

Historic Resources Enhanced Fact Sheet

Table of Contents

Summary 3

Purpose 3

Building Code 4

 Definitions 4

 Special guidelines for work done on historic structures 4

Unified Development Code..... 6

Transferable Development Rights and Other Bonuses – Historic Preservation Bonus 6

 Eligibility..... 6

 Historic resources 6

 Renovation incentive 7

Historic Resources 8

 Purpose 8

 Applicability 9

 Historic (H) Zoning 10

 Criteria for designation 10

 Contextual classification of historic resources 11

 Written report 12

 Uses 13

 Adaptive reuse 13

 Permits within Historic overlay zoning districts 15

 Work exempt from a permit within an Historic overlay district 19

 Demolition by neglect 19

 Historic Review Board review standards 19

 Building and demolition permit review 19

 Land development plan review and historic resources 21

 Archaeological resources 22

 National Register nominations 22

Preservation of historic resources on record plans..... 23
Historic permits. 24
General definitions..... 24
APPENDIX 1: APPLICATION AND PLAN REQUIREMENTS 25

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SUMMARY

This legislation aims to provide a comprehensive update for historic preservation provisions in the New Castle County Code in order to ensure consistency and clarity regarding the procedures and powers of both the Historic Review Board and Department of Land Use. Existing code sections regarding historic resources have been modified or reorganized to provide uniformity between chapters of the NCC Code. This effort intends to provide a clear path of evaluation, identification, and documentation of the County's historic resources. This update also includes new incentives for historic preservation activities within Historic overlay zones.

PURPOSE

Applications involving historic resources are subject to review by the Historic Review Board and Department of Land Use. A review of the current New Castle County code has revealed several areas in need of clarity and consistency regarding procedure and treatment. There has been an increased interest from the public in regard to strengthening and promoting historic preservation along officially designated byways and across the County. The purpose of this update is as follows:

- Reorganize language regarding permits (building and demolition) as well as land development applications concerning historic resources
- Provide incentives for the preservation of historic resources on record plans and within Historic overlay zones
- Provide a clear separation for the treatment of historic resources that are not within Historic overlay zones
- Establish standard guidance on applications to aid applicants and the Historic Review Board
- Expansion of adaptive reuse provisions to include additional permitted uses
- New requirement of an historic resource management plan for significant resources preserved on record plans

BUILDING CODE

Definitions.

A definition was added to provide clarity to permits for historic structures subject to special guidelines for work done on historic structures.

Historic Alteration. New additions, exterior alterations, or new construction that impact the character, massing, size, scale, or architectural features of an historic structure or its cultural setting.

Special guidelines for work done on historic structures.

This section was modified to clarify the historic review process regarding building permits, and define what powers and responsibilities lie with the Historic Review Board.

Revision of Demolition Permits Section to state the Historic Review Board may order a nine-month delay from the date of the public hearing at which the application was originally presented, not the date the written opinion was provided to the applicant as currently applied. This provides a definitive timeline for both the applicant and the County that is tied to the date of the legally advertised public hearing, as well as provides ample time for an application to be publicly noticed as required for public hearings in the Unified Development Code.

Added language to clarify that the HRB only has the authority to deny demolition permits within an Historic overlay district. Additional language added to this section gives the HRB authority to require an historic documentation for a demolition permit of structure eligible to be zoned Historic (H) in any zoning district prior to its release.

- Permits for historic structures.
 - Any person desiring to erect, reconstruct, significantly alter, restore, or relocate any building or structure within, or any property which meets the Criteria for Designation within, an H (Historic) zoning district shall first be heard by the Historic Review Board of New Castle County.
 - Based upon its public review for properties within an Historic Zoning district, the Board shall provide a written decision in accordance with UDC standards outlining any requirements for the application.
 - Based upon its public review for properties outside of Historic Zoning districts, the Board shall provide a written recommendation outlining any guidance on an application to the applicant.

- Once a building permit has become invalid, the applicant must reapply to the Historic Review Board before a new building permit is issued.
- Failure to comply with permit conditions.
 - If the Historic Review Board grants approval under this Section, the person seeking to construct or alter any structure or addition shall do so in strict compliance with the features of the plan submitted to and approved by the Historic Review Board. Before any certificate of occupancy is granted to the owner, the Department shall inspect the property to determine if the improvements comply with the construction documents and conditions as set forth by the Historic Review Board. If the Department finds that the structure does not conform, no certificate shall be issued, and written notification shall be provided to the applicant.
 - If within thirty (30) working days of the date of issuance of notice to the applicant that a structure does not conform, the person has made no apparent effort to bring the structure into compliance or arrange for an alternative approval from the Historic Review Board, the Code Official shall request the County Attorney to institute the appropriate legal proceedings. Failure to comply with the terms of a permit granted under this Section or in violation of a plan approved by the Historic Review Board, shall constitute a violation.
- Demolition of historic structures.
 - The Code Official may delay the issuance of a demolition permit for up to twenty (20) working days from receipt of such permit application to provide the Department time to evaluate a structure's eligibility for Historic Zoning. The Code Official shall refer such application to the Historic Review Board for any structure the Department finds to be eligible for Historic (H) Zoning. The Historic Review Board may order an additional delay in the issuance of the demolition permit for a period not to exceed nine (9) months from the date of the initial Historic Review Board public hearing, during which time alternatives to demolition shall be sought. Historic Review Board findings shall be issued to the Code Official in a written recommendation.
 - The Historic Review Board has the authority to deny demolition permits that are located within an Historic overlay district.
 - The Historic Review Board has the authority to require documentation in accordance with HABS / HAER guidelines prior to the release of a demolition permit for any structure determined eligible for Historic Overlay Zoning.
 - Upon verification by the Historic Review Board that a building or structure of historic significance has been demolished prior to issuance of a demolition permit, the Code

Official shall request the County Attorney to take immediate action to prosecute those responsible for the demolition. In addition, the Code Official may withhold building permits for that parcel for one to three (3) years, such determination to be made by the Code Official in writing to the legal owner of the property.

UNIFIED DEVELOPMENT CODE

Transferable Development Rights and Other Bonuses – Historic Preservation Bonus

Eligibility.

Modifies and reorganizes language to clarify when historic preservation bonuses are available and incentivizes Historic Overlay zoning.

Land development applications that contain historic resources meeting the Criteria for Designation of historic zoning are eligible for bonuses to ensure the preservation of the historic resources.

- If the preservation of the required open space around historic properties classified as an open context or enclosed context site makes it impossible to plan the permitted number of lots, then the development is eligible for reduced lot sizes or transferable development rights.
- Where a property is rezoned to an Historic overlay district, the Historic Review Board may recommend to the Department that increased density to the development or transfer development rights be permitted. The developer must provide reports regarding the state of the historic resource, compiled by a professional with experience in historic preservation, and must include cost estimates for the maintenance or historic renovation.

Historic resources.

Language in this section is modified to provide further clarification and consistency with other sections and provisions of the Unified Development Code.

Historic resources that are preserved and restored for use shall not be counted as part of the maximum permitted development.

- A residence that is preserved for detached single-family use shall not be counted as one of the permitted residential lots, but shall be a bonus unit if it is preserved and restored.

- Historic structures larger than 4,000 square feet in gross floor area, excluding garages, unfinished basements, enclosed mechanical and storage areas, may be converted to a duplex and shall not be counted as one of the permitted dwelling units.
- Residential units that are preserved for multifamily uses shall not be counted towards the permitted units as determined by site capacity, but shall be a bonus for preservation and historic renovation.
- When structures are preserved for nonresidential uses, the gross floor area of the historic resource shall not be counted towards the permitted gross floor area, but shall be a bonus for preservation and historic renovation at a percentage determined by the Historic Review Board and in concurrence with the Department of Land Use.
- The preservation and historic renovation of historic resources that are either an open context site or an enclosed context site shall be eligible for the following where approved by the Department:
 - The open space may be sold for use as a developable lot. The lot must be subject to a conservation easement that prevents any resource or development on the property which would detract from the historic setting.
 - The open space may be split into a lot and common open space to be maintained by the maintenance organization. The lot and open space must be subject to a conservation easement that prevents any resource or development on the property which would detract from the historic setting.

Renovation incentive.

The section was modified to set a standard for when a development project can take advantage of a bonus where an historic resource is renovated and maintained.

A Land development plan containing an historic resource meeting the criteria for designation may qualify for a bonus when the applicant proposes renovation of such historic resource. To qualify for consideration, the applicant must submit to the Department pro-forma indicating the cost of historic renovation versus the fair market value of the renovated property with a land development application.

- The Historic Review Board may recommend to the Department an appropriate bonus (if any) for the land development plan.

- Upon receiving a recommendation from the Historic Review Board, the Department shall consider the following bonuses for the land development application that provide the incentives to renovate and preserve the historic resources:
 - Bonus of dwelling units in an open space planned development
 - Additional floor area for nonresidential properties
 - Transferable development rights

Historic Resources.

Changes to the Historic Resources Article include a reorganization of existing language as well as the establishment of a new divisions specifically for historic zoning districts, standards for the Historic Review Board to follow when reviewing applications and how historic resources identified on record plans should be labeled and treated. Language has been reorganized within existing sections of the UDC to consolidate historic provisions and provide a more user-friendly historic resources code. The purpose and criteria for designation is included in this fact sheet for context, only grammatical changes are proposed.

Purpose

The preservation and protection of buildings, structures, sites, objects, districts and landscape features of historic, architectural, cultural, archaeological, educational and aesthetic merit are critical to the character of the County. The preservation of these historic resources promotes the health, prosperity and welfare of all citizens of the County and enhances the quality of life for all. The regulations of this Article provide the mechanism to identify resources and provide for their long-term maintenance and preservation in a form that is as close to their historic use and character as is consistent with the economic realities of the neighborhoods and County. This is done by reviewing development plans in a manner that encourages the purposes of this Article. A historic property's current condition will be reviewed to determine feasibility of preservation and to ensure that the historic character, architecture, and site conditions are respected and enhanced in the development plan.

The purposes of this Division are to:

- Identify and preserve historic buildings, structures, sites, objects and landscape features which are important to the education, culture, traditions and economic values of all citizens of the County;

- Identify and establish historic zoning districts to ensure that the character of such districts is retained and enhanced;
- Retain and enhance properties in historic zoning districts which contribute to the character of such districts;
- Ensure that alterations of existing resources and associated land uses in historic districts are compatible with the character of the historic district;
- Ensure that new construction and subdivision of lots in a historic district are compatible with the character of the historic district;
- Encourage the historic renovation and rehabilitation of buildings, structures, sites and objects which are designated as historic or which are located within and contribute to the character of districts designated as historic;
- Promote the use of historic buildings, structures, sites, objects and historic districts for the education, pleasure and welfare of all citizens of the County;
- Encourage public participation in identifying and preserving historical architecture and cultural resources through education programs and general awareness campaigns; and
- Prevent the demolition by neglect, as defined in the Property Maintenance Code, of a building, complex of buildings, structure, site, object or district designated for preservation as an Historic overlay zoning district pursuant to this Article.

Applicability.

- On any building, structure, site, or object within a historic zone, no person shall undertake exterior alterations, demolitions, relocation, construction or reconstruction unless a permit is first obtained from the Department. The Department shall issue no permit until the Historic Review Board first reviews and approves the application for the permit.
- No subdivision or land development plan affecting a historic zoning district or any property which is eligible to be zoned H (Historic) may be approved by the Department without the prior review and recommendation of the Historic Review Board. In determining the nature of the review required by this paragraph, the Historic Review Board shall consider all features of the subdivision and/or land development plan, including the landscape plan, building design, scale and location, lot size, proposed signage, relationship to adjacent properties and buildings and archaeological potential to determine whether the subdivision or land development will be in accordance with the interest and purposes of the Historic Resources Article.

Historic (H) Zoning.

This is a new section for Historic zoning, which includes reorganized language from the existing Historic Resource article, as well as new provisions clarifying the establishment and operation of Historic zoning districts.

Historic (H) zoning is intended to identify significant historic resources within New Castle County that are worthy of preservation and recognition. H zoning provides protection of, as well as incentives for the preservation of, historic resources. Properties within an Historic district are subject to additional review and regulation by the Historic Review Board for alterations, modifications, relocations, and demolitions. Historic zones established pursuant to this Code shall be deemed an overlay zone on the otherwise applicable zoning district on the County Zoning Map.

County Council may designate Historic (H) zoning districts that encompass the boundaries of an historic resource's contextual classification.

Criteria for designation.

A building, complex of buildings, structure, site, object or district may be designated for preservation as a historic zone if it is significant to the County. The resource must be at least fifty (50) years old, or exceptionally important to the County, and meet one (1) or any combination of the following criteria:

- Listed or determined to be eligible for the National Register of Historic Places as provided in the National Historic Preservation Act of 1966, 16 USC 470 et seq.
- Has significant character, interest, or value as an example of the development, heritage or cultural characteristics of the County, the State or the United States.
- Is the site of a significant historic event.
- Exemplifies the cultural, political, economic, social or historical heritage of the community.
- Embodies distinguishing characteristics of an architectural style or engineering specimen.
- Is the work of a designer, architect, landscape architect or engineer whose individual work has significantly influenced the development of the County, the State or the United States.
- Contains elements of design, detail, materials or craftsmanship which represent a significant innovation.

- Is the singular known example of a design or use of material or style of architecture within the County.
- Is part of the historic context of a square, park or other distinctive area which should be preserved according to a plan based on a historic, cultural or an architectural context.
- Is a landmark; that is, an established and familiar visual feature which assists in defining the character of the neighborhood, community or County due to its unique location or singular physical characteristic.
- Has yielded or is likely to yield information of importance to prehistory State's or United States' history.
- Is associated with the lives of persons important to the County's past.
- Provides the historic setting for an identified resource or historic district.
- Is part of a view into or out of an existing historic district and contributes to the integrity, understanding and appreciation of that existing historic district.

Contextual classification of historic resources.

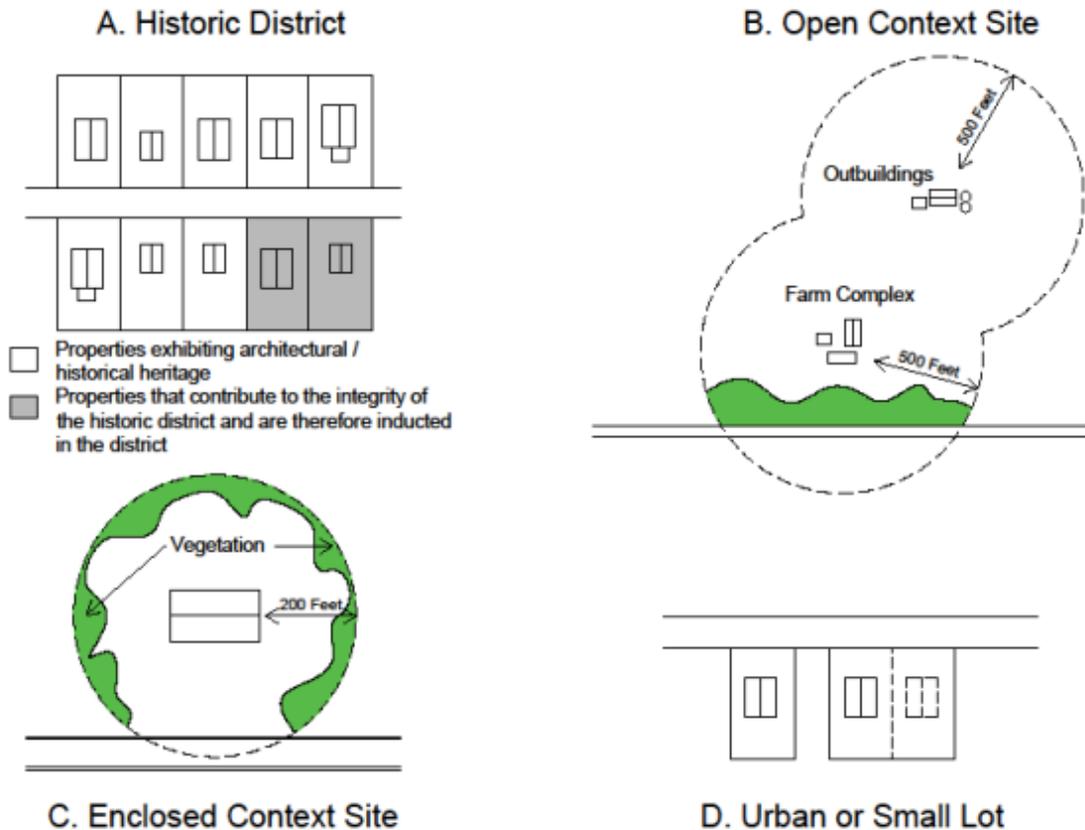
The resource proposed for historic zoning must be classified into one (1) of the following categories as part of the rezoning process. Historic resources are classified by their viewing area as determined by their context (parcel size, vegetation, topography, and surrounding development). The goal is to preserve landscapes that are part of the view into and out of historic resources.

- Villages and small nucleated settlements. This is an area that has a common architectural or historic heritage usually in a village or hamlet form and comprises at least four (4) separate individual properties. In designating the boundaries, land that is part of a view into or out of a historic district and contributes to the integrity, understanding and appreciation of that existing historic district shall be included within the boundaries.
- Open context site. This is a site where the context and value of the site is dependent on being seen in its context across relatively open land. For example, farms were surrounded by fields. A buffer of five hundred (500) feet or more around the buildings or other features shall be identified as the site and an historic buffer created.
- Enclosed context site. A site where the vegetation, topography and/or surrounding development limit the context of the building leaving a small viewing area. A historic buffer of two hundred (200) feet or more around the buildings or other features shall be identified

as the site. At the discretion of the Department, a different configuration or size of the historic buffer may be considered if the preservation of the resource is enhanced.

- Small lot site. This is a site in a developed area, typically a village or hamlet, where the site cannot be subdivided or would permit only one (1) additional building on the property.

Contextual classification of historic resources.



Written report.

All recommendations relating to Historic zoning applications must be accompanied by a written report prepared by the Historic Review Board. Such report shall explain if the resource possesses qualities that warrant designation of such buildings, structures, sites, objects or districts as an Historic zoning district. Boundary exhibits, photographs, video, drawings or other supporting data shall be included in the report.

Uses.

The Historic zone established pursuant to this Code shall be deemed an overlay zone on the otherwise applicable zoning district on the County Zoning Map.

- Permitted Uses. All uses permitted in the underlying zoning district shall be permitted in the Historic district except as specified in this Section. In addition, the Department may permit additional uses in any zoning district in accordance with the adaptive reuse provisions.
- Prohibited Uses. All uses prohibited in the underlying district are prohibited in the Historic district. In addition, the Department may prohibit any use or renovation of the resource that eliminates one or more of the characteristics that led to the property's designation.

Adaptive reuse.

This section is relocated and updated to include new language consistent with other provisions in the Unified Development Code. Notable changes to these provisions include the expansion of uses permitted to take advantage of the adaptive reuse provisions including but not limited to restaurants and retail stores. Provisions were added to address parking and signage requirements for adaptive reuses.

Within Historic overlay district, any significant historic resource may be converted or adapted into one of the following uses, provided it conforms to the following standards and all other provisions of this Chapter.

- Standards.
 - The building/structure shall have a minimum gross floor area of at least two thousand five hundred (2,500) square feet.
 - Structural or decorative alterations or additions that change the exterior character and/or historical or architectural significance of the structure are prohibited.
 - The gross floor area of any addition to the converted building/structure should not be greater than fifty (50) percent of the existing gross floor area unless determined appropriate by the Historic Review Board.
 - Proposed uses must be located and take access from an arterial or collector street. At its discretion and with DeIDOT concurrence, the Department may permit such uses to locate, expand or rebuild having access on other streets where vehicular and pedestrian safety is not compromised and the local neighborhood is not adversely impacted.

- The lot upon which the structure and any permitted addition is situated must meet the minimum lot size for “other permitted use” in the underlying zoning district.
- Uses.
 - Office Uses.
 - Commercial Retail and Service Uses, not exceeding 10,000 GFA.
 - Permitted Uses
 - Retail bakeries.
 - Furniture and home furnishing stores.
 - Hardware stores.
 - Food and beverage stores.
 - Health and personal care stores.
 - Clothing and accessory stores.
 - Sporting goods, hobbies, books and music stores.
 - Postal service, local office only.
 - Couriers and messengers, local office only.
 - Taxidermist.
 - Prohibited Uses
 - Outside storage of materials and finished products is prohibited.
 - Drive-in facility.
 - Restaurant Uses, not exceeding 5,000 GFA.

In the instance that such use requires Special Use approval pursuant to Table 40.03.110, Board of Adjustment approval shall be sought as required by 40.31.430.

- Parking Standards. To preserve and enhance the historic nature and minimize impact on surrounding context:
 - Required parking may be reduced up to 20% of the minimum parking requirements in this Chapter within the historic zoning district.
 - The maximum number of parking spaces shall not exceed 115% of the minimum parking requirements in this Chapter.

- These parking standards do not apply for temporary or special events that have received approval.
- No structured (deck) parking facilities are permitted.
- Signage
 - General Sign Practices. Reducing sign usage should be utilized to avoid sign clutter and to minimize, to the greatest extent practicable, the amount of signage in the District.
 - Prohibited Signs. The following signs are prohibited in the Historic zoning district:
 - Electronic Variable Message Signs (EVMS),
 - Window signs,
 - Wall signs that project above a roofline, and
 - Off-premises advertising. No off-premises advertising, billboards, and other off-premises signage shall be permitted.
 - All signs requiring a permit associated with a non-residential use in the Historic zoning district shall be limited to fifty (50) percent of the sign area permitted in the underlying zoning district.
 - All signs requiring a permit in the Historic zoning district will be limited in height to fifteen (15) feet, or one-half the height of the underlying zoning district, whichever is less.
 - If lit, the light source shall be exterior to the sign using shielded, low wattage, and diffuse white light. Back-lit and internally illuminated signs are prohibited.
 - Temporary signs shall be permitted in the Historic zoning district in compliance with the provisions of the Unified Development Code.
 - Signs existing at the time of the adoption of this Article are considered nonconforming. If any legal nonconforming sign is hereafter relocated, replaced, removed, altered, or modernized in any way, the sign loses all nonconforming protection afforded under County.

An Historic Overlay District must be in place prior to establishment of the use and issuance of a permit associated with the proposed use. Further subdivision of the lot is permitted in accordance with this Chapter provided that the site's contextual classification is retained.

Permits within Historic overlay zoning districts.

This section is reorganized to contain provisions regarding permits within Historic overlay districts only. Demolition by Neglect provisions have been relocated to a separate section of this code.

No person shall undertake exterior historic alteration, demolition, relocation, construction or reconstruction on any building, structure, site, or object within an historic zoning district unless a permit is first obtained from the Department. If the Board or the Department is aware of the conduct of such work without a permit, the Department or the Board, as the case may be, and the Office of Law, will be advised for pursuit of legal remedies.

- The Department must issue no permit within an Historic zoning district until the Historic Review Board first reviews and approves the application for the permit.
- The Department must schedule the application for the next Historic Review Board public hearing.
- At the time of application for a permit, the applicant must submit the plans and specifications of the proposed work, including the plans and specifications for any construction proposed after demolition.
- The Historic Review Board must hold a hearing on the application within fifty-five (55) working days after the Department's receipt of a complete application for a permit required by this Section, whenever practicable.
- The Historic Review Board must approve or deny the issuance of the permit within seventy-five (75) working days after the Department's receipt of a complete application for a permit required under this Section, whenever practicable. Failure of the Historic Review Board to make a determination within this time period shall be deemed to constitute an approval of the application, provided at least one (1) regular meeting of the Historic Review Board, at which a quorum is present, is conducted within that time period.
 - Where the Historic Review Board has an objection, the Department must deny the permit.
 - Where the Historic Review Board has no objection, the Department must grant the permit subject to the requirements of any applicable sections of this Chapter or this Code.
 - Where the Historic Review Board approves the application for a permit, but its approval is subject to conditions (e.g. documentation, archaeological investigation, design standards, building materials, etc.), the Department must grant the permit subject to any conditions of the Historic Review Board.
 - When the Historic Review Board agrees to the demolition of a building, structure or object, it may require that the building, structure or object be recorded, at the applicant's expense, according to the documentation standards of the Historic American Buildings Survey and the Historic American Engineering Record (HABS/HAER), with such written,

drafted and photographic documentation being deposited with the Historic Review Board and any other historical agency as it deems necessary. For a demonstrated economic hardship, a less stringent form of documentation may be prescribed by the Historic Review Board.

- The Historic Review Board may require that the archaeological potential be examined prior to any permit required by this Section being issued for work on or around a designated or potential historic site or district which would involve ground disturbance. Such examination may be done in conjunction with an archaeologist from the State Historic Preservation Office prior to the issuance of any permit. The Historic Review Board may require certain measures, such as data recovery or avoidance, to protect significant archaeological values which may be encountered in the area of the permitted activity.
- When the Historic Review Board reviews an application for a permit required under this Section, it shall consider the following factors before reaching its decision on the application:
 - The purposes of this Article.
 - The historical, architectural, archaeological or aesthetic significance of the building, structure, site or object.
 - The effect of the proposed work on the building, structure, site or object and its appurtenances.
 - The design and compatibility of the proposed work with the character of the historic district or with the character of its site, including the effect of the proposed work on neighboring structures.
 - The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings or other similar criteria.
 - For demolitions, the Historic Review Board shall consider whether the building, structure or object can be used for any purpose for which it is or may be reasonably adapted. To that end, the applicant must demonstrate that the sale of the property is impracticable, that rental cannot provide a reasonable rate of return, and that other potential uses of the property are not feasible or available. In no event will a sale be deemed impracticable, rental returns unreasonable or other uses not feasible if the reason is deterioration of the property due to the owner, lessee, or person in charge's own intentional or gross negligence in maintaining the property.
 - Where an application for exterior alteration, relocation, construction or reconstruction is based on financial hardship, the Historic Review Board may lessen its requirements if the applicant can demonstrate the extent of the economic hardship. In examining a claim of

economic hardship, the Board will look beyond the relationship of the cost of repairs and the purchase price or the "as is" value to sort out the extent to which an economic hardship is attributable to the owner's actions or inactions, or to circumstances beyond the owner's control that would have existed in any event. When a claim of undue economic hardship is made, the owner and/or parties in interest must provide evidence during the hearing upon the claim, describing the circumstances of the hardship. Minimum evidence shall include:

- Nature of ownership (individual business or nonprofit) or legal session, custody or control.
 - Financial resources of the owner or parties in interest.
 - Cost of repairs to the subject property.
 - Real estate taxes on the property in question for the prior two (2) years.
 - Assessed value of the land and improvements.
 - Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the seller and purchaser or other means of acquisition of title, such as by gift or inheritance.
 - For income-producing property only, itemized operating and maintenance expenses for the subject property for the prior two (2) years and annual cash flow, if any, for the prior two (2) years.
 - Any and all listings of the property for sale or rent, price asked, and offers received for the prior two (2) years.
 - Annual gross income on the subject property for the prior two (2) years.
 - Annual debt service, if any, received in the prior two (2) years.
- In reviewing a property, the Historic Review Board may impose:
 - Architectural controls to preserve and restore the character of the historic resource(s).
 - Lighting standards that provide for lighting fixtures that imitate the brightness and style of the building's historic period. The brightness and illumination shall be in keeping with the historic nature and of the lowest levels associated with the building's use.
 - Every decision of the Historic Review Board under this Section shall be in writing and shall state the reasons for the decision. The decision shall contain the findings of fact that constitute the basis for the decision. The Historic Review Board shall furnish the applicant with a copy of its decision, together with a copy of any recommendations it may have for changes necessary before it will reconsider the application.

Work exempt from a permit within an Historic overlay district.

If the property is in an Historic overlay district, and proposed work is exempt from permit pursuant to Chapter 6 of this Code, the property owner must still submit an Historic Resources application to the Department describing the proposed work. If the Department determines that the proposed work does not follow the New Castle County Historic and Cultural Resource Design Guidelines, the application must be heard by the Historic Review Board (HRB). The HRB shall then determine what, if any, conditions are to be imposed upon the proposed work.

Demolition by neglect.

The Department will periodically inspect a property within an Historic overlay district to ensure compliance with the Property Maintenance Code to ensure demolition by neglect does not occur. The Historic Review Board shall consider inspection reports on any property within an Historic overlay zoning district to ascertain whether demolition by neglect as defined in Chapter 7 of this Code is occurring. The owner, lessee or person in control of the property will be provided an opportunity to be heard as set forth in this Code and Historic Review Board rules and regulations before a determination is made in accordance the process outlined in Section 07.01.002, PM 102.6.1. The Department will notify all known owners, lessees or persons in control of properties in Historic overlay districts on an annual basis that their historic properties will be subject to periodic inspection to ensure compliance with this section.

Historic Review Board review standards.

This new section includes guidance and prescriptive language for the Historic Review Board to follow when reviewing different types of applications. This section is intended to provide applicants proceeding through the historic review process with additional clarity for procedures and powers of the Historic Review Board.

Building and demolition permit review.

This section is intended to provide clarity for permits reviewed under Building Code and outside the bounds of an Historic overlay district. Language includes guidance for the Historic Review Board and aspects to consider for both significant alterations and demolitions of historic resources. This section also gives the Historic Review Board power to require the documentation of an historic resource in accordance with HABS Guidelines prior to the issuance of a demolition permit.

The Historic Review Board is responsible for reviewing applications for properties that are eligible for Historic zoning. The Historic Review Board shall consider the following standards when reviewing such applications:

- Building permits. The Historic Review Board has the ability to make recommendations on building permits to an applicant subject to the Building Code. The Board may consider various aspects when providing advice on building permits and may consider impacts to the landscape and historic context of the surrounding area.
 - Items to consider for evaluation
 - The significance and historic context of the resource on an individual and district level;
 - Material integrity of the resource in relation to the period of significance;
 - Level of deterioration of the resource; and
 - Potential presence of archaeological resources.
 - Impact to historic character of a resource
 - Compatibility with the historic character of the resource regarding style, materials, scale, location;
 - Impact to historic objects, sites, or structures;
 - The protection, preservation, and enhancement of the character-defining features of the resource; and
 - Proposed use of the resource
- Demolition permits. The Historic Review Board is charged with reviewing demolition permits for a resource that the Department has determined to meet the Criteria for Designation. The Board has the ability to hold a demolition permit for nine (9) months during which time alternatives to demolition shall be sought. In addition to the Criteria for Designation, the Board shall consider the following when reviewing demolition applications.
 - State of the resource.
 - Level of deterioration and modification to original fabric of the resource.
 - Reasons for deterioration which may include lack of maintenance, vacancy, loss of material integrity, or an act of God.
 - Structural integrity as determined by a registered design professional.
 - Cost of rehabilitation and financial hardship.
 - Nature of ownership (e.g., individual, for profit business, or nonprofit),

- Cost of repairs to the subject property demonstrated through a third party independent cost-assessment to perform the proposed work.
 - Fair market value of the land and improvements.
 - Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the seller and purchaser or other means of acquisition of title, such as by gift or inheritance.
 - For income-producing property only, itemized operating and maintenance expenses for the subject property for the prior two (2) years and annual cash flow, if any, for the prior two (2) years.
 - Any and all listings of the property for sale or rent, price asked, and offers received for the prior two (2) years.
- Documentation of the resource may be required at the discretion of the Historic Review Board prior to the Department's release of a demolition permit. Such documentation shall be in accordance with Historic American Buildings Survey and the Historic American Engineering Record (HABS/HAER) guidelines and may include the following Written historical narrative. Such narrative shall include a general history of the resource, an analysis of its relationship to its surrounding environment, and the persons and events associated with its establishment and development, if applicable.
 - Field documentation including measured drawings and digital photography.
 - State of Delaware Cultural Resource Survey (CRS) forms.

Land development plan review and historic resources.

New language provides guidance for the Historic Review Board in reviewing land development applications that include an historic resource, as well as language regarding archaeological investigations.

The Historic Review Board shall consider the following when making recommendations on land development applications:

- Historic context in relation to past themes, time periods, geography, events, and cultural values.
- Surrounding environment and landscape.
 - A conceptual landscape plan showing proposed plantings that enhance, or mitigate impact to, an historic resource and its historic context.
 - Site context as defined by features such as a parcel size, vegetation, topography, surrounding character and proximity to nearby development.

- Potential for archaeological resources.
- State of extant historic resources.
 - Level of deterioration and modification to original fabric of the resource.
 - Reasons for deterioration which may include lack of maintenance, vacancy, loss of material integrity, or an act of God.
 - Structural integrity as determined by a registered design professional.
- Compatibility of the proposed development with extant historic resources.
 - Consistency with exterior style and features of surrounding resources, as well as preservation and enhancement of character-defining attributes.
 - Harmony between existing and proposed structures regarding massing, proportions, scale, and building orientation.
 - Suitability of the proposed development's location and siting regarding sensitivity to historic resources.

Archaeological resources.

The Historic Review Board has the authority to require a Phase IA archaeological evaluation as defined by procedures of Section 106 of the National Historic Preservation Act of 1966 (NHPA) as part of a land development plan review. Findings of the evaluation shall be in the form of a report presented to the Historic Review Board. Based on the findings of the archaeological evaluation, the Historic Review Board may recommend the following to the Department:

- Additional archaeological testing to further define areas of archaeological potential.
- Design the proposed development to avoid areas of archaeological potential.

National Register nominations.

As part of the Certified Local Government Program (CLG), the Historic Review Board must review nominations to the National Register of Historic Places. Upon submittal of a nomination form, the Historic Review Board shall hear a presentation by the applicant at a scheduled public hearing. At the following business meeting, the individual members of the Historic Review Board shall identify which criteria the nomination meets prior to voting on the nomination.

- Where the Historic Review Board finds the nomination acceptable, it shall be forwarded to the Delaware State Review Board for consideration.

- Where the Historic Review Board finds the nomination unacceptable, the Board shall provide feedback to the nominator regarding necessary changes, if applicable, to meet the required criteria.

Preservation of historic resources on record plans.

This new division outlines special requirements for historic resources that are incorporated into land development plans and intended for preservation. Such requirements address procedures for maintenance and documentation as part of an historic resource management plan.

Where a land development application proposes the preservation of an historic resource that has been or is subsequently determined eligible for Historic (H) overlay zoning pursuant to the Criteria for Designation, the following conditions must be met:

- Prior to recordation, a detailed maintenance plan must be submitted to the Department that describes the measures to be taken in the historic renovation and preservation of the historic resource. The Department shall review the maintenance plan and obtain a recommendation from the Historic Review Board. After Department approval, a note referencing the maintenance plan must be memorialized on the record plan
 - The Historic Resource Maintenance Plan must include the following:
 - Contain an executive summary that describes the contents of the plan and the historic resource(s) to be managed. The ownership of resource(s) must also be identified.
 - Identify existing conditions and describe the historic resources on-site and their context. The description shall be in accordance with Historic American Buildings Survey and the Historic American Engineering Record (HABS/HAER) Guidelines for Historical Reports.
 - Identify goals and objectives for managing the historic resource(s) on site must be established along with methods of measuring implementation of such objectives that the goals are met.
 - Identify management measures, including a description of proposed activities, budget, and schedule for restoring and maintaining the historic resource(s) pursuant to the goals and objectives identified above.
 - Maintenance provisions must be in compliance with Chapter 7 of this Code.
 - Failure to adhere to the maintenance plan shall be considered a violation of this Code. The Department may withhold the issuance of any and all zoning permits, building permits, and certificates of use or occupancy for the development until corrective action is completed to cure the violation.

- For major land development plans, the parcel containing the historic resource must be rezoned H prior to or upon recordation of the plan. For the purposes of this Section, a parcel containing the historic resource may be subdivided to a size consistent with the historic context as determined in Section 40.15.111.

Historic permits.

This section was revised for consistency with other sections located within the UDC. The language located in the existing section was moved.

An Historic permit shall be required for all proposed construction or other development in any Historic overlay zoning district. Appendix 1 to this Chapter contains application requirements.

General definitions.

Definitions related to historic resource terms were modified for clarity and consistency with the UDC and industry standards.

Historic object. The term "object" is used to identify those resources that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment.

Historic renovation. The treatment of an historic resource through rehabilitation, restoration, or reconstruction as defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Historic resource. Any building, structure, object, site or historic district that is important historically, architecturally or archaeologically in the history of the County, the State or the Nation. These may be determined by the following criteria:

- A. Listed in or determined to be eligible for the National Register of Historic Places as provided in the National Historic Preservation Act of 1966, 16 USC 470. Historic resources may be listed individually or as part of a district.
- B. Designated or determined to be eligible for designation as an Historic overlay district according to the provisions of this Chapter.
- C. Certified or preliminarily determined by the Delaware Division of Historical and Cultural Affairs (DE DHCA) as contributing to the historical significance of a registered historic district or a district preliminarily determined by the DE DHCA to qualify as a registered historic district.

Historic structure. The term "structure" is used to identify building-like constructions designed for purposes other than human habitation, such as silos, water towers, gazebos, bandstands, grain elevators, kilns, and windmills. Man-made alterations to the landscape such as canals, dams, earthworks, water control systems, irrigation systems, drainage ditches, marsh dikes, and breakwaters may also be considered historic structures.

APPENDIX 1: APPLICATION AND PLAN REQUIREMENTS

Minimum submission requirements for all applications appearing before the Historic Review Board. These requirements are intended to codify items commonly requested by the Historic Review Board for consideration.

Historic Review Board Application. In addition to a completed Historic Review Board application form, the following will be required for submission:

- Building Permits
 - Current color photographs of the property and structure(s) to be modified. Provide one photo of each elevation and photos illustrating the structure in its physical environment.
 - Site plan with property lines and dimensions. The plan should show adjacent streets and the location of the subject structure(s) and any other structures on the property.
 - Copy of building drawings depicting proposed scope of work, building elevations, and proposed building materials in relation to the existing historic structure.
- Demolition Permits
 - Current color photographs of the property and structure(s) to be demolished (interior and exterior). Provide one photo of each elevation and photos illustrating the structure in its physical environment.
 - Site plan with property lines and dimensions. The plan should show adjacent streets and the location of the subject structure(s) and any other structures on the property
 - Written estimate(s) of repair or rehabilitation prepared by the property owner, a Contractor, or a preservation consultant.
 - Documentation of any alternatives to demolition which were previously pursued.
 - Engineer's assessment regarding the condition of the structure, if available.
 - Written plan for the treatment of the anticipated created space.
- Land Development Plan

- Land Development Plan (folded, not rolled). If the plan does not indicate the location of historic and prehistoric resources, a separate, measured site plan must be provided.
- Current color photographs of the property and any historic structures thereon.
- Deed Trace to the approximate date of construction of any historic resources on the property. Please note: Dates in Parcel View are often default dates. The Historic Preservation Section can provide more accurate dates.
- Documentation of any alternative designs previously explored.
- Copies of any archaeological, historical, or architectural studies performed at the property or in the immediate vicinity.
- Written treatment plan for historic structures and/or archaeological resources on the property. If demolition is proposed, provide an engineer's assessment regarding the condition of the structure(s).
- Adaptive reuse of historic properties. For properties utilizing the adaptive reuse provisions within Historic overlay districts, the following items shall be required as part of an application submission:
 - Construction plans if an addition, alteration, or modification to the historic resource is planned.
 - A site plan showing parking areas, accessways, buffers, landscaping, signs, lighting structures, the relationship of the proposed conversion to adjacent residential properties and proposed location and use of any accessory structure