

Historic District Ordinance

West Chester Borough, Chester County, PA

ARTICLE XI H Historic District

§112-50. Legislative authority.

- A. The West Chester Historic District is hereby established in accordance with the provisions of an Act entitled "An Act Authorizing Counties, Cities, Boroughs, Incorporated Towns and Townships To Create Historic Districts Within Their Geographic Boundaries; Providing for the Appointment of Boards of Historical Architectural Review; Empowering Governing Bodies of Political Subdivisions To Protect the Distinctive Historical Character of These Districts and To Regulate the Erection, Reconstruction, Alteration, Restoration, Demolition or Razing of Buildings Within the Historic Districts."
- B. The Act was adopted by the General Assembly No. 167 of the Commonwealth of Pennsylvania and approved by the Governor of the Commonwealth of Pennsylvania on the 13th day of June 1961, and was amended by act of the General Assembly No. 24 on the 23rd day of April 1963.²⁰ [Note: This chapter take effect immediately upon receipt of notification of certification of historical significance of the West Chester Historic District by resolution of the Pennsylvania Historic and Museum Commission and satisfaction of the requirement for advertisement required by existing law.]

§112-51. Purpose.

The West Chester Historic District is created for the following purposes:

- A. To protect those portions of the Borough of West Chester which reflect the cultural, economic, social, political and architectural history of the borough, the state and the nation.
- B. To awaken or reinforce in our people an interest in our historic past.
- C. To promote the use and reuse of the West Chester Historic District for the culture, education, pleasure and general welfare of the people of the borough, the state and the nation.
- D. To advocate an interest in civic beauty through the encouragement of appropriate settings and continued construction of buildings in general harmony with respect to style, form, color, proportion, texture and material between buildings of historic design and those of more modern design.
- E. To strengthen the economy of the borough by stabilizing and improving property values within the Historic District.

§112-52. Additional definitions.

The following terms, as in Article II, have the meanings indicated herein:

ALTERATION - Any change or rearrangement in the structural parts of a building or structure or in the means of egress; any change to or in a building which would alter its use classification; an enlargement, whether by extending on a side or by increasing in height; or the moving of a structure from one location or position to another. See also "structural alteration."

BOARD OF HISTORICAL AND ARCHITECTURAL REVIEW - The Board, referred to as the "HARB," which conducts reviews of proposed building construction and/or alteration work within the Historic District and performs other duties as set forth in this chapter.

CERTIFIED HISTORIC DISTRICT - An historic district which has been delineated by the Borough of West Chester and certified for historical significance by the Pennsylvania Historical and Museum Commission in accordance with Pennsylvania Act No. 167."

CERTIFIED HISTORIC STRUCTURE - A building or structure identified by the Borough of West Chester and listed in the National Register of Historic Places or located within a registered historic district and certified by the Secretary of the Interior as being of historical significance to the district.

CERTIFIED REHABILITATION - Rehabilitation/construction plans and work which has been approved by the National Park Service in order to qualify for federal historic preservation tax incentives.

CONTRIBUTING RESOURCE(S) - A resource in an historic district or historic complex which, as filed with the National Register or the Bureau for Historic Preservation, supports the district's or complex's historical significance through location, design, setting, materials, workmanship, feeling and association.

DETERMINATION OF ELIGIBILITY (DOE) - The process wherein an historic resource is determined by the Secretary of the Interior as meeting National Register criteria, but not listed in the National Register.

HISTORIC BUILDING, STRUCTURE OR SITE - Any building, structure or site that is officially recognized for its historic and/or architectural significance by the United States Department of the Interior, the Pennsylvania Historical and Museum Commission, the Chester County Historic Preservation Office or the West Chester Historical and Architectural Review Board or is designated as contributing to a National Register or Municipal Historic District.

HISTORIC DISTRICT - Any area or district within the Borough of West Chester designated by ordinance of the Borough of West Chester pursuant to Act No. 167 adopted by the General Assembly of the Commonwealth of Pennsylvania and approved by the Governor of the Commonwealth of Pennsylvania on the 13th day of June 1961, as amended by Act of the General Assembly No. 24 on the 23rd day of April 1963.²²

HISTORIC RESOURCE(S) - All buildings, sites, structures, objects and districts shown on the Borough of West Chester Historic Resources Map and sites, areas, structures, trails and/or routes

which are valued due to their significance as examples and/or locations of events, customs, skills and/or arts of the past.

HISTORIC RESOURCES INVENTORY - An official list, appropriately documented, of historic resources in the Borough of West Chester and their classifications.

HISTORIC RESOURCES MAP - A map, adopted as part of this chapter, showing historic resources and their respective classifications.

MINOR REPAIR - The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exitway requirements; nor "minor repairs" include addition to, alteration of, replacement of or relocation of any stand pipe, water supply sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

NATIONAL REGISTER - The National Register of Historic Places, a list maintained by the Secretary of the Interior composed of buildings, sites, structures, objects and districts of national, state or local significance in American history, architecture, archaeology, engineering and culture.

NATIONAL REGISTER HISTORIC DISTRICT - Any area or district listed in the National Register of Historic Places as maintained by the National Park Service, United States Department of the Interior, such as the West Chester Downtown Historic District.

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

REGISTERED HISTORIC DISTRICT - An historic district listed in the National Register of Historic Places or a state or local historic district whose statute has been certified by the Secretary of the Interior and which is certified as meeting substantially all the requirements for National Register listing.

REHABILITATION - The process of returning a property to a state of utility through repair or alteration, which provides for a contemporary use while preserving those portions and features of the property which are significant to its historical, architectural and cultural values.

REPAIR - The replacement of existing construction with the same material for the purpose of maintenance only, but not including any addition, removal or modification in construction.

SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION :
Standards used by the Secretary of the Interior, as administered by the National Park Service, when determining if a rehabilitation project qualifies as a certified rehabilitation pursuant to the Tax Reform Act of 1986.

STRUCTURAL ALTERATION - Any change in or addition to the supporting or structural members of a building or other structure, such as the bearing walls, fire separation walls, partitions, columns, beams or girders; or any change which could convert an existing building or other structure into a different structure or adapt the structure to a different use or which, in the case of a nonconforming building or other structure, would prolong the life of such building or other structure.

SUBSTANTIAL IMPROVEMENT - Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure had been damaged and is being restored, before the damage occurred. A "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or municipal health, sanitary or safety codes which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or the Pennsylvania Inventory of Historic Places.

WEST CHESTER DOWNTOWN HISTORIC DISTRICT - An historic district listed on the National Register of Historic Places.

§112-53. General provisions.

- A. The West Chester Historic District is shown on the West Chester Historic District Map, which is hereby adopted by reference and declared to be a part of this chapter. The provisions of this Article be applied to all land, buildings and structures which are viewed or may be viewed from a public way within the boundaries of the West Chester Historic District.
- B. The West Chester Historic District be considered as an overlay to various districts as shown on the Zoning Map.
- C. Interpretation of boundaries.
 - (1) Boundaries indicated as approximately following the center lines of streets or alleys be construed to follow such center lines.
 - (2) Boundaries indicated as approximately following lot lines be construed as following such lines.
 - (3) Boundaries indicated as parallel to or extensions of features indicated above be so construed. Distances not specifically indicated on the map be determined by the scale of the map.
 - (4) Where topographical or man-made features existing on the ground are at variance with those shown on the map or in other circumstances not covered by the above, the Borough Council interpret the boundaries of the district.

- D. Projects that the Secretary of the Interior, as administered by the National Park Service, has approved as certified rehabilitation are deemed approved and need not be reviewed according to the provisions of this Article, provided that:
- (1) Copies [one (1) each] of the Part 1, Evaluation of Significance, and Part 2, Description of Rehabilitation Work, applications, along with evidence of their approval from the National Park Service, are submitted to the Building Inspector; and
 - (2) The project is proposed to be completed as stated in the Part 2 application.
- E. No permanent sign or other structure within the West Chester Historic District may be constructed, altered or otherwise changed, in whole or part, nor may the exterior architectural character of any structure be altered until after an application for a building permit has been fully reviewed by the Historical and Architectural Review Board (HARB), recommended for a certificate of appropriateness by the HARB and approved by the Borough Council. [Amended 5-20-1992 by Ord. No. 7-1992]
- F. If any proposal for construction, alteration or other change in the Historic District involves subdivision or land development approval by the Borough Council, all approvals therefor be obtained prior to application for building permits and HARB review.
- G. No structure within the West Chester Historic District may be demolished or removed, in whole or in part, until after the application for a building and/or demolition permit has been reviewed by the HARB and approved by the Borough Council.
- H. Uses of properties within the Historic District be in accordance with the zoning district in which the land and/or buildings are situated.
- I. Evidence of the approval required above be a certificate of appropriateness issued by the Borough Council. The certificate be a statement signed by the President of the Council stating that the application for the proposed work is approved.
- J. Any person requesting a permit under this Article be entitled to a hearing on such request before the HARB according to the provisions of § 112-56.
- K. Nothing in this Article be construed to prevent the routine maintenance or repair of any exterior elements of any building or structure, nor anything in this Article be construed to prevent the construction, reconstruction, alteration or demolition of any such elements which the Borough Council certify as required for public safety.
- L. The HARB may determine that minor changes to buildings need not undergo the same level of scrutiny as major changes to buildings. Examples of minor changes might include such items as repainting, repointing of stone and reconstruction of steps or a roof.

§112-54. Applicability.

It is the intent of this Article that the requirements contained herein only pertain to construction, reconstruction, restoration, rehabilitation, alteration, razing or demolition on sites located within

the West Chester Historic District (and other historic districts as may be established by amendment or ordinance of the Borough of West Chester). This includes but is not limited to cleaning methods, such as sandblasting or solvent washdown; the application of nonstructural surface textures or veneers, such as stucco or siding; replacement of similar types of windows, doors and other minor building elements; the alteration of decorative elements, such as cornices or trim; and other work affecting the visual appearance of a building within the district which can be seen from a public street or way.

§112-55. Powers and duties of Building Inspector.

- A. The Building Inspector issue a permit for the construction, alteration, restoration, demolition or razing of a building in the Historic District only after the proposal is found to be in accordance with this chapter and the Subdivision and Land Development Ordinance and the Borough Council has issued a certificate of appropriateness. Upon receipt of a written disapproval by the Borough Council, the Building Inspector disapprove the application for a permit and so advise the applicant.
- B. The Building Inspector is authorized to issue a permit for the construction, alteration or restoration of a building in the Historic District if evidence is presented that the project is an approved certified rehabilitation according to the provisions of § 112-53C. Approved certified rehabilitation projects need not be reviewed by the HARB or the Borough Council.
- C. Upon receipt of an application for a building permit for work to be done in the West Chester Historic District, the Building Inspector act in accordance with the documented procedures in acting upon an application for a building permit, except as those procedures are necessarily modified by the following requirements:
 - (1) The Building Inspector inform the applicant of the specific requirements for the issuance of a building permit, including application procedures and materials to be submitted as set forth herein, within the West Chester Historic District and of the time and place of the meeting and/or hearing before the HARB at which he/she may appear to explain the application.
 - (2) The Building Inspector forward to the Chairman of the HARB a copy of the application for a building permit, together with copies of the documents and materials filed by the applicant
 - (3) The Building Inspector maintain a record of all such applications and final dispositions of the same, which be in addition to and appropriately cross-reference to other records.
- D. The Building Inspector 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 any other provision of the Zoning Ordinance.

§112-56. Historical and Architectural Review Board.

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

- (1) The Historical and Architectural Review Board, hereinafter also referred to as the "HARB," is hereby established, to be composed of not fewer than seven (7) members, appointed by the Borough Council, one (1) of whom be a registered architect, one (1) a licensed real estate broker, one (1) a member of the Planning Commission and one (1) a Building Inspector, and the remaining members have a knowledge of and an interest in the preservation of the West Chester Historic District, A majority of the members must be residents of the Borough of West Chester.
- (2) The position of any member of the HARB appointed in his/her capacity as a registered architect, a licensed real estate broker, a member of the Planning Commission or the Building Inspector who ceases to be so engaged be automatically considered vacant.
- (3) The initial terms of the members of the HARB be as follows: one (1) member be appointed to serve until the first day of January following the effective date of this chapter, two (2) members be appointed to serve until the first day of the second January thereafter; two (2) members be appointed to serve until the first day of the third January thereafter; and two (2) members be appointed to serve until the first day of the fourth January thereafter. The Borough Council appoint their successors on the expiration of their respective terms to serve for periods of three (3) years. An appointment to fill a vacancy be only for the unexpired portion of the term.
- (4) The HARB elect its own Chairman, Vice Chairman and Secretary and create and fill such other offices as it may determine. Officers serve annual terms and may succeed themselves. The HARB may make and alter bylaws and regulations to govern its procedures consistent with the ordinances of the Borough of West Chester and the laws of the Commonwealth of Pennsylvania.
- (5) Any member may be removed from the HARB for cause, by a majority vote of the Borough Council.

B. Duties and powers of the HARB.

- (1) The HARB give counsel to the Borough Council regarding the advisability of issuing a certificate of appropriateness, to be executed at a public meeting of the latter. The HARB'S recommendation to the Borough Council be in the form of a written report.
- (2) The HARB keep on file up-to-date maps of the following:
 - (a) The location of historic buildings, structures and sites as defined in Article 11 of this chapter.

(b) Historic districts established by this chapter and amendments as may be adopted by the borough.

- (3) A majority of the HARB constitute a quorum, and action taken at any meeting require the affirmative vote of a quorum.
- (4) The members of the HARB serve without compensation but may be reimbursed for direct expenses.
- (5) The HARB make an annual report to the Borough Council, which should include but not be limited to an accounting of expenditures, justification for the appropriation of funds for the upcoming year, a record of actions taken by the HARB in the preceding year and any recommendations for changes to this Article.
- (6) The HARB hold a regularly scheduled monthly public meeting, provided that there is business to conduct, and record minutes and transmit them to the Borough Council.
- (7) The HARB hold any additional public meetings and hearings as necessary to execute its powers and duties as required by this Article or the laws of the Commonwealth of Pennsylvania.

C. In addition to the above, upon specific authorization by the Borough Council, the HARB may be empowered to engage in the following activities:

- (1) To conduct a survey of buildings for the purpose of determining those of historic and/or architectural significance, pertinent facts about them and any action to be undertaken 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 and to period or field of interest.
- (2) To propose, from time to time as deemed appropriate, the establishment of additional historic districts and revisions to existing Historic District boundaries.
- (3) To cooperate with and advise the Borough Council, the Planning Commission or other borough 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.
- (4) To cooperate with and enlist assistance, from time to time, from the National Park Service, the National Trust for Historic Preservation, the Pennsylvania Historical and Museum Commission, the Chester County Historical Society, the Chester County Historic Preservation Office and other agencies, public and private, concerned with historic sites and buildings.

§112-57. Preapplication review procedure.

- A. Prior to the preparation of working drawings and specifications or calling for proposals or bids from contractors and/or developers, owners or agents may prepare preliminary scale drawings and outline specifications, including color samples for outside work, for review and informal discussion with the HARB. The purpose of this review be to acquaint the developer, owner or agent with standards of appropriateness of design that are required of his/her proposed development.
- B. The preapplication review not require formal application but does require notice to be given to the Building Inspector and subsequent notification of the Chairman of the HARB at least seven (7) working days before the date of the meeting at which the preliminary drawings are to be discussed. Ten (10) copies of all documents be submitted to the Building Inspector, who forward one (1) copy to the Chairman of the HARB. [Amended 8-28-1991 by Ord. No. 17-1991; 4-20-1994 by Ord. No. 2-1994]
- C. In the case of very minor projects involving repairs or alterations to existing buildings, the HARB, if preliminary drawings and other data are sufficiently clear and explicit, may recommend to the Zoning Officer that a building permit be issued after approval by a majority of members attending the review session at which the proposal is presented. The HARB will inform Borough Council of any action by memo directed to the appropriate subcommittee of Counsel. [Amended 4-20-1994 by Ord. No. 2-1994]

§112-58. Review by Historical and Architectural Review Board.

- A. Upon determination by the Building Inspector and the HARB that a complete application for a building permit for the erection, reconstruction, alteration, restoration, rehabilitation, demolition or razing of a building or buildings or other structures in the Historic District has been filed, the HARB review the permit application at its regularly scheduled public meeting or at a special hearing, 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 Borough Council. The applicant for the permit be advised of the time and place of said hearing and be invited to appear to explain his/her reasons therefor. Additional hearings, if necessary, be scheduled within thirty (30) days of each other, unless mutually agreed otherwise by the HARB and the applicant. [Amended 5-20-1992 by Ord. No. 7-1992]
- B. [Amended 5-20-1992 by Ord. No. 7-1992] Within forty-five (45) days of the occurrence of the final hearing upon an application for a permit for the erection, reconstruction, alteration, restoration, rehabilitation, demolition or razing of a building or buildings or other structures in the Historic District, the HARB recommend to the Borough Council the approval or denial of the certificate of appropriateness.
 - (1) In cases where the issuance of a certificate of appropriateness is recommended, the HARB forthwith transmit a written report to the Borough Council stating the basis upon which such a recommendation for approval was made. If the HARB fail to transmit such report within forty-five (45) days after the occurrence of the

final hearing concerning an application for a permit, the application be forwarded to Borough Council with no recommendation, except where mutual agreement has been made for an extension of the time limit.

- (2) In the case where relatively minor changes in the applicant's plans and specifications will meet the HARB's conditions for recommendation for approval, the HARB may recommend conditional approval for the issuance of a certificate of appropriateness. A written report to the Borough Council (copied to the applicant) clearly state these conditions. If the applicant decides to make these changes, he/she so notify the HARB and the Borough Council, in writing, prior to the next regularly scheduled meeting of the Borough Council.
 - (3) In the case of a recommendation not to issue a certificate of appropriateness, the HARB transmit a written report to the Borough Council within forty-five (45) days after the occurrence of the final hearing, stating the reasons therefor. The report state the reasons for a recommendation for disapproval and the changes necessary to obtain approval. The applicant be informed, in writing, of the HARB's decision and of the reasons for the recommendation for disapproval.
- D. In any case involving the demolition or partial demolition of a structure, before granting or denying approval, the HARB may call upon the Borough Engineer, at the expense of the applicant, to provide it with a report on the state of repair and stability of the structure under consideration.
- E. If the applicant intends to refile revised plans to remedy the defects which led to the recommendation for disapproval, the same review period and procedure set forth above apply.
- D. Upon determination by the Building Inspector that a complete application for a permanent sign has been filed at least seven (7) working days prior to the regularly scheduled HARB meeting, the Building Inspector forward one (1) copy thereof to HARB and one (1) copy thereof to the Borough Council. The HARB review such permit application at its next regularly scheduled public meeting or at a hearing specially convened, which meeting or hearing, in any event, occur within forty (40) days of the date of the filing of the complete application. The applicant for the permit be advised of the time and place of the meeting or hearing and be invited to explain the reasons for the application. The HARB , as soon as reasonably practicable following the conclusion of the meeting or hearing and in any event prior to the next regularly scheduled meeting of the Borough Council, issue a written recommendation which state, at a minimum, "recommended for the issuance of a certificate of appropriateness," "not recommended for the issuance of a certificate of appropriateness" or "recommended for a certificate of appropriateness with modifications as set forth." The written report be forwarded to the applicant and the Borough Council. In the event that the HARB fails to meet to consider the application within forty (40) days of the completed application, or following the conclusion of a timely scheduled meeting or hearing the HARB fails to forward its written report to the Borough Council or to issue its recommendation prior to the next regularly scheduled meeting of the Borough Council, the application be forwarded to the

Borough Council with no recommendation and considered by the Borough Council at the next regularly scheduled Borough Council meeting following the expiration of the forty-day period from the filing of the completed application. At such time, the Borough Council may determine to recommend a certificate of appropriateness, not recommend a certificate of appropriateness or recommend a certificate of appropriateness with modifications as set forth. The applicant be informed, in writing, of the decision of the Borough Council. [Added 5-20-1992 by Ord. No. 7-1992; amended 4-20-1994 by Ord. No. 2-1994]