

**BOROUGH OF CHESTER HEIGHTS
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

AN ORDINANCE OF THE BOROUGH OF CHESTER HEIGHTS, DELAWARE COUNTY, PENNSYLVANIA, AMENDING PART II: GENERAL LEGISLATION, CHAPTER 185 “ZONING” OF THE BOROUGH OF CHESTER HEIGHTS CODE OF ORDINANCES BY CREATING AN ARTICLE XXVII FOR THE ESTABLISHMENT OF REGULATIONS GOVERNING THE PRESERVATION OF HISTORICAL RESOURCES; REPEALING ALL INCONSISTENT ORDINANCES, OR PARTS THEREOF IN CONFLICT THEREWITH; AND PROVIDING FOR A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the Borough of Chester Heights, Delaware County, (hereinafter “the Borough”) is a Borough, organized and existing under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Pennsylvania Borough Code (the “Code”) and the Pennsylvania Municipalities Planning Code (“MPC”) empower the Borough Council of Chester Heights to enact ordinances and amendments governing land use in the Borough, and to make such regulations as deemed necessary and appropriate relating to the public health, safety, cleanliness, convenience, comfort and general welfare of the citizens of the Borough; and

WHEREAS, Sections 603(b)(5) and 603(g)(2) of the MPC, 53 P.S. 10603(b)(5) & 10603(g)(2), provide that zoning ordinances shall provide for the: “protection of natural and historic features and resources”, and also provides for the: “regulation of places having unique historical, architectural or patriotic interest or value” through the creation of specific zoning classifications; and

WHEREAS, the Borough zoning ordinance does not currently provide for the protection of historic features and resources, nor regulations for places having unique historic features and resources; and

WHEREAS, the Borough Council has determined that it is in the best interest of the public convenience, comfort and general welfare to amend its zoning ordinance regulations to add a new Article XXVII to establish and codify regulations concerning the preservation of the Borough’s historic resources and administration of the Borough’s Historic Preservation Overlay Zoning District.

NOW, THEREFORE, be it, and it is hereby **ORDAINED** by the Borough Council for the Borough of Chester Heights, and it is hereby **ENACTED** and **ORDAINED** by authority of same that Part II: General Legislation, Chapter 185 “Zoning” of the Borough Code of Ordinances is amended to add a new Article XXVII entitled “Historic Resource Protection Standards”, which shall read as follows:

SECTION I: Amendment of the Code.

The Borough of Chester Heights Code of Ordinances, Part II: “General Legislation”, Chapter 185 “Zoning” is hereby amended to create a new Article XXVII entitled “Historic Resource Protection Standards” which shall read as follows:

ARTICLE XXVII HISTORIC RESOURCE PROTECTION STANDARDS

§ 185-147 Title, Legal Authorization, Purpose and Intent.

- A. This Article shall be referred to as the “Borough of Chester Heights Historic Resource Protection Standards”.
- B. Pursuant to authority contained in the Act of 1968, Public Law 805, No. 247, as enacted and amended, known as the Pennsylvania Municipalities Planning Code (Sections 603, 604 and 605), and Article I, Section 27 of the Pennsylvania Constitution which states that: “The people have a right to clean air, pure water and the preservation of the natural, scenic and historic and aesthetic values of the environment”; the Borough of Chester Heights hereby establishes the Borough Historic Resources Commission to promote, protect and facilitate the preservation of areas of historic significance and to preserve the historic values in the environment at, along or near places having unique historical, architectural or patriotic interest or value within the Borough’s Historic Preservation Overlay and to preserve and protect buildings, structures, sites, objects and districts of historic value that exist within the Borough.
- C. The Borough of Chester Heights has many historic resources worthy of preservation from the colonial period, Victorian era, and early suburban development. Preservation of these historic resources is in the best interest of the health, prosperity and welfare of the people of the Borough by enhancing property values, improving aesthetics of the built and natural environment, and creating the potential for heritage tourism.
- D. Purpose. The purposes of this article are:
 - (1) To create and authorize the Borough of Chester Heights Historic Resources Commission to serve as an advisory body to the Borough Council.
 - (2) To promote general welfare by protecting the integrity of the Class I and Class II historic resources of the Borough of Chester Heights.
 - (3) To establish a clear process by which proposed changes affecting Class I and Class II historic resources are reviewed by the Borough of Chester Heights Historic Resources Commission and the Borough Council.
 - (4) To mitigate the negative effects of proposed changes on Class I and Class II historic resources.

- (5) To encourage the continued use of Class I and Class II historic resources and facilitate their appropriate reuse.
- (6) To tailor protective measures to Class I and Class II historic resources in the Borough of Chester Heights worthy of preservation.
- (7) To encourage the preservation of historic settings and landscapes.
- (8) To discourage the unnecessary demolition of Class I and Class II historic resources.
- (9) To implement the goals of the Pennsylvania Constitution at Article I, Section 27, which establishes the state policy of encouraging the preservation of historic and aesthetic resources.

§ 185-148 Definitions.

For purposes of this article, the following definitions shall apply:

ALTERATION

The act of putting an addition onto, repairing, renovating or replacing materials on the exterior of an historic resource.

BUILDING

Any construction having a minimum of three enclosed walls and a roof. Examples include, but are not limited to, house, garage, barn, shed, school, train station, or privy.

CONTRIBUTING HISTORIC RESOURCE

An historic resource in a district that adds to the historic significance of the district.

DEMOLITION

The complete dismantling, removal or destruction of a historic resource.

DEMOLITION BY NEGLECT

The deliberate disregard of routine maintenance causing weakness, decay and deterioration of an historic resource for purposes of avoiding the provisions of this chapter. Also, the intentional act of disregarding the security of an historic resource resulting in degradation by criminal activity for purposes of avoiding the provisions of this article.

HISTORIC DISTRICT

A significant concentration, linkage or continuity of buildings, structures, sites or objects joined by plan or physical development. Examples include but are not limited to business districts and industrial areas, residential neighborhoods, college campuses, villages or transportation systems.

HISTORIC RESOURCE

A building, structure, object, site or a contributing resource to an historic district that is historically significant to the nation, state or to the Borough of Chester Heights. Historic resources may be significant for association with historically important events or people or significant for architecture or building technique.

OBJECT

An item that is primarily artistic or decorative in nature. Examples include but are not limited to monuments, sculptures, fountains or statues.

PRESERVE

The act of altering an historic resource by maintaining and repairing the existing materials and current form of an historic resource for purposes of displaying it as it has evolved through time.

RECONSTRUCTION

The act of rebuilding an historic resource by recreating vanished or non-surviving elements of a historic resource.

REHABILITATE

The act of making alterations to an historic resource for the purpose of changing its use while also preserving the historic resource.

RESTORE

The act of altering an historic resource by returning it to a particular time period by removing elements of other time periods.

SITE

A location that, with or without the existence of buildings, structures or objects, has commemorative or cultural significance. Examples include but are not limited to battlefields, cemeteries, parks, ruins, scenic views, or natural features.

STRUCTURE

A construction that does not have enclosed walls. Examples include but are not limited to bridges, gazebos, bandstands, carousels, fences, walls or dams.

185-149 General Provisions.

- A. Compliance. Any alterations to or change in use of any historic resource or any land disturbance, located upon a property indicated on the Historic Resources Map, shall occur only in full compliance with the terms of this article and other applicable regulations.
- B. Historic Overlay District. The Historic Resources Map shall be an overlay on any zoning district now or hereafter enacted to regulate the use of land in the Borough of Chester Heights.

- C. For any property shown on the Historic Resources Map, the provisions of this article shall apply, in addition to those of the underlying zoning district, and supersede the otherwise applicable requirements of the underlying zoning district to the extent those provisions are inconsistent with the provisions of this article.
- D. Should the Historic Resources Map be revised as a result of legislative action or judicial decision such that a property is no longer in the area of the Historic Resources Map, the zoning requirements and other regulatory measures applicable to the property in question shall be those of the underlying zoning district without consideration of this article.
- E. Preservation of other restrictions. It is not the intent of this article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail.

185-150 Historic Resources Map.

- A. Classifications. The Historic Resources Map delineates two classifications of historic resources in Chester Heights, which are defined as follows:

(1) Class I Historic Resources. Class I historic resources must have existed for a period of 100 years and include the following and other resources of similar historical significance:

- (a) All buildings, sites, structures and objects listed individually in the National Register of Historic Places.
- (b) All buildings and structures classified as certified historic structures by the Secretary of the Interior.
- (c) All buildings, sites, structures and objects documented as contributing resources in a National Register Historic District.
- (d) Any resources which have received a Determination of Eligibility (DOE) by the Pennsylvania Historical and Museum Commission (PHMC).
- (e) Any resources which are deemed by the Delaware County Planning Department (DCPD) to meet substantially the National Register criteria.
- (f) Other resources of similar historical significant character, interest or value as an example of the physical or cultural heritage or development, whether historical, political, economic or social, of the community or any meaningful grouping of individuals within the community, the County, the Commonwealth or the United States, and/or exemplify an architectural or engineering style of merit may be added to Class I by the Borough Council

(2) Class II Historic Resources: Class II historic resources must have existed for a period of at least 75 years and may consist of buildings, sites, structures, objects and districts included in the historic resources inventory of the Borough of Chester Heights Historic

Resources Commission not meeting Class I historic resource criteria, but determined to be of historical or architectural significance to Chester Heights and appropriately documented to that effect by the Borough of Chester Heights Historic Resources Commission.

B. Additions and Revisions. The Historic Resources Map may be revised from time to time by legislative action of the Borough Council.

(1) In considering any revision, including additions, deletions or changes of classification to the Historic Resources Map, the Board shall receive a written recommendation from the Historic Resources Commission.

(2) In making a revision to the Historic Resources Map, the Borough Council may rely on the evaluation criteria used for the National Register of Historic Places, currently described in 36 Code of Federal Regulations § 60.4.

(3) The owner(s) of any property(ies) which are the subject of any such proposed legislative action shall be given written notice of the Historic Resources Commission's recommendation to the Borough Council at least 30 days prior to the public hearing.

(4) Notice of a public hearing before the Historic Resources Commission or the Borough Council shall be provided by the property owner to all property owners within 150 feet of the subject property and to all property owners who have registered their names with the Borough.

C. Official list. The Historic Resources Commission shall maintain an updated list of properties shown on the Historic Resources Map, including their respective classifications. The Commission may further specify the resources located on each property to which regulation herein applies. Regulation herein applicable to structures shall not apply to structures designated as noncontributing resources. Where not otherwise specified, the entire property shall be regulated as an historic resource.

§ 185-151. Historic Resources Commission.

A. The Borough Historic Resources Commission shall be composed of 3, but no more than 5 members. Members of the Commission shall at the time of appointment by the Borough Council have resided in the Borough for at least 1 year. It is recommended that the Historic Resources Commission be composed of members with the following backgrounds or qualifications:

- (1) One registered architect;
- (2) One licensed real estate agent;
- (3) Persons with demonstrated interest in architectural history, history, historic preservation or historical development in Chester Heights or surrounding communities, or community revitalization.

- B.** Members of the Historic Resources Commission shall be appointed by the Borough Council for a term of four years commencing on January 1 and ending on December 31 four years hence. There shall be no term limits. The initial terms of the Members shall be staggered so that the initial terms shall be spread evenly. Any member of the Historic Resources Commission appointed to fill an existing vacancy on the Commission shall serve until the expiration of the term that he or she was appointed to complete.
- C.** One additional non-voting member shall be appointed by the Chair of the Planning Commission from the Planning Commission membership to serve as an alternate member of the Historic Resources Commission. The term of office of an alternate member shall be four years. When seated, an alternate shall be entitled to participate in all proceedings and discussions of the Historic Resources Commission to the same and full extent as provided by law for members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this chapter and as otherwise provided by law. When not seated in replacement of a Commissioner any alternate may still participate in any proceeding or discussion of the Historic Resources Commission but shall not be entitled to vote as a member of the Commission.
- D.** Members of the Historic Resources Commission shall select a President, Vice President, Secretary and Treasurer from among its members, and their terms of office shall be one year commencing on January 1 and ending December 31 of that year. It shall be the President's responsibility to conduct meetings of the Commission and to act as a liaison between the Historic Resources Commission and the Borough's Code Enforcement Official, Planning Commission, Zoning Hearing Board, and Borough Council. The Vice President shall assist the President and assume the role of President when the President is absent. The Secretary shall have duties related to keeping records and handling correspondence. The Treasurer shall have duties related to the finances of the Historic Resources Commission.
- E.** A vacancy on the Historic Resources Commission shall be filled by an appointment by the Borough Council preferably within 60 days from the date that the vacancy is evident. Historical Commission members must attend all meetings.
- F.** A quorum, required to conduct business at Historical Resources Commission meetings, shall be a majority of the then appointed members. Members shall not be compensated but may be reimbursed for expenses approved by the Borough Council and directly related to the duties of the Historical Commission.
- G.** An Historical Resources Commission member shall not nominate, vote on, or participate in any discussion concerning a historic resource that is owned by the member or a family member.
- H.** In the event that the Historical Resources Commission is to be dissolved, a unanimous vote by the Borough Council is required in a public meeting adhering to the Pennsylvania Sunshine Act's requirements codified at 65 Pa. C.S. §§ 701-716. All 7 members of

Borough Council must be present at the vote to dissolve the Historical Resources Commission.

§ 185-152 Duties of Historic Resources Commission.

- A. The Historic Resources Commission shall hold meetings twice per year or more often as necessary.
- B. The Historical Commission shall be responsible for establishing procedures at meetings, keeping records, and establishing rules for nominating, electing, replacing and removing the President, Vice President, Secretary and Treasurer.
- C. The Historical Commission shall be responsible for evaluating, compiling, maintaining and publishing the Borough's Historic Resources Inventory. The Historic Resources Commission shall periodically review the historic resources on the inventory and add or delete historic resources as needed, subject to Borough Council's approval of changes to the Historic Resources Inventory.
- D. The Historic Resources Commission shall be responsible for monitoring projects in the Borough of Chester Heights which may have an impact on historic resources.
- E. The Historic Resources Commission shall maintain regular communication with the Pennsylvania Historical and Museum Commission and the National Park Service to obtain lists of historic resources in the Borough that are national historic landmarks or listed or eligible for the National Register of Historic Places, and for advice on matters of historic preservation in the Borough of Chester Heights.
- F. The Historic Resources Commission shall aid, assist, promote and perform property owners with the nomination of resources in Borough to the National Register of Historic Places.
- G. The Historic Resources Commission shall have the general responsibility to promote historic preservation within the Borough of Chester Heights by performing any or all of the following:
 - (1) Publishing printed material related to historic preservation.
 - (2) Adding historic preservation related material to the Borough's website.
 - (3) Holding events to promote and educate Borough residents about historic preservation.
 - (4) Educating historic resource owners about grants, tax incentives, and the benefits of protection provided by state and federal government historic preservation programs and laws.

(5) Educating historic resource owners about the potential benefits of having a resource listed on the Borough's Historic Resources Inventory including honorary designation, improved development opportunities, and protection.

(6) Advising the Borough Council concerning acquiring, restoring, preserving, reconstructing or rehabilitating historic resources in the Borough of Chester Heights.

(7) To facilitate coordination with neighboring municipalities on matters of mutual interest.

§ 185-153 Powers.

The Historic Resources Commission shall have an advisory role on issues related to the change of use, alteration, demolition, or demolition by neglect of historic resources in the Borough of Chester Heights. In addition, all actions regarding the Historic Resources Inventory taken by the Historic Resources Commission shall be subject to Borough Council's approval of changes to the Historic Resources Inventory.

§ 185-154 Historic Resources Inventory.

A. Criteria for listing a historic resource to the Borough of Chester Heights Historic Resources Inventory:

(1) These criteria shall be applied with the consideration that the historic resource may be significant to the nation, state or to the Borough of Chester Heights.

(2) An historic resource must be at least 75 years old or older.

(3) The historic resource must also have retained its historic integrity by remaining identifiable in terms of its location, setting, materials, design or workmanship, and shall meet any one of the following areas of significance:

(a) Associated with events that have made a significant contribution to the broad patterns of our history;

(b) Associated with the lives of persons significant in our past; or

(c) Architecturally significant in that the historic resource embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values.

B. Criteria considerations. The Historic Resources Commission may consider an historic resource for the inventory that is less than 75 years old, provided that the historic resource is deemed to be highly significant by the Historic Resources Commission.

C. Contents. The Historic Resources Inventory shall contain the owner's name and address, the address or location of the historic resource, the approximate year built, recent

photographs, an architectural description, a brief history of the resource, its status as a Class I or Class II historic resource, and the date the historic resource was added, changed or deleted from the inventory.

- D. Publication. The Historic Resources Inventory shall be made available to the public for inspection at the Borough's offices during regular business hours. The inventory, or parts thereof, may also be made public through other means, including but not limited to, publishing it on the Borough's website or at a local library.

§ 185-155 Listing Historic Resources to the Borough Historic Resources Inventory.

The following procedure shall be used to compile or add resources to the Borough Historic Resources Inventory.

- A. Class I historic resources. All historic resources in the Borough that meet the definition of a Class I historic resource shall be listed in the Borough Historic Resources Inventory as Class I historic resources.

- B. Class II historic resources.

(1) Historic resources that meet the definition of a Class II historic resource shall be listed as a Class II historic resource on the Borough Historic Resources Inventory, provided that the Borough Historic Resources Commission first sends to the owner of the historic resource, by certified mail with return receipt requested and a return envelope and postage, a request to concur or object to the listing of its resource in the inventory.

(2) Those owners that concur shall have their resource listed to the Historic Resources Inventory as a Class II historic resource.

(3) Those owners of Class II historic resources that are not listed on the initial Historic Resources Inventory adopted contemporaneously with this ordinance shall have the option to object in writing to not have the resource listed to the Inventory of Historic Resources. The Historic Resources Commission shall have the discretion to treat a failure to respond as an objection to the listing of the resource or to make such additional requests of the owner as the Historic Resources Commission may deem appropriate with respect to the resource in question. An owner who has objected may withdraw the objection at any time by notifying the Historic Resources Commission in writing that the owner withdraws the objection and concurs to the listing, in which event, the resource shall be listed to the Historic Resources Inventory as a Class II historic resource, as applicable, provided that the resource continues to meet the criteria for listing an historic resources to the Historic Resources Inventory and meets the definition of a Class II historic resource.

(4) A subsequent owner of a Class II historic resource, the previous owner of which objected to listing in the inventory, shall be permitted to apply to have the resource listed to the inventory, provided that it continues to meet the criteria for listing an historic

resource to the Historic Resources Inventory and meets the definition of a Class II historic resource, as defined in this article.

§ 185-156 Deleting Resources from the Historic Resources Inventory.

A. Class I historic resources. A Class I historic resource shall be deleted from the Historic Resources Inventory when it has been removed as a national historic landmark and/or deleted from the National Register by the National Park Service. The Historic Resources Commission shall delete the resource from the inventory within 90 days from the date of receipt of written confirmation of the removal noted in the preceding sentence. The Historic Resources Commission shall consider whether such resources should be re-listed as a Class II historic resource and, if so, shall take appropriate steps to so list the resources in accordance with this article.

B. Class II historic resources.

(1) A Class II historic resource shall be deleted from the Historic Resources Inventory when it is removed from the Pennsylvania Historical and Museum Commission List of National Register Eligible Resources, except if the historic resource was removed because it was listed to the National Register of Historic Places or achieved national historic landmark status. The Historic Resources Commission shall delete the resource from the inventory within 90 days from the date of receipt of written confirmation of the removal noted in the preceding sentence. A Class II historic resource shall be deleted from the Historic Resources Inventory if the owner sends a written notification to the Historic Resources Commission directing that the historic resource be deleted from the inventory. The Historical Commission shall delete the resource from the inventory within 90 days from the date of receipt of written notification.

(2) Owners of Class II historic resources that request deletion of their resources from the Historic Resources Inventory shall be permitted to have the resource subsequently relisted to the inventory by appearing at a meeting of the Historic Resources Commission and requesting the resource be relisted. The resource shall be relisted at the meeting, provided that it continues to meet the criteria for listing an historic resource to the Historic Resources Inventory and meets the definition of a Class II historic resource. If the Historic Resources Commission determines that the resource should not be re-listed, the owner shall be provided with a written explanation for the determination. A subsequent owner of a Class II historic resource, the previous owner of which has requested deletion of the resource from the inventory, shall also be permitted to have the resource relisted by following the same procedure.

(3) An owner or any subsequent owner of a Class II historic resource on the Historic Resources Inventory shall not be permitted to request deletion of the resource after a conditional use permit has been approved by the Borough Council under the provisions of this article.

(4) An owner or any subsequent owner of a Class II historic resource on the Historic Resources Inventory shall not be permitted to request deletion of the resource after an application for a building permit or demolition permit has been received by the Borough.

§ 185-157 Changing the status of a historic resource.

If any historic resource with Class II status is subsequently listed to the National Register to Historic Places or designated a national historic landmark, its status will be changed in the Historic Resources Inventory to Class I.

§ 185-158 Borough Council Changes to the Historic Resources Inventory.

- A. Upon the approval, denial, determination, adoption, addition, deletion, or change of status regarding historic resources on the Historic Resources Inventory, the Historic Resources Commission shall promptly provide a copy or record of the action to the Borough Council. The Historic Resources Commission shall provide to the Borough Council all pertinent information regarding the action and information concerning the historic resource, including, but not limited to, the historic significance of the resource, written decisions given to the owner, and evidence of the owner's consent, non-consent, or objection to adding or deleting the historic resource.
- B. The Borough Council shall at a public meeting vote to approve or not approve the changes or actions as recommended by the Historic Resources Commission. The historic resource will be considered to be added to, deleted from, or changed in Historic Resources Inventory only upon the approval of the Borough Council. The effective date of the approval, denial, determination, adoption, addition, deletion or change of status to the historic resource shall be the date on which the Borough Council voted to approve or not approve the change.
- C. If the Borough Council does not approve the change, the Borough Council shall provide a written explanation for the disapproval to the Historic Resources Commission and to the owner of the historic resource.

§ 185-159 Notices.

- A. The Historic Resources Commission shall upon the adoption of this Ordinance provide to the record owner of every property on the Historic Resources Inventory List notification that the property is on the list via certified mail, return receipt requested along with an Executive Summary of the Ordinance's requirements,
- B. Upon receipt of notice of transfer of ownership of a property that contains a Class I or Class II historic resource included on the Borough Historic Resources Inventory List, the Borough's designated zoning officer shall be responsible for providing notice of the property's inclusion on the Borough Historic Resources Inventory List and the regulations provided herein by this Ordinance.

- C. Upon receipt of an application for construction or alteration of any property that is located within 25 feet of a property which contains a Class I or Class II historic resource included on the Borough Historic Resources Inventory List, the Borough's designated zoning officer shall be responsible for providing notice to the Historic Resources Commission. The Historic Resources Commission, at a regularly scheduled meeting shall review the details of the application for construction or alteration and shall communicate with the zoning officer and applicant its recommendations for construction or land management techniques that eliminate or minimize the impact on the historic resource.

§ 185-160 Historic Resource Impact Permit

- A. **Permit required. No part of the structure of a Class I historic resource shall be demolished, including the indiscriminate removal, stripping or destruction of any significant feature, in whole or in part, unless and until the applicant obtains a Historic Resources Impact Permit. The provisions of this section shall not be construed to prevent the ordinary maintenance or repair of any building, structure, site or object where such work does not require a permit and where the purpose and effect of such work is to correct any deterioration or decay of or damage to a building, structure, site or object and to restore the same to its condition prior to the occurrence of such deterioration, decay or damage. A Historic Resources Impact Permit shall not be required for any portion of a property or a structure contained on the lands of a Class I historic resource that itself is not designated on the Historic Inventory as a Class I historic resource. Class II historical resources are not subject to obtaining a Historical Impact Permit.**
- B. The following circumstances require the owner of a property containing a Class I historic resource to obtain a Historic Resources Impact Permit from the Borough:
- (1) Moving the Historic Resource to another location.
 - (2) The destruction, removal or replacement of any portion of any structural element such as a roof or exterior wall, or of any significant building element such as a cornice, door, window, doorway, porch or chimney, other than for the purpose of repair of such element with substantially similar or improved materials that do not materially alter the appearance of the historic resource.
 - (3) The covering any portion of any roof or exterior wall, or any other exterior building elements other than for the purpose of repair of such element with substantially similar or improved materials that do not materially alter the appearance of the historic resource.
 - (4) The removal of all or part of a historic resource that has been damaged by a fire.
 - (5) Modifying or otherwise altering the character or appearance of a historical setting or landscape.
 - (6) The absence of routine maintenance and repair that can lead to a Historical resource's structural weakness, decay and deterioration such that demolition in whole or in part

becomes necessary.

C. Procedure for obtaining Historic Resources Impact Permit.

(1) The applicant shall submit to the Borough an application for a Historic Resources Impact Permit in a form and amount acceptable to the Borough. The Borough zoning officer shall utilize the Historic Resources Map, the Historic Resources Inventory List and the Official Zoning Map in evaluating an application for a Historic Resources Impact permit, and if the application requests the demolition of a Class I historic resource, the zoning officer shall not issue the zoning compliance permit until review and approval is first obtained from the Borough Council.

(2) Review by Historic Resources Commission. The Borough zoning officer shall forward the application to the Historic Resources Commission for review within five days of the Borough's receipt of a properly completed application. Within 45 days of receipt of a complete application from the zoning officer, the Historic Resources Commission, at a regular or special meeting, shall review the application for Historic Resources Impact Permit. The applicant, and all affected persons pursuant to the provisions of § 185-150.B, will be notified of the meeting and shall have the opportunity to present their reasons for filing the application. The Historic Resources Commission shall consider the following:

- (a) The effect of demolition on the historical significance and architectural integrity of the resource in question, neighboring identified historic resources, and the integrity of their respective historical landscape settings;
- (b) Whether the applicant has demonstrated that they have considered and/or pursued all alternatives to demolition;
- (c) Economic feasibility of adaptive reuse of the resource proposed for demolition;
- (d) Alternatives to demolition of the resource;
- (e) Whether the resource in its current condition presents a threat to public safety;
- (f) Whether the resource has been intentionally neglected;
- (g) Whether the required retention of the resource would represent an unreasonable economic hardship; and
- (h) The objections of any affected persons.

(3) Historic Resources Commission recommendation. Within 30 days following conclusion of the above-described regular or special meeting to review the application for demolition, the Historic Resources Commission shall set forth specific findings and one of the following recommendations in a written report to the Borough Council:

- (a) Immediate approval. After reviewing the demolition permit application with attachments, the Commission may recommend approval of the demolition permit

(b) Denial of demolition. The Commission may recommend denial of demolition.

(4) Council consideration. Within 30 days of receiving the recommendation from the Historic Resources Commission, the Borough shall consider the application, together with the recommendations of the Historic Resources Commission, and vote either to approve the application, approve the application with changes or deny the application. The applicant shall be notified of the meeting of the Board to vote on the application at least 10 days prior to its date and shall have the opportunity to present the applicant's reasons for filing the application. Within five days of making its decision, the Board shall provide written communication of its decision to the applicant, Historic Resources Commission and zoning officer. The Borough Council shall consider each of the factors set forth in § 185-160.C(2) and shall either adopt the findings of the Historic Resources Commission or make new findings of its own and those findings shall be included as part of the written decision of the Council.

(a) The Borough Council shall not approve an application to demolish a Class I historic resource unless the Borough Council finds that the Class I historic resource sought to be demolished cannot be used or reasonably adapted. In order to show that the Class I historic resource cannot be used or reasonably adapted, the applicant must demonstrate that the sale of the historic resource property is impracticable, that rental of the historic resource cannot provide a reasonable rate of return and that other potential uses of the historic resource are foreclosed.

(b) Where the Borough Council acts to approve the application, it shall authorize the zoning officer to issue the zoning compliance permit. Where the approval is granted with conditions attached, the zoning officer shall be authorized to issue the zoning compliance permit upon receipt from the applicant of written acceptance of those conditions. Upon issuing the zoning compliance permit, the zoning officer shall forward the documents to the codes enforcement officer to issue the demolition permit.

(c) Where the Borough Council acts to deny the application, a notice of denial and the Council's findings and conditions shall be sent to the applicant indicating what changes in the plans and specifications, if any, would be sufficient to meet the standards of this section.

D. Information to be provided. In addition to applicable requirements under the Borough Building and Fire Codes, an applicant seeking a permit to demolish a Class I historic resource shall provide the following information with the application for Historic Resource Impact Permit in writing:

(1) Owner of record;

(2) Classification of the historic resource on the Historic Resources Map;

- (3) Site plan showing all buildings and structures on the property;
- (4) Recent photographs of the resource proposed for demolition;
- (5) Reasons for demolition;
- (6) Method of demolition;
- (7) Proposed future use of the site and of the materials from the demolished resource; and
- (8) In any instance where there is a claim that a Class I historic resource cannot be used or reasonably adapted, or where a permit application for demolition is based in whole or in part on financial hardship, the applicant shall submit, by affidavit, facts reasonably sufficient to support those assertions. The Historic Resources Commission may further require the applicant to conduct, at the applicant's expense, evaluations or studies as are reasonably necessary, in the opinion of the Historic Resources Commission, to determine whether the Class I historic resource has or may have alternate uses consistent with preservation.

§ 185-161 Enforcement Procedures and Remedies.

A. Violations and penalties. Any person who violates the terms of article of this article shall be subject to the fines and penalties imposed under this chapter, as well as applicable fines and penalties imposed under the Borough Building Code. In addition:

- (1) Any person who alters a historic resource in violation of the provisions of this article or in violation of any conditions or requirements specified in a permit issued under the terms of § 185-160 shall be required to restore the building, structure, site or object involved to its appearance prior to the violation. Such restoration shall be in addition to, and not in lieu of, any penalty or remedy available under the ordinance or any other applicable law.
- (2) The Borough shall withhold issuing any building permit for any property which was occupied by an historic resource that subsequently was demolished in violation of this article.
- (3) Any conditional use application or subdivision or land development application involving any property which was occupied by a historic resource that subsequently was demolished in violation of this article shall not be approved except upon the condition of satisfactory restoration of any such resources or upon the granting of appropriate permit(s) in accordance with this section.

B. Enforcement

- (1) The Borough, through such person or agency charged by the Borough Council with enforcement of the provisions of this article, shall review the progress and status of any

change being made to a historic resource and shall render such reports thereon to the Council and to the Historic Resources Commission as may be necessary to assure compliance with the provisions of § 180-160 being attached to any building permit, demolition permit, special exception or conditional use approval for any historic resource.

(2) In addition to the above remedies, the Borough Council may take other appropriate legal action, which may include equitable and injunctive relief, to enforce the provisions of this article.

SECTION II. Severability.

The terms, conditions and provisions of this Ordinance are hereby declared to be severable, and, should any portion, part or provision of this Ordinance be found by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, the Borough Council of the Borough of Chester Heights hereby declares its intent that the Ordinance shall have been enacted without regard to the invalid, unenforceable, or unconstitutional portion, part or provision of this Ordinance.

SECTION III. Repealer.

Any and all other Ordinances or parts of Ordinances in conflict with the terms, conditions and provisions of this Ordinance are hereby repealed to the extent of such irreconcilable conflict.

SECTION IV. Effective Date.

This Ordinance shall be effective five (5) days after enactment.

ORDAINED AND ENACTED by the Borough Council of the Borough of Chester Heights, Delaware County, Pennsylvania, this _____ day of _____, 2025.

Attest:

BOROUGH OF CHESTER HEIGHTS

Darlene Kurten, Secretary

Natalie Young, Borough Council President

APPROVED:

Ginamarie Ellis, Mayor

**APPENDIX
INITIAL HISTORIC RESOURCES
INVENTORY**

DRAFT