

# CHADDS FORD TOWNSHIP DELAWARE COUNTY, PENNSYLVANIA

## ORDINANCE No. 1 6 2

AN ORDINANCE OF CHADDS FORD TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA AMENDING CHAPTER 135 OF THE CODE OF CHADDS FORD TOWNSHIP TO SET DISTRICT BOUNDARIES; SET PROCEDURE FOR ESTABLISHING OR EXPANDING ADDITIONAL HISTORIC DISTRICTS; SET FORTH THE DUTIES OF THE CODE ENFORCEMENT OFFICER PERTAINING TO THE HISTORIC DISTRICT; SET FORTH THE DUTIES OF THE HISTORIC ARCHITECTURE REVIEW BOARD; SET FORTH PROCEDURES AND EVALUATION CRITERIA PERTAINING TO CERTIFICATES OF APPROPRIATENESS; SETTING FORTH THE PROCEDURE AND EVALUATION CRITERIA PERTAINING TO CLAIMS OF ECONOMIC HARDSHIP; AND ESTABLISHING PERMITTED USES, AREA, BULK AND HEIGHT REGULATIONS, STRUCTURAL STANDARDS, AND DESIGN AND DEVELOPMENT REGULATIONS WITHIN THE HISTORIC DISTRICT.

Whereas, the area comprising Chadds Ford Township has as rich a history as any in Pennsylvania; and

Whereas, the Board of Supervisors desires to recognize and protect that history.

Now, therefore, be it ORDAINED that:

1. Amendment to Chapter 135, Article XVI of the Code of Chadds Ford Township. Chapter 135, Article XVI of the Code of Chadds Ford Township is hereby repealed in its entirety and amended to read as follows:

### **§ 135-107. District boundaries.**

The boundaries of the historic overlay districts shall be as shown on the Chadds Ford Township Zoning Map, which is attached to and shall be a part of this chapter. The Village District overlays the R-1 Residential, R-2 Residential and L-I Light Industrial zoning districts north and south of Baltimore Pike (U.S. Route 1) from the Brandywine Creek to Harvey and Heyburn Roads, and the floodplain districts in this area. The Dilworthtown District overlays the R-1 Residential and PBC Planned Business Center zoning districts along the northern part of Chadds Ford Township.

### **§ 135-108. Legislative intent.**

A historic district is an area that possesses a sufficient concentration, linkage, or continuity of buildings, structures, sites, objects, or open spaces united historically by plan or physical development.

- A. Such district may comprise both distinctive features and features that lack individual distinction.
- B. A district may contain buildings, structures, sites, objects or open spaces that do not necessarily contribute to the significance of the district.
- C. A district may include areas that act as a visual buffer to protect the character and significance of the historic district.

Historic districts are intended to implement a program for historic site and historic resource protection which relates directly to:

- A. The Brandywine Battlefield Park certified and included in the National Register on January 20, 1964, and the Brandywine Battlefield Park National Historic Landmark certified and included in the National Register on November 24, 1978, by the U.S. Department of the Interior, National Park Service;
- B. The Chadds Ford Village Historic District certified and included in the National Register on November 23, 1971, by the U.S. Department of the Interior, National Park Service;
- C. The Dilworthtown Historic District certified and included in the National Register on January 18, 1973, by the U.S. Department of the Interior, National Park Service; and,
- D. Those buildings which are individually listed, or to be listed, in the National Register, which lie within the historic overlay district.

### **§ 135-109. Establishment or Expansion of Historic District.**

Any Historic and Architectural Review Board (HARB) member, property owner or member of the public at large may recommend that an area be considered for designation as an historic district. After performing extensive evaluation to include historical research, statements of significance that apply the designation criteria, physical description of the district and resources, a property inventory, maps and photographs, a report should be prepared and presented to the HARB Board for consideration. Such criteria should include:

- A. the area's history, landscape and architecture;
- B. the area's relationship to events or patterns of history;
- C. the area's relationship to persons important in the history of the township, regions, state or nation, and
- D. important examples of architectural styles, materials, or construction methods.

Notification of any such presentation before the HARB Board shall meet notification requirements as set forth in Chadds Ford Township Resolution 2018-28, Rules of the Board. If HARB verifies that the proposed historic district meets one or more of the criteria and the report receives a recommendation of approval by the HARB Board, such presentation shall be made before the Planning Commission, which shall review the application for consistency with township ordinances. Upon recommendation of Planning Commission, the Board of Supervisors will ultimately decide whether or not formal application should be made.

Upon the Board of Supervisors' recommendation that the nomination should move forward, the person or group so designated by the Supervisors will pursue an Historic District application to the Pennsylvania Historic and Museum Commission, in accordance to the procedures in effect at that time.

### **§ 135-110. Authority and Applicability.**

This Chapter shall be known as the "Historic District Ordinance" of Chadds Ford Township, Delaware County, Pennsylvania and is established pursuant to authority contained in the Pennsylvania Act of June 13, 1961, as amended.

This article is created pursuant to the authority found in the Municipal Historic Districts Law, 53 P.S. §8001 et seq., and applies to all exterior architectural features (buildings and structures) which can be seen from a public street or way within the boundaries of the historic overlay districts to the extent set forth herein.

### **§ 135-111. Purpose.**

The Chadds Ford Township historic districts are created for the following purposes:

- A. To protect those certified historic structures and other historic resources in those portions of Chadds Ford Township that have a distinctive character, attesting to its rich cultural, historical and architectural heritage, in particular in the Chadds Ford National Register District, the Brandywine Battlefield Park National Historic Landmark, the Dilworthtown National Register District and in adjoining areas;
- B. To awaken, or reinforce, in our people an interest in our historic past;
- C. To promote the general welfare, education and culture of the Township;
- D. To inspire an interest in civic beauty through the encouragement of appropriate settings and continued construction of buildings in the historic styles and in general harmony with respect to style, form, color, proportion, texture and material between buildings of historic design and those of more modern design; and,
- E. To promote educational, recreational and cultural activities within our municipality and to advance the principles, goals for community development and the recommendations embodied in the Comprehensive Plan.

**§ 135-112. General provisions.**

- A. The Chadds Ford Township historic districts shall be considered as an overlay to various districts as shown on the Chadds Ford Township Zoning Map.
- B. If any proposal for construction, alteration or other change in an historic district also requires subdivision and/or land development approval by the Chadds Ford Township Board of Supervisors, all approvals therefor shall be obtained prior to application for review and approval required under this article.
- C. No structure shall hereafter be used and no structure shall hereafter be erected, reconstructed, altered, restored, demolished or razed, in whole or in part, without full compliance with the terms of this chapter and other applicable regulations.
- D. The exterior architectural character of any structure subject to the provisions of this article shall not be altered until after an application for work in an historic district has been submitted to the Historical and Architectural Review Board (HARB) and approval for the work has been granted in accordance with HARB regulations as adopted by the Board of Supervisors and as amended from time to time..
- E. Evidence of the approval required above shall be a certificate of appropriateness issued by the Board of Supervisors, pursuant to 53 P.S. §8004, or in the case of minor projects, approval for work in an historic district issued by the HARB. Such certificate or approval document shall be a statement signed by the Chairman of the Board granting such approval, stating that the construction, demolition or changes in for which application has been made are approved.
- F. Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure described herein; nor shall anything in this article be construed to prevent the construction, reconstruction, alteration, rehabilitation or demolition of any such elements which the Board of Supervisors shall certify as required for public safety.
- G. Any person requesting approval for work in an historic district under this article shall be entitled to a meeting on such request before the HARB and to a meeting before the Board of Supervisors according to the provisions of **§ 135-116**.
- H. The HARB may determine that certain building changes which are minor in nature need not undergo the same level of scrutiny as major building changes. Standards for minor changes in an historic district shall be recommended by the HARB, and revised from time to time, and shall be approved by resolution of the Board of Supervisors and shall be published by the HARB and posted on the Township website.
- I. In order to provide guidance and insight into desirable goals and objectives for the historic district or for the desirable types of development in historic districts, and for the maintenance of consistent policies in guiding the building public toward better standards of design, the HARB shall maintain a file containing records of all applications brought before the HARB, drawings submitted and amendments of

drawings pertaining thereto and drawings and photographs or reproductions thereof showing buildings and structures that in the HARB's opinion may serve as general guides to appropriateness or as expressions of objectives to prospective developers or property owners. Such documents shall remain the property of Chadds Ford Township and shall be open for public review.

- J. The HARB may supplement, or revise from time to time, the reference guide, "Architectural Guidelines For Construction in the Historic District," as adopted in 1987, to further describe exterior architectural design criteria. Such guidelines shall be approved by resolution of the Board of Supervisors, published by the HARB and posted on the Township website.

### **§ 135-113. Duties of Code Enforcement Officer.**

- A. The Code Enforcement Officer (CEO) shall issue a permit for the erection, reconstruction, alteration, restoration, rehabilitation, demolition or removal of a building in the historic district only after the Board of Supervisors has issued a certificate of appropriateness. Upon receipt of a written disapproval by the Board of Supervisors, the CEO shall disapprove the application for a permit and so advise the applicant. Upon receipt of an application for a permit for work to be done in the historic districts, the CEO shall follow the procedures for acting upon an application for a building permit set forth in Chapter 59 of the Chadds Ford Township Code, except as those procedures are necessarily modified by the following requirements:
  - 1. The CEO shall review the application and other documents and materials submitted by the applicant. If the application is incomplete or if required documents and materials are not submitted, the CEO shall notify the applicant and return the application to the applicant;
  - 2. Upon receipt of a completed application, the CEO shall forward to the Chairman of the HARB a copy of the application for work in an historic district, together with copies of all other documents and materials filed by the applicant;
  - 3. The CEO shall maintain in his/her office a record of all such applications, and of his/her handling and final disposition of the same, which shall be in addition to and appropriately cross-referenced to his/her other records; and,
  - 4. The CEO shall require applicants to submit a sufficient number of additional copies of material required to be attached to an application for work in an historic district to allow compliance with the foregoing.
- B. The CEO shall have the power to institute any proceedings at law, or in equity, necessary for the enforcement of this article in the same manner as in his/her enforcement of the other articles contained in this chapter, as enacted, and as may be amended from time to time.
- C. When a certificate of appropriateness has been issued, a copy thereof shall be transmitted to the Code Enforcement Officer, who shall from time to time inspect the

alteration or construction approved by such certificate and shall make a monthly report of such inspection to the HARB listing all work inspected and reporting any work not in accordance with such certificate or violating any ordinances of the Township.

## **§ 135-114. Board of Historical and Architectural Review.**

### **A. Establishment, composition, appointment and terms of members.**

1. The Historical and Architectural Review Board (HARB) is hereby established to be composed of not less than five members, appointed by the Board of Supervisors, one of whom shall be a registered architect, one shall be a licensed real estate broker, one shall be a building inspector, one a member of the Planning Commission and the remaining member or members shall have a knowledge of and an interest in the preservation of the historic district. A minimum of three members shall be Chadds Ford Township residents.
2. The position of any member of the HARB appointed in his/her capacity as a registered architect, a licensed real estate broker, a building inspector, or as a member of the Planning Commission who ceases to be so engaged shall be automatically considered vacant.
3. The Board of Supervisors shall appoint HARB members to serve for a period of five (5) years. The position of any member of the HARB appointed in his/her capacity as a registered architect, a licensed real estate broker, a building inspector, or as a member of the Planning Commission who ceases to be so engaged shall be automatically considered vacant. Additionally, HARB members failing to attend four (4) consecutive meetings shall forfeit their membership unless a member provides notification to the Chair of a scheduled absence prior to a meeting. In the case of voluntary resignation, a member shall provide a thirty (30) day advanced notice to the Chair.
4. An appointment to fill a vacancy shall be only for the unexpired portion of the term. Any member may be removed from office for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors, taken after the member has received fifteen (15) days' advance notice of the intent to take such a vote. Any appointment to fill a vacancy created by removal shall be only for the unexpired portion of the term.
5. The HARB shall elect its own Chairman and Vice Chairman and create and fill such other offices as it may determine. Officers shall serve annual terms and may succeed themselves. The HARB may make and alter bylaws and rules and regulations to govern its procedures consistent with the ordinances of Chadds Ford Township and the laws of the Commonwealth of Pennsylvania.

B. Functions and Duties of the HARB.

1. The HARB shall give counsel to the Board of Supervisors, to be executed at a public meeting of the latter, regarding the advisability of issuing a certificate of appropriateness pursuant to said act of June 13, 1961, as amended. For this purpose the HARB may make and alter rules and regulations for its own organization and procedures consistent with this chapter and the laws of the commonwealth.
2. Three HARB members present at the meeting shall constitute a quorum. An affirmative vote shall be a majority of the quorum present at the meeting.
3. The members of the HARB shall serve without compensation but may be reimbursed for direct expenses. However, pursuant to appropriations authorized by the Board of Supervisors, it may employ secretarial assistance and incur other expenses as may be necessary.
4. The HARB shall make an annual report to the Board of Supervisors which should include but not be limited to an accounting of expenditures, justification for the appropriation of monies for the upcoming year, a record of actions taken by the HARB in the preceding year and any recommendations for any changes to this article.
5. The HARB shall hold a regularly scheduled monthly public meeting, provided that there is business to conduct, and shall record minutes and transmit them to the Board of Supervisors.
6. The HARB shall hold any additional public meetings and hearings as provided in **§ 135-116** necessary to execute its powers and duties as required by this article.

C. HARB shall have the duties set forth in its Bylaws. In addition, at the request of the Board of Supervisors, HARB shall perform any other lawful activities which shall be deemed necessary to further the Township's preservation goals, including:

1. Conduct a survey of and research on buildings for the purpose of determining those of historic and/or architectural significance, pertinent facts about them and propose the nomination of significant resources to the National Register of Historic Places and other appropriate lists or programs, in coordination with the Planning Commission and/or other appropriate groups; and to maintain and periodically revise the detailed listings of historic sites and buildings and data about them, appropriately classified with respect to national, state or local significance, to period or field of interest at the direction of the Board of Supervisors;

2. to propose, from time to time as deemed appropriate, the establishment of additional historic districts and revisions to existing historic districts at the direction of the Board of Supervisors. A historic district is an area that possesses a sufficient concentration, linkage, or continuity of buildings, structures, sites, objects, or open spaces united historically by plan or physical development.

- i. Such district may comprise both distinctive features and features that lack individual distinction.
- ii. A district may contain buildings, structures, sites, objects or open spaces that do not necessarily contribute to the significance of the district.
- iii. A district may include areas that act as a visual buffer to protect the character and significance of the historic district.
- iv. to formulate recommendations concerning the establishment of an appropriate system of markers for selected historic and/or architectural sites and buildings, including proposals for the installation and care of such historic markers at the direction of the Board of Supervisors;
- v. to formulate recommendations, develop informational brochures and educational materials about the Township's history and historic resources, to include the preparation and publication of maps, brochures, guidelines and descriptive material about the Township's historic districts; historic and/or architectural sites and buildings at the direction of the Board of Supervisors;
- vi. to cooperate with and advise the Board of Supervisors, the Planning Commission or other 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) at the direction of the Board of Supervisors;
- vii. to maintain a list and map of potential archaeological sites which shall remain confidential, until such time that the information is disclosed to an applicant for use in conjunction with proposed work on an affected site at the direction of the Board of Supervisors;
- viii. to cooperate with and enlist assistance from the National Register of Historic Places, National Park Service, the National Trust for Historic Preservation, the Pennsylvania Historical and Museum Commission, the Chadds Ford Historical Society and other agencies, public and private, from time to time, concerned with historic sites and buildings at the direction of the Board of



Supervisors; and

- ix. to review and comment on the potential impact of proposed state and federal agency actions that may affect historic resources within the Township and to advise owners of historic buildings on matters of preservation at the direction of the Board of Supervisors.
- x. To advise owners of historic buildings on matters of preservation.
- xi. To work with the Board of Supervisors and the Planning Commission, as appropriate, in the following:
  - (a) updates of the historic preservation component of the Comprehensive Plan.
  - (b) updates of Township Ordinances relative to the historic preservation goals stated in the Comprehensive Plan, to include revision to current ordinances and/or creation of new ordinances.
  - (c) The pursuit of grants, gifts, donations and other sources of funds for the purposes stated herein.

#### **§ 135-115. Preapplication meeting**

- A. Prior to submitting an application for work in an historic district, an applicant may request a meeting with the HARB to discuss the changes under consideration and to review preliminary drawings, specifications, and the like. The purposes of this meeting shall be to acquaint the developer, owner or agent with application requirements and standards of appropriateness of design and to provide the applicant with input from the HARB regarding the project under consideration.
- B. A preapplication review shall not require formal application, but a request for a meeting must be made to the HARB at least seven days before the date of the next regularly scheduled HARB meeting.

#### **§ 135-116. Application and review procedures for work in an historic district**

- A. Application and review procedures for work in an historic district
  - 1. An application for work in an historic district must be submitted for all proposed changes to the exterior features of any building or structure subject to the provisions of this article.
  - 2. As provided in **§ 135-112**, application may be made for small projects that involve no change or minor changes to the exterior architectural character of the building

or structure. Approved standards for such projects and examples of “minor” changes will be kept on file in the Township offices and will be published by the HARB and posted on the Township website.

3. For all projects in an historic district that are subject to the provisions of this article and that have not been approved for minor changes as provided in this article, an application must be made for a certificate of appropriateness, pursuant to 53 P.S. §8004.
4. Instructions for submitting an application for work in an historic district and the supporting documents required to be submitted with the application are included on the application form and are available in the Township offices and on its website.
5. A submitted application for work in an historic district and accompanying materials will be checked for completeness, and incomplete submissions will be returned to the applicant.
6. A completed application with all required documentation must be received at least ten (10) calendar days prior to a regularly scheduled meeting of the HARB in order to be placed on the agenda for that meeting.
7. Copies of the completed application and all required documents submitted by the applicant shall be filed with the CEO and the HARB.

B. Review procedures for an application for minor change.

1. Upon receipt of a complete application for a minor project with no or little change to the exterior character of a building or structure, the CEO and the Chairman of the HARB shall review the application. IF they mutually agree that the project meets the standards for minor changes, they may waive the requirements for additional consideration and review and issue approval for the proposed work in an historic district. If the Chairman of the HARB and the CEO do not agree, the application is referred to the full HARB at the next regularly scheduled meeting.
2. HARB may determine that the application meets the standards for minor change and may waive additional requirements and issue approval for the proposed work in an historic district. If the HARB does not issue such approval, the applicant will be notified that the proposed work will require a certificate of appropriateness and that he/she may be required to submit additional documentation and materials.

C. HARB review for an application for a certificate of appropriateness.

1. Upon determination that a complete application for a certificate of appropriateness has been received, the HARB shall review the application at its regularly scheduled public meeting or at a special meeting, to take place within forty-five (45) days of the date of the filing of the complete application, to consider the counsel which it will give to the Board of Supervisors. The HARB may schedule additional meetings, as necessary, which shall take place within thirty (30) days of each other, unless

mutually agreed otherwise by the HARB and the applicant. The person applying for the permit shall be advised of the time and place of said meeting(s). The HARB may invite such other persons or groups (including any who have formulated an opinion concerning the granting of a certificate of appropriateness), as it desires, to attend the hearing(s). Any requirements for proper advertisement and notification for public meetings, as required by law, shall be observed.

2. Within forty-five (45) days of the occurrence of the final meeting upon an application for a certificate of appropriateness, the HARB shall recommend to the Board of Supervisors the approval or denial of a certificate of appropriateness.
3. In any case involving the demolition or partial demolition of a building or structure, before recommending the grant or denial of approval, the HARB may call upon the Township Engineer to provide it with a report on the state of repair and stability of the building or structure under consideration.
4. In the case of recommendation for approval for the issuance of a certificate of appropriateness, within thirty (30) days from the date of review, the HARB shall forthwith transmit a report to the Board of Supervisors stating the basis upon which such recommendation was made. If the HARB shall fail to transmit such report within thirty (30) days after the occurrence of the final meeting concerning a certificate of appropriateness application, the application shall be sent without recommendation, except where mutual agreement has been made for an extension of the time limit.
5. In the case of recommendation for disapproval for the issuance of a certificate of appropriateness, within thirty (30) days from the date of review, the HARB shall forthwith transmit to the Board of Supervisors a report stating the reasons therefor. After consideration of HARB's recommendation for disapproval, should the Board of Supervisors concur with that recommendation, the Township secretary shall provide written notice of same to the applicant within ten (10) days of the Board's decision.
6. HARB and/or the Supervisors may provide verbal advice and illustrative drawing(s) to the applicant and make recommendations with regard to appropriateness of design, arrangement, texture, material, color and the like of the property involved. If the applicant decides to make changes, he/she shall notify the HARB and the Board of Supervisors, in writing, within thirty (30) days following the rendering of a decision by the latter as provided in **§ 135-120**.
7. Any person aggrieved by failure of the agency charged by law or by local ordinance to issue a Certificate of Appropriateness for such building changes by reason of the disapproval of the governing body may appeal therefrom may appeal the denial to the Court of Common Pleas of Delaware County with thirty (30) days of the denial.

- D. If an applicant intends to refile a complete set of revised plans to remedy the defects which led to the recommendation for disapproval, then a new forty-five (45) day review period and procedure as described above will apply.

**§ 135-117. Materials to be submitted with application.**

The materials required to be submitted with an application are listed on the application itself and on the Township website.

**§ 135-118. Evaluation criteria for certificate of appropriateness.**

- A. The HARB may recommend against the issuance of a certificate of appropriateness for the erection, reconstruction, alteration, rehabilitation, demolition, partial demolition or removal of any structure within the historic districts which, in the HARB's opinion, would be detrimental to the interests of the district and against the public interests of the Township.
- B. In determining the counsel to be presented to the Board of Supervisors concerning the issuing of a certificate of appropriateness authorizing a permit for the erection, reconstruction, alteration, restoration, rehabilitation, demolition or razing of all or a part of any building within the historic districts, the HARB shall consider the following matters:
  - 1. The effect of the proposed change upon the general historic and architectural nature of the district and all contributing resources;
  - 2. The appropriateness of exterior architectural features which can be seen from a public street or way only;
  - 3. The general design, arrangement, texture, material and color of the building or structure and the relation of such factors to similar features of buildings, structures, or contributing resources in the district;
  - 4. Conformance to the provisions of **§ 135-122, § 135-123 and § 135-124**, and other requirements of this chapter pertaining to use regulations, area bulk and height regulations, and structural standards; and,
  - 5. Conformance to the publication titled, "Architectural Guidelines for Construction in the Historic Overlay Districts," dated April 28, 1987, and supplemented or revised from time to time.
- C. In addressing Subsection B(1) through (3), above, the HARB shall consider at least the following criteria in making its decision relative to the appropriateness of the proposed action:
  - 1. Proportion of building or structure's facades.
  - 2. Proportion and location of openings within the building or structure.

3. Location and scale of entrances and/or porch projections.
  4. Relationship to existing colors, textures and materials.
  5. Consistency of architectural detailing.
  6. Consistency in the appearance of roof lines and shapes.
  7. Appropriateness and consistency of landscaping.
  8. Overall scale.
  9. Overall site planning and spatial definition produced by the location and placement of structures.
  10. Relationship to existing building heights.
  11. Relationship to the front, rear and side yard setbacks of existing buildings or structures.
  12. Other building and site criteria which will insure the appropriateness and consistency of the proposed action relative to the existing character within the historic districts.
- D. The HARB shall also consider the degree to which the proposed work complies with the Standards for Rehabilitation of the U.S. Department of the Interior in making a decision relative to the appropriateness of the proposal whenever rehabilitation work is proposed. The following standards shall be used:
1. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure or site and its environment, or to use a property for its originally intended purpose.
  2. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
  3. All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
  4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
  5. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure or site shall be treated with sensitivity.

6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
  7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
  8. Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project.
  9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.
  10. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
- E. The HARB shall also consider the Guidelines for Rehabilitating Historic Buildings of the U.S. Department of the Interior in making its decision relative to the appropriateness of the proposal.
- F. The HARB shall also consider the need for conducting an archaeological investigation or excavation on any site with known or potential archaeological resources, and shall advise the applicant of required procedures.
- G. The HARB shall also consider any architectural guidelines for work in a historic district which have been approved by the Board of Supervisors and published by the HARB.

#### **§ 135-119. Findings of the Board of Historical and Architectural Review.**

The HARB, according to the provisions of **§ 135-116C**, shall submit to the Board of Supervisors, in writing, its counsel concerning the issuance of a certificate of appropriateness. This counsel shall be submitted in the form of a written report which shall include but need not be limited to the following:

- A. The application and all documents and materials submitted by the applicant.
- B. A description of the effect of the proposed changes upon the general historic and architectural nature of the district.

- C. The opinion of the HARB (including any dissent) as to the appropriateness of the work proposed, especially as to whether it will preserve or diminish the historic aspect and nature of the district.
- D. The specific counsel of the HARB as to the issuance of a certificate of appropriateness, including any conditions the HARB recommends.

**§ 135-120. Actions by the Board of Supervisors.**

- A. Upon receipt of the written report from the HARB as provided in **§ 135-119**, the Board of Supervisors shall consider at its next regularly scheduled or special meeting whether to issue a certificate of appropriateness authorizing a permit for work covered by the application. Written notice shall be provided to the applicant at least ten (10) days prior to the public meeting of the Board of Supervisors at which the application shall be considered advising the applicant of the time and place of the public meeting. The applicant shall have the right to attend this meeting and be heard as to the reasons for filing the application.
- B. In determining whether or not to certify to the appropriateness of the proposed construction, alteration, reconstruction, repair, restoration, rehabilitation, demolition or razing of all or a part of any building within the historic districts, the Board of Supervisors shall consider the same factors as the HARB set forth in **§ 135-118** herein and its report (**§ 135-119**).
- C. If the Board of Supervisors approves the application, it shall issue a certificate of appropriateness to the applicant within ten (10) days of the public meeting at which the application was approved authorizing the CEO to review permit applications for the work covered by the application.
- D. If the Board of Supervisors denies the application, it shall do so in writing within forty-five (45) days of the public meeting at which the application was denied. The written denial shall be provided to the applicant setting forth the reasons for the denial and shall indicate changes in the applicant's plans which are necessary to justify the issuance of a certificate of appropriateness. Copies of the written denial shall be given to the CEO and to the Pennsylvania Historical and Museum Commission.
- E. In either case, the Board of Supervisors shall notify the applicant within ten (10) days of its meeting at which the application was considered, unless mutually agreed otherwise.

**§ 135-121. Economic Hardship**

- A. Definition of Economic Hardship. Economic hardship means the denial of all reasonable beneficial uses or reasonable return on a property as a result of the Township's denial of a Certificate of Appropriateness. Economic hardship claims may only be made following the final action of the Board of Supervisors on a Certificate of Appropriateness application.

- B. If, following the denial of a Certificate of Appropriateness by the Board of Supervisors, the applicant believes they will suffer economic hardship, they may submit by affidavit to HARB information which shall include but not be limited to the following:
1. date the property was acquired by its current owner;
  2. price paid for the property (if acquired by purchase) and the relationship (if any) between the buyer and the seller of the property;
  3. mortgage history of the property, including current mortgage;
  4. current market value of the property;
  5. equity in the property;
  6. past and current income and expense statements for a two (2) year period;
  7. past capital expenditures during the ownership of current owner;
  8. appraisal of the property obtained within the previous two (2) years;
  9. income and property tax factors affecting the property, as specified by the Township Solicitor, and
  10. the HARB may require that an applicant furnish additional information relevant to its determination of economic hardship and may receive and consider studies and economic analyses from other sources relevant to the property in question.
- C. HARB shall consider the claim of economic hardship at a regular or special meeting, and shall determine, based on the evidence provided by the applicant and relevant testimony, whether the denial of the Certificate of Appropriateness has resulted in economic hardship as defined in this chapter. The HARB may also consider whether there are financial or tax incentives available for the property that would alleviate the hardship.
- D. The HARB may choose to recommend to the Board of Supervisors 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 HARB is authorized to seek the assistance of appropriate local, statewide and/or national preservation organizations in developing solutions which would relieve the owner's economic hardship. If HARB chooses to explore such options, HARB may delay issuing their recommendation to the Board of Supervisors regarding the Certificate of Appropriateness on the basis of economic hardship for a period of ninety (90) days in addition to the time periods otherwise applicable.
- E. The HARB shall, by motion, determine whether economic hardship exists, and shall transmit its recommendation along with supporting evidence and rationale to the Board of Supervisors. The Board of Supervisors shall consider the HARB's recommendation



and determine whether to issue the Certificate of Appropriateness for reasons of economic hardship.

### **§ 135-122. Permitted uses.**

A building may be erected, altered or used and a lot or premises may be used or occupied, subject to **Article XIV** pertaining to floodplain regulations, and subject to the foregoing, for any of the following uses and for no others:

A. Historic district overlay to the R-1 and R-2 Residential Districts.

1. Uses permitted by right.

- i. Single-family detached dwelling.
- ii. Agriculture or agricultural operation as defined in Article II, provided that no agricultural/farm buildings including barns, chicken houses, corn cribs and other similar farm outbuildings, other than a dwelling or private garage shall be erected within seventy-five (75) feet of any building used for human occupation, nor within fifty (50) feet of any boundary line of the property unless located at least two hundred (200) feet from the road, in which case it shall be located at least twenty-five (25) feet from the nearest boundary line of the property.
- iii. The sale of agricultural products from a farm property when at least fifty percent (50%) of the products sold, are produced on said property. The erection of a roadside stand for such purposes may be used, provided that such stand is set back at least twenty (20) feet from the official road line of any public road, and nothing may be there exposed except for sale of agricultural commodities.

2. Accessory uses.

- i. Off-street parking, subject to **Article XIX**.
- ii. Private garage, subject to **§ 135-162**.
- iii. Shed, subject to **§ 135-161**.
- iv. No-impact home based business, subject to **§ 135-163**.
- v. Home occupation, as defined in **§ 135-4**.
- vi. Signs, subject to **Article XVIII**.
- vii. Swimming pools, subject to **§ 135-164**.
- viii. Any other uses that are similar to those set forth in this subsection, and that are customarily incidental to any of the above permitted uses.

3. Conditional uses (refer to **§ 135-156**).

- i. Passive recreation and passive recreation facilities, as defined in Article II and subject to requirements and criteria for the approval of conditional uses of **§ 135-156**.
- ii. Group Homes, as defined in Article II and subject to requirements and criteria for the approval of conditional uses of **§ 135-156**.
- iii. Bed-and-breakfast establishments, subject to **§ 135-156**.

4. Uses permitted by Special Exception.

- i. Educational, religious, and municipal uses, excluding correctional and penal institutions except as may be preempted by state laws and cemeteries, when authorized by the Zoning Hearing Board.

B. Historic district overlay to the PBC Planned Business Center District.

1. Uses permitted by-right.

- i. A planned shopping, service or convenience center of less than 50,000 square feet of gross floor area, which integrates such uses as retail shops and stores, banks, personal service shops, general service or repair shops, restaurants, fast-food restaurants, and offices, within a building or group of buildings.
- ii. Professional, business, medical and administrative offices.
- iii. Business, trade, public or private schools.
- iv. Active recreation and active recreation facilities.
- v. Passive recreation and passive recreation facilities.
- vi. Accessory uses on the same lot with and customarily incidental to any of the above principal uses.

1. Conditional uses (refer to **§ 135-156**).

- i. Hotel or motel.
- ii. Public parking garage.
- i. Movie theater; drive-in movie theater.
- ii. A planned shopping, service or convenience center of fifty thousand

(50,000) square feet or greater of gross floor area, which integrates such uses as retail shops and stores, banks, personal service shops, general service or repair shops, restaurants, fast-food restaurants, and offices, within a building or group of buildings.

- iii. Educational, philanthropic or religious use.
- iv. Outdoor dining shall be permitted on the same premises as a restaurant that has indoor seating for the purpose of food and/or beverages for immediate consumption on the premises. Refer to Article XXI Additional Regulations for outdoor dining standards.

D. Historic district overlay to the LI Light Industrial District.

- 1. Uses permitted by right.
  - i. Professional, business, medical and administrative offices.
  - ii. Experimental, research or testing laboratories.
  - iii. The packaging or treatment of the following previously processed materials: cellophane, felt, fur, glass, horn, paper, pharmaceuticals, plastics, shells, aluminum, leather, plaster, metals, precious and/or semiprecious stones, wood, yarns, containers, or novelties from paper or cardboard, natural or synthetic rubber, tobacco, textiles or textile products, and perfumes.
  - iv. The manufacture of musical instruments, toys, novelties, electrical or electronic devices; home, commercial and industrial appliances and instruments, including the manufacture of accessory parts or assemblies; dental and medical equipment; watches and clocks; optical goods; drafting equipment; and canvas products.
  - v. Light metal processing as follows: cleaning, finishing, grinding, heat treating, plating, polishing, rustproofing, and sharpening; metal stamping and extrusion of small products; and similar metal-working processes.
  - vi. Manufacture and assembly of electrical or electronic devices.
  - vii. Carpet or rug cleaning; laundry, dry-cleaning and dyeing plants.
  - viii. Job printing, newspaper or book publishing.
  - ix. Baking and food processing for human consumption only.
  - x. Wholesaling and distributing activities when associated with permitted uses. Retailing activities are hereby prohibited.
  - xi. Any use of the same general nature as any of the above permitted uses and which meets all rules and regulations applicable thereof when authorized as a special exception by the Zoning Hearing Board.

- xii. Accessory use on the same lot with and customarily incidental to any of the above permitted uses, including cafeteria located within the main building and operated by the employer for the exclusive use of its employees.
  - xiii. Active recreation and active recreation facilities.
  - xiv. Passive recreation, and passive recreation facilities.
2. Conditional Uses.
- i. Business, Vocational, public or private schools.
  - ii. Any other use required by law to be permitted and not specifically permitted in any other zoning district.

**§ 135-123. Area, bulk and height regulations.**

The applicable area, bulk and height regulations of the underlying R-1, R-2, LI – Light Industrial and PBC- Planned Business Center districts shall apply.

**§ 135-124. Structural standards.**

- A. All buildings and structures shall be preserved against decay and deterioration and maintained free from structural defects by the owner(s), or such other person(s) who may have the legal custody and control thereof. The said owner, or other person having legal custody and control thereof, shall repair and thereafter maintain said building in a manner consistent with the building code, sanitary code and other pertinent regulations of Chadds Ford Township and the County of Delaware. The provisions of this chapter shall not be construed to:
- 1. Require the issuance of a certificate of appropriateness prior to undertaking routine maintenance unless such maintenance includes erection, reconstruction, alteration, restoration, rehabilitation, demolition or razing all or part of a structure.
  - 2. Require a level (or degree) of maintenance greater than that required under provisions of other pertinent Township regulations.
  - 3. Require any action by the owner (other than preservation against decay, deterioration, repair and routine maintenance as stipulated in this section) to comply with the intent of this chapter before said owner voluntarily chooses to erect, reconstruct, alter, restore, rehabilitate, demolish or raze all or part of a building. It is, however, anticipated that property owners will be stimulated by this chapter to undertake the desired erection, reconstruction, alteration, restoration, rehabilitation, demolition or razing as promptly as consistent with their abilities to do so.
- B. The HARB on its own initiative may file a petition with the Code Enforcement Officer requesting that he/she proceed under the building code of the Township to require

correction of defects or repairs to any structure within the district so that such structure shall be preserved and protected in consonance with the purpose of this article and the public safety.

**§ 135-125. Special design and development regulations.**

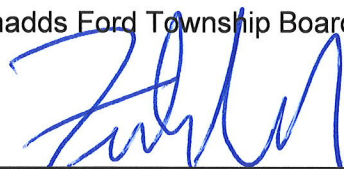
- A. Landscaping. All landscaping shall be in accordance with **§ 135-153** of this chapter, and the following:
  - 1. A twenty-five (25) foot landscaped area shall be created along the frontage of all properties in the historic overlay districts.
  - 2. A three (3) – to – five (5) foot high berm may be required by the HARB to be placed along the property line to help conceal any new buildings proposed in an underlying zoning district.
  - 3. Internal parking areas shall be screened from historic buildings in accordance with **§ 135-150**.
- B. Environmental controls. All applicable regulations of **§ 135-154** of this chapter shall apply.
- C. Outdoor storage and display. All regulations of **§ 135-52** and **§ 135-61** of the PBC Planned Business Center districts shall apply.
- D. Signs and awnings. Application for work in an historic district is required for the erection, construction, reconstruction, repair, rehabilitation, or restoration of any sign or awning to be located in an historic district and shall follow the procedures set forth in **§ 135-115**. No permit for any such sign or awning shall be issued prior to the review and recommendations of the HARB. Signs shall be crafted to be attractive and of a quality in keeping with the character of the historic district.
- E. Lighting. All lighting shall be in accordance with **§ 135-52N** and **§ 135-61N** and the following:
  - 1. All lighting shall be arranged to prevent off-site glare; shall not illuminate areas beyond the property line on which it is located; and shall not be visible beyond the boundaries of the property in order to minimize disturbance to motorists, pedestrians and uses.
  - 2. Light standards and fixtures shall be in keeping with the character of the historic district. Application for the erection, construction, reconstruction, restoration, rehabilitation, repair or razing of light standards and fixtures in an historic district shall follow the procedures set forth in **§ 135-118**
  - 2. Repealer. All ordinances, resolutions and parts of ordinances and resolutions directly inconsistent herewith are hereby repealed to the extent of such inconsistencies only.

As aforesaid, Section 135, Article XVI of the Code of Code of Chadds Ford Township is hereby repealed in its entirety.

Enacted and Ordained this 26<sup>th</sup> day of February, 2020.

[execution on following page]

Chadds Ford Township Board of Supervisors



FRANK G. MURPHY, Chairman

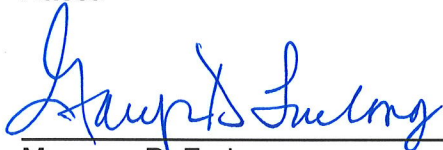


SAMANTHA REINER, Vice-Chair



NOELLE M. BARBONE, Supervisor

Attest:



Maryann D. Furlong  
Township Manager