) and site(s) within Whitpain Township.

This Ordinance shall be known and may be cited as the Whitpain Township Historic Preservation Ordinance.

### **Section 101 Purposes**

Pursuant to Article I, Section 27 of the Pennsylvania Constitution, which states that:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustees of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

It is, therefore, the purpose and intent of this Ordinance

- A. To promote the general welfare by protecting the integrity of the historic resources of Whitpain Township.
- B. To establish a clear process by which proposed changes affecting historic resources are reviewed by the Historical Architectural and Archaeological Review Board and the Board of Supervisors.
- C. To mitigate the negative effects of proposed changes on historic resources.
- D. To encourage the continued use of historic resources and facilitate their appropriate reuse.
- E. To tailor protective measures to those clearly delineated historic resources in Whitpain Township worthy of preservation.
- F. To encourage the preservation of historic settings and landscapes.
- G. To discourage the unnecessary demolition of historic resources.
- H. To preserve and enhance the environmental quality of neighborhoods.
- I. To foster civic pride in the beauty and accomplishments of the Township's past.

## ***Article II Definitions***

### **Section 200 Definitions**

For the purpose of this Ordinance, all words used in the present tense include the future tense. All words used 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. The word "used" includes "designated, intended, built, or arranged to be used".

- A. Alteration - Any act or process requiring a building permit and any other act or process not requiring a building permit but specifically listed in this article as a reviewable action, including without limitation the repair, replacement, reconstruction, demolition or relocation of any structure or object, or any part of a structure that is visible from the public way.
- B. Building - Any enclosed or open structure that is a combination of materials to form a construction for occupancy and/or use for human or animal habitation and is permanently affixed to the land, including manufactured homes.
- C. Building Permit - An approval statement signed by the Building Inspector or Codes Administrator authorizing the construction, alteration, reconstruction, repair, restoration, demolition or razing of all or part of any building within a historic district or defined as historic.
- D. Building Permit Application - The request filed by any person with the Building Inspector or Codes Administrator that seeks authorization to erect, alter, reconstruct, repair, restore, demolish, or raze all or a part of any building within a historic district or defined as historic that requires a Certificate of Appropriateness.
- E. Building Inspector or Codes Administrator - A municipal employee of or individual retained by the Township designated by the Township as the individual who enforces compliance of building and/or fire codes and issues the permit for the erection, alteration, reconstruction, repair, restoration, demolition, or razing of all or a part of any building or structure within a historic district or defined as historic.
- F. Certificate of Appropriateness - The approval statement signed by the Board of Supervisors that certifies to the historical appropriateness of a particular request for the erection, alteration, reconstruction, restoration, demolition, or razing of all or a part of any historic building, structure, or site and authorizes the issuance of a building permit for said request.
- G. Completed Application - A completed permit or certificate of appropriateness application is an application that conforms to the submittal criteria for specific historic preservation projects, as determined by the Historical Architectural and Archaeological Review Board.
- H. Demolition - The dismantling or tearing down of all or part of any building or structure and all operations incidental thereto, including neglecting routine maintenance and repairs that can lead to deterioration and decay.
- I. Demolition by Neglect - The absence of routine maintenance and repairs that can compromise the structural integrity of a building or structure which could result in demolition of said building or structure.
- J. Erection - The result of construction such as a building, structure, monument, sign, or an object on the ground or attached to a structure or building.
- K. Reconstruction - The act or process of reproducing new construction, the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time but not necessarily of original material.

- L. Structure - Anything constructed or erected, having a permanent or semipermanent location on another structure or in the ground, including without limitation buildings, sheds, manufactured homes, garages, fences, gazebos, freestanding signs, billboards, antennas, satellite sending or receiving dishes, vending machines, decks, and swimming pools.
- M. Township Historical Architectural and Archaeological Review Board (HAARB) - The agency that advises the Board of Supervisors on any requests for authorization to erect, alter, reconstruct, repair, restore, or demolish all or part of any building or structure or site within a historic district or defined as historic.

## ***Article III General Provisions***

### **Section 300 Compliance**

Any change to a historic resource shown on the Historic Resources Map shall occur only in full compliance with the terms of this Ordinance and other applicable regulations.

### **Section 301 Historic Overlay Concept**

The Historic Resources Map shall be deemed an overlay on any zoning districts now or hereafter enacted to regulate the use of land in Whitpain Township.

For any property shown on the Historic Resources Map, the requirements and opportunities contained in this Ordinance shall supersede the otherwise applicable requirements of the underlying zoning districts.

### **Section 302 Preservation of Other Restrictions**

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

## ***Article IV Historic Resources Map***

### **Section 400 Delineation of Historic Districts, Buildings, and Sites**

The Township Historic district(s), buildings, structures, and sites shall be described in writing in this section and delineated on a map designated as the Historic Resources Map of Whitpain Township.

The Historic Resources Map of Whitpain Township shall be located in the office of the Building Inspector and made available for public inspection.

*List & describe historic sites and buildings here.*

## **Section 401 Classifications**

The Historic Resources Map delineates three classifications of historic resources in Whitpain Township, which are defined as follows:

A. Class I

- (1) Buildings, structures, sites, or districts listed on the National Register of Historic Places.
- (2) Buildings, structures, sites, or districts that have received a Determination of Eligibility (DOE).

B. Class II

Buildings, structures, sites, or districts not meeting National Register criteria, but having local historical, architectural, and/or archaeological significance.

C. Class III

Buildings, structures, sites, or districts included in the historic resources inventory of the Historical Architectural and Archaeological Review Board and not included in either Class I or Class II above.

## **Section 402 Revisions**

The Historic Resources Map may be revised from time to time by legislative action of the Board of Supervisors after a public hearing.

- A. In considering any revision, including additions, deletions, or changes of classification to the Historic Resources Map, the Board of Supervisors shall receive a written recommendation from the Historical Architectural and Archaeological Review Board.

## **Section 403 Official List**

The Historical Architectural and Archaeological Review Board shall maintain an updated list of resources shown on the Historic Resources Map and their respective classifications.

# **Article V Historical Architectural and Archaeological Review Board**

## **Section 500 Creation and Membership**

- A. A Historical Architectural and Archaeological Review Board, hereafter referred to as HAARB, is hereby established to be composed of 10 members appointed by the Board of Supervisors. The membership of HAARB shall be as follows:

- One (1) member shall be a registered architect;
- One (1) member shall be a licensed real estate broker;
- One (1) member shall be the building inspector;
- One (1) member may be a planning commission member;
- One (1) member may be an attorney; and

Five (5) members shall be persons with demonstrated interest, knowledge, ability, experience, or expertise in restoration, historic rehabilitation, or neighborhood conservation or revitalization who have interest in the preservation of the historic district(s), building(s), structure(s) and site(s) and are property owners who reside in the Township.

- B. The initial terms of the first members shall be fixed so that no more than five (5) members shall be replaced or reappointed during any one calendar year. However, a member shall continue in office after expiration of his/her term until a successor has been appointed. Their successors shall serve for a term of three (3) years. The position of any member of HAARB appointed in a specific, required capacity such as a registered architect, a licensed real estate broker, building inspector, planning commission member, etc. who ceases to be so engaged or actively licensed or registered shall be automatically considered vacant. Vacancies on the HAARB shall be filled within one hundred and twenty (120) days. An appointment to fill a vacancy shall be only for the unexpired portion of the term.
- C. It shall be the duty of each HAARB member to remain conscious of and sensitive to any possible conflict of interest (including but not limited to financial considerations) that may arise by virtue of his/her membership on the HAARB. A member shall disqualify himself/herself from participating, in any manner, publicly or privately, when it is determined that there is a conflict of interest, including temporarily absenting himself/herself from the room in which the discussion is being held.
- D. Members shall serve without pay, but shall be reimbursed for any personal expenditures incurred while conducting HAARB business when authorized by the Board of Supervisors.

### **Section 501 Compensation**

The HAARB may employ secretarial and professional assistance, and incur training expenses and other necessary expenses with the approval of the Board of Supervisors, which shall be funded by the Township.

### **Section 502 Organization**

The HAARB shall elect its own chairperson and shall create and fill such other offices as deemed proper. The HAARB shall make and alter its rules of procedure consistent with the ordinances of the Township and the laws of the Commonwealth. HAARB may make and alter rules and regulations for its own organization and procedures, provided that they are consistent with the laws of the Commonwealth and all provisions of this Ordinance.

### **Section 503 Advisory Role**

The HAARB shall give recommendations to the Board of Supervisors regarding the advisability of issuing any Certificate of Appropriateness required to be issued in accordance with the said Act of June 13, 1961, as amended and this Ordinance.

### **Section 504 Removal of Members**

Any HAARB member may be removed for misconduct or wrongdoing, unlawful execution of this Act, or failure to perform his/her responsibilities pursuant to this Act, or for other just cause

by a majority vote of the governing body, but not before he/she has been given the opportunity of a hearing to defend to the alleged infractions of said Act.

### **Section 505 Powers and Duties of HAARB**

- A. To advise the Board of Supervisors and Zoning Hearing Board on the issuance of permits for the erection, alteration, reconstruction, repair, restoration, or demolition of all or part of any building, site or structure listed on the Historic Resources Map.
- B. To review and comment on subdivisions and land applications that affect historic resources.
- C. To advise the Zoning Hearing Board and Board of Supervisors on all requests for Special Exceptions, Conditional Uses or Variances affecting historic resources.
- D. To review applications for the rehabilitation, enlargement or alteration of historic resources as required below.
- E. To conduct a survey of buildings, structures, objects, and monuments for the purpose of determining those of historic and/or architectural significance and pertinent facts about them; to act in coordination with the Township Planning Commission, Zoning Hearing Board, and other appropriate groups and to maintain and periodically revise the detailed listings (resource inventories) of historic resources and data about them, appropriately classified with respect to national, state, and local significance in accordance or consistent with the Pennsylvania Historical and Museum Commission's "Cultural Resource Management in Pennsylvania: Guidelines for Historic Resource Surveys"; to propose the nomination of significant resources to the National Register of Historic Places and other appropriate lists or programs.
- F. To propose, from time to time as deemed appropriate, the establishment of additional historic districts, buildings, and sites, and revisions to existing historic districts, buildings, and sites.
- G. To cooperate with and advise the Board of Supervisors and the Township agencies in matters involving historically and/or architecturally significant sites and buildings (such as appropriate land usage, parking facilities and signs, as well as adherence to lot dimensional regulations and minimum structural standards).
- H. To cooperate with and enlist assistance from all appropriate local, county, state, federal and other agencies, public and private, in the preservation of significant architecture, natural, and historic sites within the Township, and to report all related actions to the Board of Supervisors.
- I. To meet publicly at regularly scheduled intervals. Further, HAARB may hold any additional meetings it considers necessary to carry out its powers and duties indicated in this Ordinance. Such meetings shall be open to the public. A majority of HAARB shall constitute a quorum and action taken at any meeting shall require the affirmative vote of a majority of the members present.
- J. To prepare an annual report to the Board of Supervisors, which shall include:
  - (1) Any recommendations for changes in the Ordinance;
  - (2) The number and types of cases reviewed;

- (3) The number of cases for which a Certificate of Appropriateness was either approved or denied;
- (4) The number of HAARB meetings that each member attended;
- (5) Historic preservation-related training that each member attended;
- (6) A narrative summary describing the state of preservation in the Township with recommendations for policy, goals, and objectives for Board of Supervisors' consideration.

- K. To attend a minimum of eight (8) hours annually (per each member) of seminars, conferences, or workshops related to historic preservation and HAARB administration.
- L. To advise owners of historic buildings regarding rehabilitation, repairs, maintenance methods and technologies, adaptive use, economic and tax incentives and other historic preservation strategies.
- M. To promote public interest in the purpose of this Ordinance by carrying on educational and public relations programs.
- N. To perform any other lawful activities that shall be deemed necessary to further the purposes of this Ordinance.

## ***Article VI Application Review Procedure***

### **Section 600 Certificate of Appropriateness**

- A. No person shall commence any work for the erection, alteration, reconstruction, repair, restoration, or demolition of all or part of any building, site or structure subject to the provisions of this Ordinance without first obtaining a Certificate of Appropriateness with respect thereto from the Board of Supervisors as provided hereinafter.
- B. The Building Inspector or other person or agency charged by the Board of Supervisors with the issuance of permits for the erection, alteration, reconstruction, repair, restoration, or demolition of all or part of any building, site or structure subject to the provisions of this Ordinance shall issue no permit for any such changes until a Certificate of Appropriateness with respect thereto has been received from the Board of Supervisors. If the Building Inspector or his/her representative issues a permit without a Certificate of Appropriateness due to an administrative or clerical error, said permit shall be voided.

### **Section 601 Application Review Procedure**

- A. Upon receipt of a completed application for a building permit or a Certificate of Appropriateness under the jurisdiction of this Ordinance, the Building Inspector shall act in accordance with the procedures being followed in that office, except those procedures that are modified by the following requirements:
  1. The Building Inspector shall forward copies of the completed application for a permit for the erection, alteration, reconstruction, repair, restoration, or demolition of all or part of any building, site or structure subject to the provisions of this Ordinance together with copies of any plot plans and building plans and specifications filed by the applicant to HAARB.

2. The Building Inspector shall require applicants to submit a sufficient number of additional copies of material required to be attached to a completed application for a building permit or Certificate of Appropriateness so that the information needed to make a determination will be available .
3. The Building Inspector shall maintain in his/her office a record of all such applications and final disposition of the same.

B. HAARB Review of Applications - Upon receipt of a completed building permit and/or application for Certificate of Appropriateness under the jurisdiction of this Ordinance, HAARB shall consider such at its next regularly scheduled meeting or special meeting.

C. Notification of Applicant of HAARB Meeting - The owner of record or his/her representative(s) applying for a Certificate of Appropriateness and/or a building permit shall be advised of the time and place of the HAARB meeting at least ten (10) days in advance. HAARB may invite such other persons as it desires to attend its meeting.

D. Design Guidelines - In determining both oral and written recommendations to be presented to the Board of Supervisors concerning the issuance of a Certificate of Appropriateness authorizing a permit for the erection, alteration, reconstruction, repair, restoration, or demolition, of all or a part of any building, site, or structure defined historic or within a historic district, HAARB shall consider the following Design Guidelines and only those matters that are pertinent to the preservation of the historic aspect and nature of the buildings and structures pursuant to and congruent with the objectives of this Ordinance, including:

- (1) The effect of the proposed change on the historical and/or archaeological significance architectural integrity, character, and appearance of neighboring contributing historic resources.
- (2) The economic feasibility of adaptively reusing any resource proposed for demolition.
- (3) Alternatives to the proposed work.
- (4) Regulations set forth in Article VII regarding the demolition of historic resources.
- (5) Standards set forth in Article VIII regarding the rehabilitation of historic resources.
- (6) The following criteria:
  - a. Mass
  - b. Proportions
  - c. Nature of yard space
  - d. Extent of landscaped areas versus paved areas
  - e. Nature of façade openings (size, locations, and proportions)
  - f. Type of roof
  - g. Nature of projections
  - h. Nature of architectural details and style
  - i. Nature of materials
  - j. Color

- k. Texture
- l. Ornamentation
- m. Signs

Where the proposed work is to be done on a contributing historic structure, then the primary basis for comparison shall be the structure itself (in its then-existing state as compared to its state after the proposed work), and the secondary basis for comparison shall be the effect of the proposed work on the structure as a whole.

**E. Historic Resource Impact Study -**

1. A Historic Resource Impact Study shall be required when any of the following are proposed:
  - a. Subdivision or land development plans that propose adaptive reuse or demolition of a historic resource.
  - b. Subdivision or land development plans that will lead to the new construction of buildings, structures, roads, driveways, parking areas, etc. located within two-hundred fifty (250) feet of exterior walls of a historic resource.
  - c. General bridge or road construction or substantial repair passing within two-hundred fifty (250) feet of exterior walls of a historic resource.
  - d. Subdivision or land development plans that may impact archaeologically sensitive areas, especially prehistoric sites. In which case, an archaeological impact study shall be submitted.
2. The Historic Resource Impact Study shall be prepared and presented by the Applicant or his/her agent for discussion at a meeting of the HAARB. The Historic Resource Impact Study shall contain the following information:
  - a. General site description, including existing topography, watercourses, vegetation, landscaping, and structures.
  - b. General description and classification of all historic and prehistoric resources located on the subject tract, on tracts immediately adjacent to the subject tract or road, or within two-hundred fifty (250) feet of the subject tract or road.
  - c. Physical description of all historic resources identified in E.2.b. above.
  - d. A sufficient number of photographs (at least 5"x 7") to show every historic resource in its setting, as identified in E.2.b.
  - e. General description of the project, including time table or phases.
  - f. Description of impact on each historic resource identified in E.2.b. with regard to architectural integrity, historic setting, future use, noise, traffic, outside lighting and any other impacts generated by the proposed change on each historic resource and impact on the general rural character of the Township.
  - g. Recommendations for mitigating the project's impact on historic resources, including design alternatives, buffering and landscaping, and any other

appropriate measures permitted under the terms of this and other Township Ordinances.

3. The Historic Resource Impact Study shall be reviewed by the HAARB, who shall set forth its recommendations in writing to the Board of Supervisors.
- F. Costs - Any costs incurred by the HAARB to review plans or studies submitted by a consultant specifically retained for this purpose shall be reimbursed to the Township by the Applicant.
- G. Time Frame for HAARB Decision - HAARB shall render a recommendation on any application for a building permit under its review no later than forty-five (45) working days after the hearing/meeting provided for in this Ordinance and shall submit in writing to the Board of Supervisors recommendations concerning the issuance of a Certificate of Appropriateness.
- H. Application Disapproval by HAARB - If the HAARB decides to advise against the granting of a Certificate of Appropriateness, it shall so indicate to the applicant the changes in plans and specifications, if any, which would protect (1) the distinctive historical character of the historic district, building, site or structure and (2) the architectural integrity of the building, site or structure. The HAARB shall withhold its report for five (5) days to allow the applicant to decide whether or not to make the suggested changes in his plans and specifications. If the applicant determines that he/she will make the necessary changes, he/she shall so advise the HAARB, which shall in turn advise the governing body accordingly.
- I. Contents of Written Report - The written report to the Board of Supervisors concerning HAARB's recommendations on the issuance of a Certificate of Appropriateness shall set out the findings of fact that shall include but not be limited to the following matters:
  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 erected.
  3. A list of the surrounding structures with their general exterior characteristics.
  4. The effect of the proposed change upon the general historic and architectural nature of the district.
  5. The appropriateness of exterior architectural features of the building that can be seen from a public street or way.
  6. The general design, arrangement, texture, and materials of the building and the structure and the relation of such factors to similar features of buildings or structures in the district.
  7. The opinion of HAARB (including any dissent) as to the appropriateness of the work or project proposed as it will preserve or destroy the historic character and nature of the district, building, site, or structure.
  8. The specific recommendations of HAARB based on findings of fact as to the issuance by the Board of Supervisors or its refusal to issue a Certificate of Appropriateness.

- J. Notification of Applicant by the Board of Supervisors of their Consideration - Upon receipt of the written report from HAARB as provided in I of this section, the Board of Supervisors shall consider at the next regularly scheduled or special meeting, the question of issuing to the Building Inspector a Certificate of Appropriateness authorizing a permit for work covered by the application. The applicant shall be advised by the Township Secretary of the time and place of the meeting at which his/her application shall be considered. The applicant shall have the right to attend the meeting and be heard as to the reasons for filing this said application.
- K. Design Guidelines/Application Review Procedure by Board of Supervisors - In determining whether or not to certify the appropriateness of the proposed erection, alteration, reconstruction, repair, restoration or demolition, of all or part of any building, site or structure within a historic district or defined as historic, the Board of Supervisors shall consider the same factors as HAARB set forth in D of this section and the report of the HAARB.
- L. Approval by the Board of Supervisors - If the Board of Supervisors approves the application, it shall issue a Certificate of Appropriateness authorizing the Building Inspector to issue a (building) permit for the work covered.
- M. Disapproval by the Board of Supervisors - If the Board of Supervisors disapproves, a written reason shall be given to the Building Inspector, the applicant and to the Pennsylvania Historical and Museum Commission. The disapproval shall indicate what changes in the plans and specifications would meet the conditions for protecting (1) the distinctive historical character of the district, building, site or structure (2) the architectural integrity of the building, site or structure.  
Upon receipt of a written disapproval of the Board of Supervisors, the Building Inspector shall disapprove the application for a building permit and so advise the applicant. The applicant may appeal this disapproval to the County Court of Common Pleas within the time specified by law.
- N. Final Notification by the Board of Supervisors - In either case of approval or disapproval the Board of Supervisors shall notify the applicant of its decision within five (5) days of its meeting at which the application was considered.

## **Article VII Demolition of Historic Resources**

### **Section 700 Demolition of Class I and Class II Historic Resources**

The following regulations shall apply to Class I and Class II historic resources as defined in Article IV:

- A. No Class I or Class II historic resource may be demolished until the Applicant obtains a permit.  
No Class I or Class II historic resource shall be demolished by neglect. Demolition by neglect includes leaving a building or structure open or vulnerable to vandalism or decay by the elements or deterioration of any feature so as to create a hazardous condition that could

lead to the claim that demolition is necessary for public safety. Unoccupied structures should be tightly sealed and fenced off and the utilities turned off for safety.

- (1) No Class I or Class II historic resource shall be demolished, in whole or part, including the indiscriminate removal or stripping of any significant interior or exterior architectural features, unless a permit is obtained from the Building Inspector in accordance with the procedures set forth in this Ordinance.
- (2) All applications for demolitions received by the Building Inspector shall be reviewed against the Historic Resources Map. If the application concerns a historic resource, the Building Inspector shall advise the Applicant that her or she must comply with the procedures and requirements set forth in this Ordinance, as applicable.

#### B. Application Requirements for the Demolition of a Class I and/or Class II Historic Resource

- (1) In addition to any other applicable requirements under Township codes, any Applicant seeking a permit to demolish a historic resource shall provide a written report on the following, with regard to that historic resource:
  - a. Owner of record.
  - b. Classification on the Historic Resources Map
  - c. Site plan showing all buildings and structures on the property
  - d. Recent photographs of the resource proposed for demolition
  - e. Reasons for the demolition
  - f. Method of demolition
  - g. Future uses of the site and of the materials from the demolished resource

### **Section 701 Demolition of Class III Historic Resources**

The following regulations shall apply to Class III historic resources as defined in Article IV:

- A. No Class III historic resource may be demolished until the Applicant obtains a permit and complies with the following:
  - (1) Permit Requirements - No Class III historic resource shall be demolished by neglect. Demolition by neglect includes leaving a building or structure open or vulnerable to vandalism or decay by the elements or deterioration of any feature so as to create a hazardous condition that could lead to the claim that demolition is necessary for public safety. Unoccupied structures should be tightly sealed and fenced off and the utilities turned off for safety.
  - (2) Demolition Permit - No Class III historic resource shall be demolished, in whole or part, including the indiscriminate removal or stripping of any significant interior or exterior architectural features, unless a permit is obtained from the Building Inspector in accordance with the procedures set forth in this Ordinance.
  - (3) Proposed Demolition of Class III Historic Resources - All applications for demolitions received by the Building Inspector shall be reviewed against the Historic Resources Map. If the application concerns a historic resource, the Building Inspector

shall advise the Applicant that her or she must comply with the procedures and requirements set forth in this Ordinance, as applicable.

**B. Application Requirements for the Demolition of a Class III Historic Resource**

- (1) In addition to any other applicable requirements under Township codes, any Applicant seeking a permit to demolish a historic resource shall provide a written report, up to two (2) pages in length describing:
  - a. Owner of record
  - b. Reasons and method of demolition
  - c. Future use of the property and the demolished materials
- (2) The written report shall be accompanied by a recent photograph of the resource proposed for demolition, and a simple sketch plan of the property indicating the location of the proposed demolition.

**Article VIII *Standards for Rehabilitation***

**Section 800 Standards for Rehabilitation of Class I and Class II Historic Resources**

Any proposed rehabilitation, enlargement, or alteration of a Class I or Class II historic resource listed on the Historic Resources Map shall be in substantial compliance with the Secretary of the Department of the Interior's most current *Standards for Rehabilitation*.

**Section 801 Standards for Rehabilitation of Class III Historic Resources**

Any proposed rehabilitation, enlargement, or alteration of a Class III historic resource listed on the Historic Resources Map shall be in substantial compliance with the guidelines below:

- A. Minimize the removal or alteration of historic materials.
- B. Repair deteriorated original features, unless the severity of the deterioration requires replacement, in which case, the new feature should match the old to the greatest extent possible.

**Article IX *Unreasonable Economic Hardship***

**Section 900 Claim of Unreasonable Economic Hardship**

When a claim of unreasonable economic hardship is made due to the effect of this Ordinance, the owner of record must present evidence sufficient to prove that as a result of the HAARB's action, he/she is unable to obtain a reasonable return or a reasonable beneficial use from a resource. The owner of record shall submit by affidavit to the HAARB information which shall include but not be limited to the following:

- A. Date the property was acquired by its current owner.
- B. Price paid for the property (if acquired by purchase) and a description of the relationship, if any, between the buyer and the seller of the property.

- C. Mortgage history of the property, including current mortgage and the annual debt service, if any, for the previous two (2) years.
- D. Current market value of the property.
- E. Equity in property.
- F. Past and current income and expense statements for the past two (2) years.
- G. Past capital expenditures during ownership of current owner.
- H. Appraisals of the property obtained within the previous two (2) years.
- I. Income and property tax factors affecting the property.
- J. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, offerings for sale, financing or ownership of the property, or state that none was obtained.
- K. All studies commissioned by the owner as to profitable renovation, rehabilitation or utilization of any structures or objects on the property for alternative use, or a statement that none were obtained.
- L. Estimates(s) of the cost of the proposed erection, reconstruction, alteration, restoration, demolition or razing and an estimate(s) of any additional cost(s) that would be incurred to comply with the recommendations of the planning board for changes necessary for it to approve a Certificate of Appropriateness.
- M. Form of ownership or operation of the property, whether sole proprietorship, for-profit or nonprofit corporation, limited partnership, joint venture or other.
- N. The HAARB may require that an applicant furnish additional information relevant to its determination of unreasonable economic hardship.
- O. The HAARB may receive and consider studies and economic analyses from other borough agencies and from private organizations relating to the property in question.

### **Section 901 HAARB Review of Claim of Unreasonable Economic Hardship**

Should the HAARB determine that the owner's present return is not reasonable, it must consider whether there are other uses currently allowed that would provide a reasonable return and whether such a return could be obtained through investment in the property for rehabilitation purposes. The HAARB may choose to recommend to the Township that special economic incentives be developed to assist the owner of the resource in maintaining it and obtaining a suitable economic return or achieving a reasonable beneficial use.

The HAARB may seek the assistance of appropriate local, statewide, or national preservation organizations in developing solutions that would relieve the owner's economic hardship. If the HAARB chooses to explore such options, the HAARB shall recommend the matter to the Board of Supervisors for resolution.

Should the applicant satisfy the HAARB that he/she will suffer an unreasonable economic hardship if a Certificate of Appropriateness is not approved, and should the HAARB be unable to develop with the Board of Supervisors or appropriate local, statewide and national preservation

organization a solution that can relieve the owner's economic hardship, the HAARB shall recommend the matter to the Board of Supervisors for resolution.

## **Article X *Enforcement and Penalties***

### **Section 1000 Notice of Violation**

The Building Inspector shall serve a notice of violation on the person in violation of this Ordinance that would result in but not be limited to:

- A. Failure to apply for a Certificate of Appropriateness of a building permit required for the erection, reconstruction, alteration, restoration, demolition, demolition by neglect, or razing of any historic resource listed on the Historic Resources Map.
- B. Failure to comply with HAARB approved work.

Such notice shall direct the abatement of said violation.

### **Section 1001 Enforcement**

The Building Inspector, or such other person or agency charged by the Board of Supervisors with the enforcement of this Ordinance, shall review the progress and status of the proposed changes and render such reports thereon to the Board of Supervisors and to HAARB as may be necessary to assure compliance with the provisions of this Ordinance and the conditions of the Certificate of Appropriateness.

The Building Inspector or his/her designated representative shall have the power to institute any proceedings at law or in equity necessary for the enforcement of this Ordinance.

### **Section 1002 Penalty**

Any person, property owner, occupant, firm, or contractor failing to obtain a building permit or Certificate of Appropriateness or violating the requirements of a building permit or Certificate of Appropriateness in accordance with this Ordinance shall be fined the sum of \$1000.00 for each day the violation is unabated, as well as applicable fines and penalties under other Township codes.

The Board of Supervisors shall withhold the issuing of any building permits for a minimum of one (1) year for a property which, at the date of enactment of this Ordinance, was occupied by a historic resource that subsequently was demolished in violation of this Ordinance.

### **Section 1003 Severability Clause**

If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as whole, or any part thereof.

**Section 1004 Amendments**

The provision of this Ordinance may be amended in the future by the Board of Supervisors of Whitpain Township after notice and hearing as provided by law.

**Section 1005 Effective Date/Certification by Pennsylvania Historical and Museum Commission**

Immediately upon the adoption of this Ordinance, the Township Secretary shall forward a copy thereof to the Pennsylvania Historical and Museum Commission. This Ordinance shall not take effect until (1) the said Commission has certified, by resolution, to the historical significance of the Township historical district(s), building(s), structure(s), and site(s), and, (2) it has been duly advertised once in the newspaper of general circulation in the Township as required by law.

A PROPOSED PRESERVATION ORDINANCE FOR WHITPAIN TOWNSHIP

Written by:

PRESERVATION OF WHITPAIN (POW)

Remo Chiatti

Mary Ann Martino

Frances McAliley

Peter Nyce

Marla Ryan

Paula Shiner

Florence (Flo) Young

## Overview

The following is an overview of the attached draft ordinance that the members of Preservation of Whitpain will present to the Board of Supervisors for their review.

Please note the PHMC's Bureau for Historic Preservation will review and comment on the draft of this ordinance to ensure conformity with the Historic District Act.

1. The purpose of this ordinance is to protect the integrity of Whitpain Township's historic resources.
2. All historic resources (districts, buildings, structures, sites) shall be described in writing in the Historic Resources Map of Whitpain Township. The Historic Resources Map delineates three classifications of historic resources in the Township. This map shall be located in the Township office and made available for public inspection.
3. A Historical Architectural and Archaeological Review Board (HAARB) will be created. The ten members of the HAARB will be appointed by the Board of Supervisors. All HAARB members must be property owners who reside in the Township.
4. The HAARB shall give recommendations to the Board of Supervisors regarding the issuance of permits for the erection, alteration, reconstruction, repair, restoration, or demolition of all or part of any building, structure, or site listed on the Historic Resources Map.
5. The HAARB shall consider applications for building permits at its next regularly scheduled meeting or special meeting. The applicant shall be notified of the meeting at least ten (10) days in advance.
6. The HAARB shall render a recommendation on an application for a permit no later than forty-five (45) working days after the meeting.
7. If the HAARB decides to advise against the granting of permit, it shall indicate to the applicant changes in plans or specifications that would protect the historical integrity of the building, structure, or site. The HAARB will withhold its written report to the Board of Supervisors for five (5) days to allow the applicant to decide whether or not to make the suggested changes in plans.
8. Upon receipt of a written report from HAARB, the Board of Supervisors shall consider at its next regularly scheduled meeting the question of issuing a permit for work covered by the application. The applicant shall be advised of the time and place of the meeting.
9. The applicant has the right to submit a claim of unreasonable economic hardship as a result of HAARB's action. The applicant must present evidence that he/she is unable to obtain a reasonable return or a reasonable beneficial use from a resource. The HAARB will explore solutions that would relieve the applicant's hardship. If the HAARB chooses to explore such options, the HAARB shall recommend the matter to the Board of Supervisors.

**DRAFT****Ordinance No.\_\_\_\_\_****Whitpain Township**

An Ordinance of Whitpain Township defining historic districts, buildings, and sites, providing for the appointment of a Historical Architectural and Archaeological Review Board (HAARB) to give recommendations to the Board of Supervisors regarding the issuance of Certificates of Appropriateness in connection with the granting or refusal of permits for the erection, alteration, restoration, reconstruction, demolition, or razing of any building or site defined historic or in a historic district and for appeals from such refusals and providing for the notification to the Pennsylvania Historical and Museum Commission (PHMC) of the adoption of this Ordinance and obtaining from the Commission a certificate as to the historical significance of the district(s), building(s) structure(s) or site(s).

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## **Article I Legal Authorization and Purposes**

### **Section 100 Legal Authorization**

Pursuant to authority contained in the Act of June 13, 1961, Public Law 282, No. 167, as amended there is hereby defined historic district(s), building(s) structure(s) and site(s) within Whitpain Township.

This Ordinance shall be known and may be cited as the Whitpain Township Historic Preservation Ordinance.

### **Section 101 Purposes**

Pursuant to Article I, Section 27 of the Pennsylvania Constitution, which states that:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustees of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

It is, therefore, the purpose and intent of this Ordinance

- A. To promote the general welfare by protecting the integrity of the historic resources of Whitpain Township.
- B. To establish a clear process by which proposed changes affecting historic resources are reviewed by the Historical Architectural and Archaeological Review Board and the Board of Supervisors.
- C. To mitigate the negative effects of proposed changes on historic resources.
- D. To encourage the continued use of historic resources and facilitate their appropriate reuse.
- E. To tailor protective measures to those clearly delineated historic resources in Whitpain Township worthy of preservation.
- F. To encourage the preservation of historic settings and landscapes.
- G. To discourage the unnecessary demolition of historic resources.
- H. To preserve and enhance the environmental quality of neighborhoods.
- I. To foster civic pride in the beauty and accomplishments of the Township's past.

## **Article II Definitions**

### **Section 200 Definitions**

For the purpose of this Ordinance, all words used in the present tense include the future tense. All words used 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. The word "used" includes "designated, intended, built, or arranged to be used".

- A. Alteration - Any act or process requiring a building permit and any other act or process not requiring a building permit but specifically listed in this article as a reviewable action, including without limitation the repair, replacement, reconstruction, demolition or relocation of any structure or object, or any part of a structure that is visible from the public way.
- B. Building - Any enclosed or open structure that is a combination of materials to form a construction for occupancy and/or use for human or animal habitation and is permanently affixed to the land, including manufactured homes.
- C. Building Permit - An approval statement signed by the Building Inspector or Codes Administrator authorizing the construction, alteration, reconstruction, repair, restoration, demolition or razing of all or part of any building within a historic district or defined as historic.
- D. Building Permit Application - The request filed by any person with the Building Inspector or Codes Administrator that seeks authorization to erect, alter, reconstruct, repair, restore, demolish, or raze all or a part of any building within a historic district or defined as historic that requires a Certificate of Appropriateness.
- E. Building Inspector or Codes Administrator - A municipal employee of or individual retained by the Township designated by the Township as the individual who enforces compliance of building and/or fire codes and issues the permit for the erection, alteration, reconstruction, repair, restoration, demolition, or razing of all or a part of any building or structure within a historic district or defined as historic.
- F. Certificate of Appropriateness - The approval statement signed by the Board of Supervisors that certifies to the historical appropriateness of a particular request for the erection, alteration, reconstruction, restoration, demolition, or razing of all or a part of any historic building, structure, or site and authorizes the issuance of a building permit for said request.
- G. Completed Application - A completed permit or certificate of appropriateness application is an application that conforms to the submittal criteria for specific historic preservation projects, as determined by the Historical Architectural and Archaeological Review Board.
- H. Demolition - The dismantling or tearing down of all or part of any building or structure and all operations incidental thereto, including neglecting routine maintenance and repairs that can lead to deterioration and decay.
- I. Demolition by Neglect - The absence of routine maintenance and repairs that can compromise the structural integrity of a building or structure which could result in demolition of said building or structure.
- J. Erection - The result of construction such as a building, structure, monument, sign, or an object on the ground or attached to a structure or building.
- K. Reconstruction - The act or process of reproducing new construction, the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time but not necessarily of original material.

- L. Structure - Anything constructed or erected, having a permanent or semipermanent location on another structure or in the ground, including without limitation buildings, sheds, manufactured homes, garages, fences, gazebos, freestanding signs, billboards, antennas, satellite sending or receiving dishes, vending machines, decks, and swimming pools.
- M. Township Historical Architectural and Archaeological Review Board (HAARB) - The agency that advises the Board of Supervisors on any requests for authorization to erect, alter, reconstruct, repair, restore, or demolish all or part of any building or structure or site within a historic district or defined as historic.

## **Article III General Provisions**

### **Section 300 Compliance**

Any change to a historic resource shown on the Historic Resources Map shall occur only in full compliance with the terms of this Ordinance and other applicable regulations.

### **Section 301 Historic Overlay Concept**

The Historic Resources Map shall be deemed an overlay on any zoning districts now or hereafter enacted to regulate the use of land in Whitpain Township.

For any property shown on the Historic Resources Map, the requirements and opportunities contained in this Ordinance shall supersede the otherwise applicable requirements of the underlying zoning districts.

### **Section 302 Preservation of Other Restrictions**

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

## **Article IV Historic Resources Map**

### **Section 400 Delineation of Historic Districts, Buildings, and Sites**

The Township Historic district(s), buildings, structures, and sites shall be described in writing in this section and delineated on a map designated as the Historic Resources Map of Whitpain Township.

The Historic Resources Map of Whitpain Township shall be located in the office of the Building Inspector and made available for public inspection.

*List & describe historic sites and buildings here.*

## **Section 401 Classifications**

The Historic Resources Map delineates three classifications of historic resources in Whitpain Township, which are defined as follows:

A. Class I

- (1) Buildings, structures, sites, or districts listed on the National Register of Historic Places.
- (2) Buildings, structures, sites, or districts that have received a Determination of Eligibility (DOE).

B. Class II

Buildings, structures, sites, or districts not meeting National Register criteria, but having local historical, architectural, and/or archaeological significance.

C. Class III

Buildings, structures, sites, or districts included in the historic resources inventory of the Historical Architectural and Archaeological Review Board and not included in either Class I or Class II above.

## **Section 402 Revisions**

The Historic Resources Map may be revised from time to time by legislative action of the Board of Supervisors after a public hearing.

A. In considering any revision, including additions, deletions, or changes of classification to the Historic Resources Map, the Board of Supervisors shall receive a written recommendation from the Historical Architectural and Archaeological Review Board.

## **Section 403 Official List**

The Historical Architectural and Archaeological Review Board shall maintain an updated list of resources shown on the Historic Resources Map and their respective classifications.

# **Article V *Historical Architectural and Archaeological Review Board***

## **Section 500 Creation and Membership**

A. A Historical Architectural and Archaeological Review Board, hereafter referred to as HAARB, is hereby established to be composed of 10 members appointed by the Board of Supervisors. The membership of HAARB shall be as follows:

- One (1) member shall be a registered architect;
- One (1) member shall be a licensed real estate broker;
- One (1) member shall be the building inspector;
- One (1) member may be a planning commission member;
- One (1) member may be an attorney; and

Five (5) members shall be persons with demonstrated interest, knowledge, ability, experience, or expertise in restoration, historic rehabilitation, or neighborhood conservation or revitalization who have interest in the preservation of the historic district(s), building(s), structure(s) and site(s) and are property owners who reside in the Township.

- B. The initial terms of the first members shall be fixed so that no more than five (5) members shall be replaced or reappointed during any one calendar year. However, a member shall continue in office after expiration of his/her term until a successor has been appointed. Their successors shall serve for a term of three (3) years. The position of any member of HAARB appointed in a specific, required capacity such as a registered architect, a licensed real estate broker, building inspector, planning commission member, etc. who ceases to be so engaged or actively licensed or registered shall be automatically considered vacant. Vacancies on the HAARB shall be filled within one hundred and twenty (120) days. An appointment to fill a vacancy shall be only for the unexpired portion of the term.
- C. It shall be the duty of each HAARB member to remain conscious of and sensitive to any possible conflict of interest (including but not limited to financial considerations) that may arise by virtue of his/her membership on the HAARB. A member shall disqualify himself/herself from participating, in any manner, publicly or privately, when it is determined that there is a conflict of interest, including temporarily absenting himself/herself from the room in which the discussion is being held.
- D. Members shall serve without pay, but shall be reimbursed for any personal expenditures incurred while conducting HAARB business when authorized by the Board of Supervisors.

### **Section 501 Compensation**

The HAARB may employ secretarial and professional assistance, and incur training expenses and other necessary expenses with the approval of the Board of Supervisors, which shall be funded by the Township.

### **Section 502 Organization**

The HAARB shall elect its own chairperson and shall create and fill such other offices as deemed proper. The HAARB shall make and alter its rules of procedure consistent with the ordinances of the Township and the laws of the Commonwealth. HAARB may make and alter rules and regulations for its own organization and procedures, provided that they are consistent with the laws of the Commonwealth and all provisions of this Ordinance.

### **Section 503 Advisory Role**

The HAARB shall give recommendations to the Board of Supervisors regarding the advisability of issuing any Certificate of Appropriateness required to be issued in accordance with the said Act of June 13, 1961, as amended and this Ordinance.

### **Section 504 Removal of Members**

Any HAARB member may be removed for misconduct or wrongdoing, unlawful execution of this Act, or failure to perform his/her responsibilities pursuant to this Act, or for other just cause

by a majority vote of the governing body, but not before he/she has been given the opportunity of a hearing to defend to the alleged infractions of said Act.

### **Section 505 Powers and Duties of HAARB**

- A. To advise the Board of Supervisors and Zoning Hearing Board on the issuance of permits for the erection, alteration, reconstruction, repair, restoration, or demolition of all or part of any building, site or structure listed on the Historic Resources Map.
- B. To review and comment on subdivisions and land applications that affect historic resources.
- C. To advise the Zoning Hearing Board and Board of Supervisors on all requests for Special Exceptions, Conditional Uses or Variances affecting historic resources.
- D. To review applications for the rehabilitation, enlargement or alteration of historic resources as required below.
- E. To conduct a survey of buildings, structures, objects, and monuments for the purpose of determining those of historic and/or architectural significance and pertinent facts about them; to act in coordination with the Township Planning Commission, Zoning Hearing Board, and other appropriate groups and to maintain and periodically revise the detailed listings (resource inventories) of historic resources and data about them, appropriately classified with respect to national, state, and local significance in accordance or consistent with the Pennsylvania Historical and Museum Commission's "Cultural Resource Management in Pennsylvania: Guidelines for Historic Resource Surveys"; to propose the nomination of significant resources to the National Register of Historic Places and other appropriate lists or programs.
- F. To propose, from time to time as deemed appropriate, the establishment of additional historic districts, buildings, and sites, and revisions to existing historic districts, buildings, and sites.
- G. To cooperate with and advise the Board of Supervisors and the Township agencies in matters involving historically and/or architecturally significant sites and buildings (such as appropriate land usage, parking facilities and signs, as well as adherence to lot dimensional regulations and minimum structural standards).
- H. To cooperate with and enlist assistance from all appropriate local, county, state, federal and other agencies, public and private, in the preservation of significant architecture, natural, and historic sites within the Township, and to report all related actions to the Board of Supervisors.
- I. To meet publicly at regularly scheduled intervals. Further, HAARB may hold any additional meetings it considers necessary to carry out its powers and duties indicated in this Ordinance. Such meetings shall be open to the public. A majority of HAARB shall constitute a quorum and action taken at any meeting shall require the affirmative vote of a majority of the members present.
- J. To prepare an annual report to the Board of Supervisors, which shall include:
  - (1) Any recommendations for changes in the Ordinance;
  - (2) The number and types of cases reviewed;

- (3) The number of cases for which a Certificate of Appropriateness was either approved or denied;
- (4) The number of HAARB meetings that each member attended;
- (5) Historic preservation-related training that each member attended;
- (6) A narrative summary describing the state of preservation in the Township with recommendations for policy, goals, and objectives for Board of Supervisors' consideration.

- K. To attend a minimum of eight (8) hours annually (per each member) of seminars, conferences, or workshops related to historic preservation and HAARB administration.
- L. To advise owners of historic buildings regarding rehabilitation, repairs, maintenance methods and technologies, adaptive use, economic and tax incentives and other historic preservation strategies.
- M. To promote public interest in the purpose of this Ordinance by carrying on educational and public relations programs.
- N. To perform any other lawful activities that shall be deemed necessary to further the purposes of this Ordinance.

## ***Article VI Application Review Procedure***

### **Section 600 Certificate of Appropriateness**

- A. No person shall commence any work for the erection, alteration, reconstruction, repair, restoration, or demolition of all or part of any building, site or structure subject to the provisions of this Ordinance without first obtaining a Certificate of Appropriateness with respect thereto from the Board of Supervisors as provided hereinafter.
- B. The Building Inspector or other person or agency charged by the Board of Supervisors with the issuance of permits for the erection, alteration, reconstruction, repair, restoration, or demolition of all or part of any building, site or structure subject to the provisions of this Ordinance shall issue no permit for any such changes until a Certificate of Appropriateness with respect thereto has been received from the Board of Supervisors. If the Building Inspector or his/her representative issues a permit without a Certificate of Appropriateness due to an administrative or clerical error, said permit shall be voided.

### **Section 601 Application Review Procedure**

- A. Upon receipt of a completed application for a building permit or a Certificate of Appropriateness under the jurisdiction of this Ordinance, the Building Inspector shall act in accordance with the procedures being followed in that office, except those procedures that are modified by the following requirements:
  1. The Building Inspector shall forward copies of the completed application for a permit for the erection, alteration, reconstruction, repair, restoration, or demolition of all or part of any building, site or structure subject to the provisions of this Ordinance together with copies of any plot plans and building plans and specifications filed by the applicant to HAARB.

2. The Building Inspector shall require applicants to submit a sufficient number of additional copies of material required to be attached to a completed application for a building permit or Certificate of Appropriateness so that the information needed to make a determination will be available.
3. The Building Inspector shall maintain in his/her office a record of all such applications and final disposition of the same.

B. HAARB Review of Applications - Upon receipt of a completed building permit and/or application for Certificate of Appropriateness under the jurisdiction of this Ordinance, HAARB shall consider such at its next regularly scheduled meeting or special meeting.

C. Notification of Applicant of HAARB Meeting - The owner of record or his/her representative(s) applying for a Certificate of Appropriateness and/or a building permit shall be advised of the time and place of the HAARB meeting at least ten (10) days in advance. HAARB may invite such other persons as it desires to attend its meeting.

D. Design Guidelines - In determining both oral and written recommendations to be presented to the Board of Supervisors concerning the issuance of a Certificate of Appropriateness authorizing a permit for the erection, alteration, reconstruction, repair, restoration, or demolition, of all or a part of any building, site, or structure defined historic or within a historic district, HAARB shall consider the following Design Guidelines and only those matters that are pertinent to the preservation of the historic aspect and nature of the buildings and structures pursuant to and congruent with the objectives of this Ordinance, including:

- (1) The effect of the proposed change on the historical and/or archaeological significance architectural integrity, character, and appearance of neighboring contributing historic resources.
- (2) The economic feasibility of adaptively reusing any resource proposed for demolition.
- (3) Alternatives to the proposed work.
- (4) Regulations set forth in Article VII regarding the demolition of historic resources.
- (5) Standards set forth in Article VIII regarding the rehabilitation of historic resources.
- (6) The following criteria:
  - a. Mass
  - b. Proportions
  - c. Nature of yard space
  - d. Extent of landscaped areas versus paved areas
  - e. Nature of façade openings (size, locations, and proportions)
  - f. Type of roof
  - g. Nature of projections
  - h. Nature of architectural details and style
  - i. Nature of materials
  - j. Color

- k. Texture
- l. Ornamentation
- m. Signs

Where the proposed work is to be done on a contributing historic structure, then the primary basis for comparison shall be the structure itself (in its then-existing state as compared to its state after the proposed work), and the secondary basis for comparison shall be the effect of the proposed work on the structure as a whole.

E. Historic Resource Impact Study -

1. A Historic Resource Impact Study shall be required when any of the following are proposed:
  - a. Subdivision or land development plans that propose adaptive reuse or demolition of a historic resource.
  - b. Subdivision or land development plans that will lead to the new construction of buildings, structures, roads, driveways, parking areas, etc. located within two-hundred fifty (250) feet of exterior walls of a historic resource.
  - c. General bridge or road construction or substantial repair passing within two-hundred fifty (250) feet of exterior walls of a historic resource.
  - d. Subdivision or land development plans that may impact archaeologically sensitive areas, especially prehistoric sites. In which case, an archaeological impact study shall be submitted.
2. The Historic Resource Impact Study shall be prepared and presented by the Applicant or his/her agent for discussion at a meeting of the HAARB. The Historic Resource Impact Study shall contain the following information:
  - a. General site description, including existing topography, watercourses, vegetation, landscaping, and structures.
  - b. General description and classification of all historic and prehistoric resources located on the subject tract, on tracts immediately adjacent to the subject tract or road, or within two-hundred fifty (250) feet of the subject tract or road.
  - c. Physical description of all historic resources identified in E.2.b. above.
  - d. A sufficient number of photographs (at least 5"x 7") to show every historic resource in its setting, as identified in E.2.b.
  - e. General description of the project, including time table or phases.
  - f. Description of impact on each historic resource identified in E.2.b. with regard to architectural integrity, historic setting, future use, noise, traffic, outside lighting and any other impacts generated by the proposed change on each historic resource and impact on the general rural character of the Township.
  - g. Recommendations for mitigating the project's impact on historic resources, including design alternatives, buffering and landscaping, and any other

appropriate measures permitted under the terms of this and other Township Ordinances.

3. The Historic Resource Impact Study shall be reviewed by the HAARB, who shall set forth its recommendations in writing to the Board of Supervisors.
- F. Costs - Any costs incurred by the HAARB to review plans or studies submitted by a consultant specifically retained for this purpose shall be reimbursed to the Township by the Applicant.
- G. Time Frame for HAARB Decision - HAARB shall render a recommendation on any application for a building permit under its review no later than forty-five (45) working days after the hearing/meeting provided for in this Ordinance and shall submit in writing to the Board of Supervisors recommendations concerning the issuance of a Certificate of Appropriateness.
- H. Application Disapproval by HAARB - If the HAARB decides to advise against the granting of a Certificate of Appropriateness, it shall so indicate to the applicant the changes in plans and specifications, if any, which would protect (1) the distinctive historical character of the historic district, building, site or structure and (2) the architectural integrity of the building, site or structure. The HAARB shall withhold its report for five (5) days to allow the applicant to decide whether or not to make the suggested changes in his plans and specifications. If the applicant determines that he/she will make the necessary changes, he/she shall so advise the HAARB, which shall in turn advise the governing body accordingly.
- I. Contents of Written Report - The written report to the Board of Supervisors concerning HAARB's recommendations on the issuance of a Certificate of Appropriateness shall set out the findings of fact that shall include but not be limited to the following matters:
  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 erected.
  3. A list of the surrounding structures with their general exterior characteristics.
  4. The effect of the proposed change upon the general historic and architectural nature of the district.
  5. The appropriateness of exterior architectural features of the building that can be seen from a public street or way.
  6. The general design, arrangement, texture, and materials of the building and the structure and the relation of such factors to similar features of buildings or structures in the district.
  7. The opinion of HAARB (including any dissent) as to the appropriateness of the work or project proposed as it will preserve or destroy the historic character and nature of the district, building, site, or structure.
  8. The specific recommendations of HAARB based on findings of fact as to the issuance by the Board of Supervisors or its refusal to issue a Certificate of Appropriateness.

- J. Notification of Applicant by the Board of Supervisors of their Consideration - Upon receipt of the written report from HAARB as provided in I of this section, the Board of Supervisors shall consider at the next regularly scheduled or special meeting, the question of issuing to the Building Inspector a Certificate of Appropriateness authorizing a permit for work covered by the application. The applicant shall be advised by the Township Secretary of the time and place of the meeting at which his/her application shall be considered. The applicant shall have the right to attend the meeting and be heard as to the reasons for filing this said application.
- K. Design Guidelines/Application Review Procedure by Board of Supervisors - In determining whether or not to certify the appropriateness of the proposed erection, alteration, reconstruction, repair, restoration or demolition, of all or part of any building, site or structure within a historic district or defined as historic, the Board of Supervisors shall consider the same factors as HAARB set forth in D of this section and the report of the HAARB.
- L. Approval by the Board of Supervisors - If the Board of Supervisors approves the application, it shall issue a Certificate of Appropriateness authorizing the Building Inspector to issue a (building) permit for the work covered.
- M. Disapproval by the Board of Supervisors - If the Board of Supervisors disapproves, a written reason shall be given to the Building Inspector, the applicant and to the Pennsylvania Historical and Museum Commission. The disapproval shall indicate what changes in the plans and specifications would meet the conditions for protecting (1) the distinctive historical character of the district, building, site or structure (2) the architectural integrity of the building, site or structure.  
Upon receipt of a written disapproval of the Board of Supervisors, the Building Inspector shall disapprove the application for a building permit and so advise the applicant. The applicant may appeal this disapproval to the County Court of Common Pleas within the time specified by law.
- N. Final Notification by the Board of Supervisors - In either case of approval or disapproval the Board of Supervisors shall notify the applicant of its decision within five (5) days of its meeting at which the application was considered.

## **Article VII Demolition of Historic Resources**

### **Section 700 Demolition of Class I and Class II Historic Resources**

The following regulations shall apply to Class I and Class II historic resources as defined in Article IV:

- A. No Class I or Class II historic resource may be demolished until the Applicant obtains a permit.

No Class I or Class II historic resource shall be demolished by neglect. Demolition by neglect includes leaving a building or structure open or vulnerable to vandalism or decay by the elements or deterioration of any feature so as to create a hazardous condition that could

lead to the claim that demolition is necessary for public safety. Unoccupied structures should be tightly sealed and fenced off and the utilities turned off for safety.

- (1) No Class I or Class II historic resource shall be demolished, in whole or part, including the indiscriminate removal or stripping of any significant interior or exterior architectural features, unless a permit is obtained from the Building Inspector in accordance with the procedures set forth in this Ordinance.
- (2) All applications for demolitions received by the Building Inspector shall be reviewed against the Historic Resources Map. If the application concerns a historic resource, the Building Inspector shall advise the Applicant that her or she must comply with the procedures and requirements set forth in this Ordinance, as applicable.

#### B. Application Requirements for the Demolition of a Class I and/or Class II Historic Resource

- (1) In addition to any other applicable requirements under Township codes, any Applicant seeking a permit to demolish a historic resource shall provide a written report on the following, with regard to that historic resource:
  - a. Owner of record.
  - b. Classification on the Historic Resources Map
  - c. Site plan showing all buildings and structures on the property
  - d. Recent photographs of the resource proposed for demolition
  - e. Reasons for the demolition
  - f. Method of demolition
  - g. Future uses of the site and of the materials from the demolished resource

### **Section 701 Demolition of Class III Historic Resources**

The following regulations shall apply to Class III historic resources as defined in Article IV:

- A. No Class III historic resource may be demolished until the Applicant obtains a permit and complies with the following:
  - (1) Permit Requirements - No Class III historic resource shall be demolished by neglect. Demolition by neglect includes leaving a building or structure open or vulnerable to vandalism or decay by the elements or deterioration of any feature so as to create a hazardous condition that could lead to the claim that demolition is necessary for public safety. Unoccupied structures should be tightly sealed and fenced off and the utilities turned off for safety.
  - (2) Demolition Permit - No Class III historic resource shall be demolished, in whole or part, including the indiscriminate removal or stripping of any significant interior or exterior architectural features, unless a permit is obtained from the Building Inspector in accordance with the procedures set forth in this Ordinance.
  - (3) Proposed Demolition of Class III Historic Resources - All applications for demolitions received by the Building Inspector shall be reviewed against the Historic Resources Map. If the application concerns a historic resource, the Building Inspector

shall advise the Applicant that her or she must comply with the procedures and requirements set forth in this Ordinance, as applicable.

#### B. Application Requirements for the Demolition of a Class III Historic Resource

- (1) In addition to any other applicable requirements under Township codes, any Applicant seeking a permit to demolish a historic resource shall provide a written report, up to two (2) pages in length describing:
  - a. Owner of record
  - b. Reasons and method of demolition
  - c. Future use of the property and the demolished materials
- (2) The written report shall be accompanied by a recent photograph of the resource proposed for demolition, and a simple sketch plan of the property indicating the location of the proposed demolition.

### **Article VIII Standards for Rehabilitation**

#### **Section 800 Standards for Rehabilitation of Class I and Class II Historic Resources**

Any proposed rehabilitation, enlargement, or alteration of a Class I or Class II historic resource listed on the Historic Resources Map shall be in substantial compliance with the Secretary of the Department of the Interior's most current *Standards for Rehabilitation*.

#### **Section 801 Standards for Rehabilitation of Class III Historic Resources**

Any proposed rehabilitation, enlargement, or alteration of a Class III historic resource listed on the Historic Resources Map shall be in substantial compliance with the guidelines below:

- A. Minimize the removal or alteration of historic materials.
- B. Repair deteriorated original features, unless the severity of the deterioration requires replacement, in which case, the new feature should match the old to the greatest extent possible.

### **Article IX Unreasonable Economic Hardship**

#### **Section 900 Claim of Unreasonable Economic Hardship**

When a claim of unreasonable economic hardship is made due to the effect of this Ordinance, the owner of record must present evidence sufficient to prove that as a result of the HAARB's action, he/she is unable to obtain a reasonable return or a reasonable beneficial use from a resource. The owner of record shall submit by affidavit to the HAARB information which shall include but not be limited to the following:

- A. Date the property was acquired by its current owner.
- B. Price paid for the property (if acquired by purchase) and a description of the relationship, if any, between the buyer and the seller of the property.

- C. Mortgage history of the property, including current mortgage and the annual debt service, if any, for the previous two (2) years.
- D. Current market value of the property.
- E. Equity in property.
- F. Past and current income and expense statements for the past two (2) years.
- G. Past capital expenditures during ownership of current owner.
- H. Appraisals of the property obtained within the previous two (2) years.
- I. Income and property tax factors affecting the property.
- J. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, offerings for sale, financing or ownership of the property, or state that none was obtained.
- K. All studies commissioned by the owner as to profitable renovation, rehabilitation or utilization of any structures or objects on the property for alternative use, or a statement that none were obtained.
- L. Estimates(s) of the cost of the proposed erection, reconstruction, alteration, restoration, demolition or razing and an estimate(s) of any additional cost(s) that would be incurred to comply with the recommendations of the planning board for changes necessary for it to approve a Certificate of Appropriateness.
- M. Form of ownership or operation of the property, whether sole proprietorship, for-profit or nonprofit corporation, limited partnership, joint venture or other.
- N. The HAARB may require that an applicant furnish additional information relevant to its determination of unreasonable economic hardship.
- O. The HAARB may receive and consider studies and economic analyses from other borough agencies and from private organizations relating to the property in question.

### **Section 901 HAARB Review of Claim of Unreasonable Economic Hardship**

Should the HAARB determine that the owner's present return is not reasonable, it must consider whether there are other uses currently allowed that would provide a reasonable return and whether such a return could be obtained through investment in the property for rehabilitation purposes. The HAARB may choose to recommend to the Township that special economic incentives be developed to assist the owner of the resource in maintaining it and obtaining a suitable economic return or achieving a reasonable beneficial use.

The HAARB may seek the assistance of appropriate local, statewide, or national preservation organizations in developing solutions that would relieve the owner's economic hardship. If the HAARB chooses to explore such options, the HAARB shall recommend the matter to the Board of Supervisors for resolution.

Should the applicant satisfy the HAARB that he/she will suffer an unreasonable economic hardship if a Certificate of Appropriateness is not approved, and should the HAARB be unable to develop with the Board of Supervisors or appropriate local, statewide and national preservation

organization a solution that can relieve the owner's economic hardship, the HAARB shall recommend the matter to the Board of Supervisors for resolution.

## **Article X *Enforcement and Penalties***

### **Section 1000 Notice of Violation**

The Building Inspector shall serve a notice of violation on the person in violation of this Ordinance that would result in but not be limited to:

- A. Failure to apply for a Certificate of Appropriateness of a building permit required for the erection, reconstruction, alteration, restoration, demolition, demolition by neglect, or razing of any historic resource listed on the Historic Resources Map.
- B. Failure to comply with HAARB approved work.

Such notice shall direct the abatement of said violation.

### **Section 1001 Enforcement**

The Building Inspector, or such other person or agency charged by the Board of Supervisors with the enforcement of this Ordinance, shall review the progress and status of the proposed changes and render such reports thereon to the Board of Supervisors and to HAARB as may be necessary to assure compliance with the provisions of this Ordinance and the conditions of the Certificate of Appropriateness.

The Building Inspector or his/her designated representative shall have the power to institute any proceedings at law or in equity necessary for the enforcement of this Ordinance.

### **Section 1002 Penalty**

Any person, property owner, occupant, firm, or contractor failing to obtain a building permit or Certificate of Appropriateness or violating the requirements of a building permit or Certificate of Appropriateness in accordance with this Ordinance shall be fined the sum of \$1000.00 for each day the violation is unabated, as well as applicable fines and penalties under other Township codes.

The Board of Supervisors shall withhold the issuing of any building permits for a minimum of one (1) year for a property which, at the date of enactment of this Ordinance, was occupied by a historic resource that subsequently was demolished in violation of this Ordinance.

### **Section 1003 Severability Clause**

If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as whole, or any part thereof.

**Section 1004 Amendments**

The provision of this Ordinance may be amended in the future by the Board of Supervisors of Whiteman Township after notice and hearing as provided by law.

**Section 1005 Effective Date/Certification by Pennsylvania Historical and Museum Commission**

Immediately upon the adoption of this Ordinance, the Township Secretary shall forward a copy thereof to the Pennsylvania Historical and Museum Commission. This Ordinance shall not take effect until (1) the said Commission has certified, by resolution, to the historical significance of the Township historical district(s), building(s), structure(s), and site(s), and, (2) it has been duly advertised once in the newspaper of general circulation in the Township as required by law.

## ARTICLE XIV

### HISTORIC PRESERVATION

**Section 1400. PURPOSE.** It is hereby declared as a matter of public policy that the preservation and protection of buildings, structures, and sites of historic, architectural, cultural, archeological, educational, and aesthetic merit are public necessities and are in the interests of the health, prosperity and welfare of the people of South Coventry Township. It is therefore the intent of this Article to provide a comprehensive framework for the preservation of historic sites, objects, buildings, structures and districts within the Township, in order to promote the following public purposes:

- A. To promote the general welfare by facilitating protection of the historical integrity of the historic resources of South Coventry Township.
- B. To establish a clear process by which proposed land use changes affecting historic resources can be reviewed.
- C. To discourage the unnecessary demolition of historic resources.
- D. To provide incentives for the continued use of historic resources and to facilitate their appropriate reuse.
- E. To encourage the conservation of historic settings and landscapes.

**Section 1401. CLASSIFICATION OF HISTORIC RESOURCES.**

- A. Classification of Historic Resources into Class I and Class II
  - 1. All Historic Resources included in the South Coventry Township Historic Resource Inventory shall be classified as either Class I or Class II Historic Resources in accordance with the definitions in Article II of the South Coventry Township Zoning Ordinance.
  - 2. All Historic Resources meeting the general criteria for designation of historic resources in Subsection C of this Section shall be classified as Class II Historic Resources unless classified as Class I.
  - 3. Historic Resources meeting the criteria for definition of Class I in accordance with Article II (i.e., National Register designation or determination of eligibility for the National Register by the PHMC) shall be classified as Class I unless removed from Class I by action of the Board of Supervisors as provided in Subsection B of this Section. Resource(s) not having received formal National Register or PHMC designation may be added to Class I by the Board of Supervisors as provided in Subsection B upon the recommendation of the Historical Commission, where deemed of similar historical significance.

B. Procedure for Addition or Removal of Historic Resources from the South Coventry Township Historic Resources Inventory, or for Change of Classification.

1. Any property may be proposed for addition to or removal from the South Coventry Township Historic Resources Inventory, or for a change in classification (Class I or Class II) by the owner of such property, by the Historical Commission, by the Board of Supervisors, or as provided in Subsection B.2 of this Section.
2. The receipt by the Township of written notification from the designating organization (PHMC or National Register) that any Historic Resource no longer meets the criteria upon which its classification has been based shall be treated as a proposal for a change in classification of that Resource (i.e., from Class I to Class II) or for its removal from the South Coventry Township Historic Resource Inventory.
3. Any proposal for addition to or removal from the South Coventry Township Historic Resources Inventory, or for a change in classification (Class I or Class II), shall be considered by the Township in accordance with the following:
  - a. Upon receipt, any proposal regarding resource classification shall be referred to the Historical Commission, which shall hold a public meeting thereon.
  - b. Unless a property is proposed by the owner(s), such owner(s) shall be notified upon receipt of a proposal affecting their property, and shall be invited to respond to such proposal at or prior to the public meeting.
  - c. The Historical Commission shall give ten (10) days public notice of the public meeting to consider the proposed, and shall send written notice to the owner(s) of the affected property. Such notice shall be published once and shall indicate the date, time and place of the public meeting at which the Historical Commission will consider the proposal. Notice shall be sent to the registered owner's last known address as the same appears in the real estate tax records of the Township Treasurer and sent to the "Owner" at the street address of the property in question.
  - d. Any interested party may present testimony or documentary evidence regarding the proposal at the public meeting, describing how or why the subject property meets the criteria for designation of historic resources set forth in Section E below, or the definitional criteria for Class I set forth in Article II, or does not. Such evidence may be presented at the public meeting held to

consider the proposal or may be submitted in writing to the Township prior to said meeting.

- e. The Historical Commission shall present a written report to the Board of Supervisors within thirty (30) days following the public meeting stating its recommendation regarding the subject proposal, basing upon the criteria established herein. A property shall be recommended for removal from Class I if it does not currently meet the definitional criteria set forth in Article II or is not deemed by the Commission to be of similar historical significance based on the evidence presented at the public meeting or otherwise received by the Commission. Properties removed from Class I shall remain as Class II Historic Resources unless removed from the Historic Resources Inventory altogether. A property shall be recommended for removal from said Inventory if it does not currently meet the criteria for designation set forth in Subsection C of this Section. The report to the Board shall include a summary of the information and copies of all documents presented at the meeting and/or used by the Historical Commission in making its recommendation.
- f. Based upon the criteria set forth herein and after receiving the recommendations of the Historical Commission, the Board of Supervisors shall from time to time, by ordinance, add or delete structures, sites and objects to or from the Historic Resources Inventory, or to or from Class I. Written notice of the proposed action of the Board of Supervisors shall be given to the property owner at the time of publication of the proposed ordinance..

C. General Criteria for Classification of Historic Resources.

A structure, site or object, or a complex of the same, may be placed on the Historic Resources Inventory if it meets one or more of the following criteria. Resources designated as Class I also shall meet one or more of the definitional criteria set forth in Article II or shall be deemed of similar historical significance as provided above.

1. Has significant character, interest or value as part of the development, heritage or cultural characteristics of the Township, County, Region, 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 Township, County, Region, Commonwealth or Nation, or
3. Embodies an icon associated with an era characterized by a distinctive architectural style; or

4. Embodies distinguishing characteristics of an architectural style or engineering specimen; or
5. Is the noteworthy work of a designer, architect, landscape architect or designer, or engineer whose work has significantly influenced the historical, architectural, economic, social, or cultural development of the Township, County, Region, 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 commercial center, park, community 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 Township; or
9. Has yielded, or may be likely to yield, information important in pre-history or history; or
10. Exemplifies the cultural, political, economic, social or historical heritage of the community.

**Section 1402. HISTORIC RESOURCE OVERLAY DISTRICT.**

In furtherance or the purposes set forth in Section I of this Article, a separate zoning district is hereby created to overlay all other zoning districts in the Township, to be known as the Historic Resource Overlay District.

**A. Applicability.**

The provisions of the Historic Resource Overlay District shall apply to all properties containing Class I or Class II Historic Resources as identified on the South Coventry Township Historic Resource Inventory. The properties identified on the Historic Resource Inventory shall constitute an overlay to the Township Zoning Map. Adoption of the Historic Resource Inventory and amendment from time to time shall conform to all procedural requirements for amendment to the Zoning Map.

**B. Permitted uses.**

The following uses and no other shall be permitted in the Historic Resource Overlay District:

1. Any use permitted in the underlying zoning district in which the property is located.
2. Where approved by the Board of Supervisors as a Conditional Use in accordance with Article XIX of this Ordinance as well as the specific requirements for conditional use approval set forth in paragraph 1402.D of this Article, additional use opportunities may be permitted on properties containing Class I or Class II Historic Resource(s). Such use opportunities may be permitted in place of any use currently being made of the property or as an additional principal and/or accessory use. It is intended that uses not otherwise permitted in the underlying zoning district be principally contained within structures designated as Class I or Class II Historic Resources. Permitted use opportunities may include but are not limited to the following:
  - a. Any use permitted in the underlying zoning district (i.e., as a second principal use);
  - b. Home occupation;
  - c. Business, administrative or professional office, studio or library;
  - d. Cultural studio, subject to the condition that if access is provided from a local street, the use shall be limited to one class at a time with not more than ten (10) students in the class, and not more than two (2) instructors;
  - e. Artist studio, crafts workshop or cottage industry employing not more than three (3) persons. Such use(s) may include model making, rug weaving, lapidary work, furniture making and similar crafts;
  - f. Day Care Facility;
  - g. Tourist Home;
  - h. Food preparation or catering facility not involving food consumption, employing not more than three (3) persons on the premises;
  - i. Personal service shop, including barber, beauty salon, tailor, dressmaking, or similar shop, but not including dry cleaning or laundromat, with a limit of one (1) employee per five-hundred (500) square feet of gross habitable floor area devoted to the service shop use;
  - j. Repair services, including small appliances, small business machines, watches, household furnishings, shoes, bicycles and locks, but shall not include automobile, truck, motorcycle or lawnmower repair, with a limit of one (1) employee per five-

hundred (500) square feet of gross habitable floor area devoted to the repair service use;

k. Conversion Apartments through conversion of any structure designated as a Class I or Class II Historic Resource into one or more dwelling units, subject to the following specific requirements:

- 1) Except where otherwise provided in the applicable zoning district, where multiple dwellings result from the conversion of a structure designated as a Class I or Class II Historic Resource, no individual dwelling unit shall contain less than 800 square feet of habitable floor area and the number of such dwelling units shall not exceed the number that can be accommodated within the building utilizing this minimum floor area requirement. No structural addition to the Historic Resource shall increase the number of dwelling units that can be achieved by application of this formula.
- 2) Each individual dwelling unit created through the residential conversion of an historic resource shall contain its own bathroom and kitchen.

1. Other uses of a similar nature and similar neighborhood impact.

C. Lot Area, Width, Building Coverage, Height and Yard Requirements.

Lot Area, Width, Building Coverage, Height and Yard Requirements otherwise applicable in the underlying zoning district shall apply, except that where approved by the Board of Supervisors as a Conditional Use in accordance with Section XIX of this Ordinance, as well as the specific requirements for conditional use approval set forth in paragraph 1402.D of this Article, requested modifications to applicable lot area, lot dimension, yard requirements or any otherwise applicable area and bulk regulation or design standard for plans affecting Historic Resources may be permitted. In all cases, such modifications may be permitted to reduce otherwise applicable requirements to the minimum degree necessary to accommodate proposed plan(s).

D. Specific Requirements for Conditional Use Approval.

Where additional use opportunities for Historic Resources and/or modifications to otherwise applicable area and bulk regulations are permitted, the following requirements shall apply:

1. All applicable standards and criteria set forth in Article XIX for conditional use approval shall be complied with to the satisfaction of the Township;
2. The granting of conditional use approval shall be deemed to be necessary to the preservation of the Historic Resource(s).

3. To the extent applicable, the *Secretary of the Interior's Standards for Rehabilitation* of Historic Structures shall serve as guidelines for any plans involving the rehabilitation, alteration, or enlargement of structures designated as Class I or Class II Historic Resources. In approving a conditional use, the Board of Supervisors may set conditions requiring compliance with the *Secretary of the Interior's Standards for Rehabilitation*, as applicable.
4. In granting conditional use approval in accordance with this section, the Board of Supervisors shall be satisfied that adequate water supply and sewage disposal can be provided for all permitted uses.
5. Where plans involving Historic Resource(s) under this section result in all or portions of any such resource(s) remaining unoccupied, such unoccupied resources shall be tightly sealed and barred off in a manner not jeopardizing historical integrity, and the utilities turned off for safety.
6. In granting conditional use approval in accordance with this section, the Board of Supervisors may require as a condition of approval the establishment of conservation easement(s) or other means to guarantee permanent protection of the historical integrity of the subject resource(s).
7. Except where clearly detrimental to historical integrity and where public health, safety, and welfare are otherwise adequately provided for, all other applicable standards contained in this ordinance shall be complied with, including but not limited to requirements for buffering, lighting, storage, access and traffic management, interior circulation, loading, parking, and signs.
8. The Board of Supervisors may deny the request for additional use or for modification of area and bulk regulations where, upon the review of the Historical Commission, it deems the proposal to be unacceptably destructive to the integrity of the Historic Resource and/or where the Board finds the proposal to be inappropriate in the context of the immediate neighborhood.

E. Application Procedures for Conditional Use Approval Regarding Historic Resources.

1. An applicant seeking conditional use approval under the provisions of this Section shall submit the appropriate application to the Township in accordance with the provisions of Article XIX. The application shall include, in addition to that which is required under Article XIX where relevant, a detailed depiction of the proposed use(s), any physical changes proposed for the affected historic resource(s) and their surrounding landscape, and any proposed modifications to otherwise applicable area and bulk regulations.

2. Upon receipt by the Township, the complete application shall be forwarded to the Historical Commission, the Planning Commission and the Board of Supervisors. Within 30 days of receipt of a complete application by the Township, the Historical Commission and the Planning Commission shall each, at a regular or special meeting, review the application for conditional use approval. The applicant will be notified of such meetings at least 10 days prior to their scheduled dates and shall have the opportunity to present his reasons for filing the application.
  - a. In reviewing the application for conditional use approval, the Historical Commission shall consider the following:
    - 1) In regard to proposed modification of area and bulk regulations, the Historical Commission shall evaluate whether the proposed modifications are necessary to preserve the affected Historic Resource(s).
    - 2) Where the application involves physical changes to Historic Resource(s) and/or the surrounding landscape, the Historical Commission shall review the proposed changes and make recommendations as to their appropriateness.
  - b. The Planning Commission shall review the proposed changes for their impact on the health, safety and welfare of the Township including, but not necessarily limited to, traffic impacts, water supply and sewerage.
3. Recommendations, if any, of the Historical Commission and Planning Commission shall be transmitted in the form of written reports to the Board of Supervisors and shall include suggestions for specific changes to proposed plans, if any. If either the Historical Commission and/or Planning Commission does not transmit its recommendations to the Board by the date set by the Board for public hearing to consider the application for conditional use approval, then it shall be deemed that such Commission recommends the approval of the application.
4. The Board of Supervisors shall act upon the application in accordance with the provisions of Article XIX.

#### **Section 1403. DEMOLITION OF HISTORIC RESOURCES.**

##### **A. Applicability of Demolition Permit Requirement.**

1. No Class I nor Class II Historic Resource may be demolished, in whole or in part, whether deliberately or by neglect, including the indiscriminate removal, stripping, or destruction of any significant exterior architectural features, unless a demolition permit is obtained from the Township Building/Zoning Officer in accordance with the procedures and

requirements of this section, and other applicable standards and procedures of this ordinance and the Township Building Code.

2. Demolition permit requirements shall extend to demolition by neglect which is defined as the failure to provide ordinary and necessary maintenance and repair to a building or structure located in a historic district, or to an historic resource, except for ruins existing at the time of adoption of this section, whether by ordinary negligence or willful neglect, purpose or design, by the owner or any party in possession thereof, which results in any of the following conditions:
  - a. deterioration of exterior features so as to create or permit a hazardous or unsafe condition to exist;
  - b. deterioration of exterior walls, roofs, chimneys, or windows; the lack of adequate waterproofing; or deterioration of interior features or foundations which will or could result in permanent damage or loss of exterior features.
  - c. deterioration resulting from a building or structure having been left open or vulnerable to vandalism or decay by the elements. Unoccupied resources shall be tightly sealed and barred off and the utilities turned off for safety.
3. These provisions shall not be construed to prevent the ordinary maintenance or repair of any building, structure, site, or object where such work does not require a permit and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, a building, structure, site, or object and to restore the same to its condition prior to the occurrence of such deterioration, decay, or damage.

**B. Procedure for Obtaining Demolition Permit.**

1. The applicant shall submit to the Township an Application for a Demolition Permit, obtainable from the Township Building/Zoning Officer. If the Township determines that the permit request is for the demolition of a Class I or Class II Historic Resource, the Building/Zoning Officer shall be directed not to issue the demolition permit and the application shall be forwarded to the Historical Commission for review.
2. Information to be Provided. In addition to applicable requirements under the Township Building Code, an applicant seeking a permit to demolish an Historic Resource shall provide the following documents and written narrative supporting the application.
  - a. Owner of record;
  - b. Site plan showing all buildings and structures on the property;

- c. Recent photographs of the resource proposed for demolition;
- d. Reasons for the demolition;
- e. Proposed method of demolition;
- f. Intended future use of the site and of the materials from the demolished resource;
- g. List of alternatives to demolition which the applicant has considered;
- h. Where the applicant specifically alleges that demolition is necessary due to undue economic hardship or the lack of a reasonable economic alternative, a narrative statement, together with supporting documentation, shall be submitted to demonstrate what alternate consideration to demolition, if any, the Applicant has given to practical, adaptive uses of the property, particularly considering the incentives potentially available as conditionally permitted in accordance with this Article, and shall include written estimates of the cost(s) of restoration and/or renovation from at least two professional restoration contractors.

3. Review by Historical Commission. Within 30 days of receipt of a complete application for demolition from the Building/Zoning Officer, the Historical Commission, at a regular or special meeting, shall review the application. Ten days prior written notice of the meeting shall be given to the applicant who shall have the opportunity to present his reasons for filing the application. The Historical Commission shall consider the following:

- a. The effect of demolition on the historical significance and architectural integrity of the resource in question and neighboring historic resources;
- b. Whether the applicant has demonstrated that he has considered all alternatives to demolition;
- c. Economic feasibility of adaptive reuse of the resource proposed for demolition;
- d. Alternatives to demolition of the resource;
- e. Whether the resource in its current condition presents a threat to public safety;
- f. Whether the resource has been intentionally neglected;
- g. Whether the required retention of the resource would represent an

unreasonable economic hardship.

4. Historical Commission Recommendation. The Historical Commission shall promptly communicate its recommendation(s) in a written report to the Board of Supervisors either recommending approval of the application as submitted, recommending approval of the application with condition, or recommending delay of demolition as provided below.

**C. Approval of Demolition Permit or Delay of Demolition by the Board of Supervisors.**

1. Within 30 days of receiving the recommendation from the Historical Commission, the Board of Supervisors shall consider the application at a public meeting, together with the recommendations of the Historical Commission, and vote either to approve the application, approve the application with changes, or defer their decision, affording a delay of demolition for up to 90 days as set forth in paragraph 4 of this section. The applicant shall be notified of the meeting at least 10 days prior to its date, and shall have the opportunity to present his reasons for filing the application. Within five days of making its decision, the Board shall provide written communication of its decision to the applicant, Historical Commission, and Building/Zoning Officer.
2. Issuance of Demolition Permit. Where the Board acts to approve the application, it shall authorize the Building/Zoning Officer to issue the permit. Where the approval is authorized to be granted with conditions attached, the Building/Zoning Officer shall be authorized to issue the permit upon his receipt from the applicant of written acceptance of those conditions.

**D. Delay of Demolition.**

1. The specified period of delay up to 90 days shall be used to provide an opportunity to engage in discussion with the applicant about alternatives to demolition and to allow for complete historical documentation of the resource. The Historical Commission shall make every effort to communicate with the applicant to inform him of the historical importance of the resource, its significance to the Township, and alternatives to demolition (additional uses, etc.).
2. Documentation of Class I Historic Resources. When prescribing the delay of demolition for a Class I resource, the Board of Supervisors may require the applicant to provide documentation of the resource proposed for demolition. Such documentation may include, as available: historical data, surveys, and other data provided by local, state, and federal historic preservation organizations and agencies; photographs; floor plans; measured drawings; archaeological surveys (if appropriate); and any other

comparable form of documentation recommended by the Historical Commission. Where necessary, the delay shall continue past the stipulated 90 days until the applicant has sufficiently satisfied the Documentation requirements.

3. Not later than the date set by the Board of Supervisors to act upon the application for demolition prior to or at the end of the applicable 90 day time period, the Historical Commission may recommend in writing to the Board of Supervisors approval of the demolition permit or, where the Commission does not believe that the Applicant has proven unreasonable economic hardship or the lack of a reasonable alternative, recommend denial of the demolition permit.

**E. Approval or Denial of Demolition Permit after Delay of Demolition.**

1. The Board of Supervisors shall act upon the application for demolition within or at 90 days, whether it receives a recommendation from the Historical Commission or not, and shall vote either to approve the application, to approve the application with changes, or to deny the application. Within five days of making its decision, the Board shall provide written communication of its decision to the applicant, Historical Commission, and Building/Zoning Officer.
2. Issuance of Demolition Permit. Where the Board acts to approve the application, it shall authorize the Building/Zoning Officer to issue the permit. Where the approval is granted with conditions attached, the Building/Zoning Officer shall be authorized to issue the permit upon receipt from the applicant of written acceptance of those conditions.
3. Denial of Application. Where the Board acts to deny the application, a notice of denial shall be sent to the applicant indicating what changes in the plans and specifications, if any, would be sufficient to meet the standards of this Section.

**Section 1404. HISTORIC RESOURCE IMPACT STUDY.**

**A. Applicability.** An Historic Resource Impact Study shall be submitted to the Township, unless waived or modified by the Board of Supervisors, in the following situations:

1. As part of Preliminary Plan submission for any Subdivision or Land Development application which proposed new construction of buildings, structures, roads, driveways, parking areas, or other land disturbance within 250 feet of the exterior walls of any Class I or II Historic Resource.
2. As part of Tentative Plan submission for any application for Planned Residential Development (PRD) which proposed new construction of buildings, structures, roads, driveways, parking areas, or other land disturbance within 250 feet of the exterior walls of any Class I or II Historic Resource.

3. Where general bridge or road construction or substantial repair is proposed within 250 feet of the exterior walls of any Class I or II Historic Resource.

B. **Contents.** The Historic Resource Impact Study shall contain the following information, unless waived or modified by the Board of Supervisors:

1. Background Information
  - a. If not otherwise provided by the applicant, a general site description of the site subject to application, including topography, watercourses, vegetation, landscaping, existing drives, etc.
  - b. General description and classification of all Class I or II Historic Resources located within 250 feet of any proposed land development or land disturbance.
  - c. Physical description of all such Class I or II Historic Resources.
  - d. Narrative description of the historical significance of each Class I or II Historic Resource, relative to both the Township and to the region in general.
  - e. Sufficient number of black and white 8" x 10" photographs to show each Class I or II Historic Resource in its setting.
2. Assessment of Potential Impacts to Historic Resources
  - a. General description of the proposed activity subject to application, including time table or phases.
  - b. Description of potential impact(s) to each Class I or II Historic Resource identified in paragraph a(2), above, with regard to architectural integrity, historic setting, and future use.
3. Mitigation Measures
  - a. Suggested approaches to mitigate potentially negative impacts to Class I or II Historic Resources, including design alternatives, buffering, landscaping, conservation of existing vegetation, and any other appropriate measures permitted under the terms of this and other Township Ordinances.

**Section 1405. VIOLATIONS, PENALTIES AND ENFORCEMENT.**

Any person who violates the terms of this Article shall be subject to the enforcement procedures, fines and penalties provided for in Article XXIII of this Ordinance, as well as applicable

enforcement procedures, fines and penalties provided for in regulations adopted by South Coventry Township to govern Building Construction. In addition:

- A. In the event any person demolishes an Historic Resource in violation of the provisions of this article or violates any conditions or requirements specified in a conditional use approval or permit issued under the terms of this Article, the Board of Supervisors may institute any proceeding, at law or in equity, necessary to enforce the provisions of this Article. Such proceeding may include, but is not limited to, an action to compel the reconstruction and/or restoration of the Historic Resource to its condition and appearance as existed immediately prior to the violation. Such restoration shall be in addition to, and not in lieu of, any penalty or remedy available under this ordinance or any other applicable law.
- B. In the event the Board of Supervisors authorizes the commencement of an action pursuant to subsection A of this Section, the Building/Zoning Officer shall withhold issuing any building permit for the construction of any building or structure proposed to be located in any location on the property which would preclude reconstruction or restoration of the Historic Resource subject of a violation of this Article, or any building or structure intended to replace such Historic Resource, unless issued for the purpose of restoring the Historic Resource to its condition and appearance as existed immediately prior to the violation.
- C. The Board of Supervisors may, as a condition of approval of any conditional use application or subdivision or land development application involving any property which, at the date of enactment of this ordinance, was occupied by an Historic Resource(s) that subsequently was demolished or otherwise altered in violation of this Article, impose a condition requiring the satisfactory reconstruction or restoration of any such Historic Resource(s).
- D. The Township, through such person or agency charged by the Board of Supervisors with enforcement of the provisions of this Article, shall monitor the progress and status of any change being made to an Historic Resource subject to the provisions of this Article, and shall render such reports thereon to the Board and to the Historical Commission as may be necessary to assure compliance with the provisions of this Article and/or any compliance with any conditions which may have been attached to any building permit, demolition permit, subdivision/land development approval, or conditional use approval.
- E. In addition to the above remedies, the Board of Supervisors may take other appropriate legal action, which may include equitable and injunctive relief, to enforce the provisions of this Article.

**CLASS I HISTORIC RESOURCE – Any of the following:**

*resources*

- (1) All sites designated by the Secretary of the Interior as National Historic Landmarks;
- (2) All buildings, sites, structures, and objects listed individually in the National Register of Historic Places;
- (3) All buildings and structures classified as "certified historic structures" by the Secretary of the Interior;
- (4) All buildings, sites, structures, and objects documented as "contributing resources" in a National Register Historic District;
- (5) Any resources which have received a Determination of Eligibility (DOE) by the Pennsylvania Historical and Museum Commission (PHMC);
- (6) Any buildings, sites, structures, or objects documented as "contributing resources" within any historic district which has received a Determination of Eligibility (DOE) from the PHMC; and
- (7) Any other historic resource which may have been added to Class I by the Board of Supervisors as provided in Section 1401 of Article XIV of this Ordinance, where deemed of similar historical significance to the resources described herein.

Indefinition  
section

**CLASS II HISTORIC RESOURCE -** All historic resources included in the South Coventry Township Historic Resource Inventory, not otherwise designated as Class I Historic Resources, and approved as such by the Board of Supervisors pursuant to the provisions of Section 1401 of Article XIV of this Ordinance.

**CONTRIBUTING RESOURCE –** A building, structure or site adding to the historical significance of an individual property or an historic district. Contributing resources included in the South Coventry Township Historic Resource Inventory shall be regulated as Class I or Class II resources with the same classification as the principal resource(s) to which they contribute.

**CULTURAL STUDIO –** A facility used for providing to the public instruction in the performing arts, limited to dance, music, and theater, and the fine arts, including drawing, painting, photography and sculpture.

**DEMOLITION OR DEMOLISH –** In the context of Article XIV, the razing or destruction, whether entirely or in significant part, of the exterior of a building, structure, or site. Demolition includes the removal of a building or structure from its site or the removal, stripping, concealing or destruction of the façade or any significant exterior architectural features which are integral to the historic character of the resource, for whatever purpose, including new construction or reconstruction.

**HISTORIC STRUCTURE – *[double-check applicability]*** For the purposes of the floodplain regulations of Section \_\_\_, this term shall mean any structure that is designated a Class I or Class II Historic Resource.

**HISTORIC RESOURCE** – Any building, site, structure, object, or other resource which has been designated a Class I or Class II Historic Resource.

**HISTORIC RESOURCE IMPACT STUDY** – A study of the potential impacts of proposed land development and/or land disturbance on nearby historic resources, including study of potential means to mitigate negative impacts, required to be submitted to the Township in certain land development scenarios, in accordance with Section 1404 of Article XIV of this Ordinance.

**HISTORIC RESOURCE INVENTORY** – The South Coventry Township Historic Resource Inventory which may include a list and corresponding map indicating the locations of all Historic Resources, including both principal and contributing resources, to which the provisions of Article XIV of this Ordinance apply. Except where removed from the Inventory by action of the Board of Supervisors pursuant to Section 1401, the Historic Resource Inventory shall include all resources identified in the 1982 Chester County Historic Sites Survey and located in South Coventry Township as well as any additional resources meeting one or more of the definitional criteria for Class I Historical Resources.