

AN ORDINANCE

NO. 11-1241

**AN ORDINANCE To Amend The Historic Preservation Code Of The Township Of Upper Dublin, Chapter 127 By The Addition Of Criteria For Designation As A Class I Historic Resource; And To Amend The Zoning Code Of The Township Of Upper Dublin, Chapter 255, By Adding Definitions For Cultural Landscape, Historic Resource And Historic Resource Home Occupation; By Adding A New Article XXXIV, Historic Resource Overlay District, Setting Forth The Legislative Intent Of The District, Providing For Incentive Uses Within The District, Providing For The Relaxation Of Certain Bulk, Area And Setback Regulations Otherwise Applicable To Historic Resources, Providing Regulations For The Grant Of Conditional Uses For Such Incentive Uses, And Providing For The Submission Of An Historic Impact Study Where Applications For Development And/Or Subdivision Are Received With Respect To Properties On Which Certain Historic Resources Are Located.**

Section 1. The Code of Upper Dublin Township, Chapter 127, entitled Historic Preservation, § 127-5, Historic Resource Inventory, sub-section (A), Criteria for designation as a Class I Resource, shall have added thereto subsections (5) and (6), to provide as follows:

§ 127-5 Historic Resource Inventory

- (A) Criteria for designation as a Class I Resource. A building, structure, or site, or a complex of the same, may be placed on the Historic Resource Inventory as a Class I resource if it meets any one of the following criteria:

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- (5) If documented as "Contributing Resources" in any National Register Historic District.
- (6) If documented as "Contributing Resources" in any local historic district certified by the Pennsylvania Historical and Museum Commission (PHMC) in accordance with Pennsylvania Act 167.

Section 2. The Code of Upper Dublin Township, Chapter 255, entitled Zoning, Article I, General Provisions, § 255-7, Definitions, shall have added thereto in alphabetical order the following:

ACCESSORY APARTMENT - - A dwelling unit added to or created within a single family dwelling with provision for independent cooking, living, bathroom facilities and sleeping.

CONTRIBUTING RESOURCE(S) - - A building, structure, site or object that adds to the historic associations, historic architectural qualities or archeological values for which a property, neighborhood or district is significant because it was present during the period of significance, relates to the documented significance of the property, neighborhood or district and possesses historic integrity and/or is capable of yielding important information about the period.

CLUB - A nonprofit organization or association of persons who are bona fide members paying annual dues, and their guests, organized for social, intellectual, recreational or athletic purposes, not involving the sale of alcohol.

CULTURAL LANDSCAPE -- The minimum essential setting or context in which an identified Historic Resource retains its historic integrity; "resource" being constituted by either individual object, site or structure or by multiple objects, sites or structures (historic district); " setting" including both natural (trees, streams, slopes, etc.) and man-made features (bridges and walls, outbuildings, such as spring houses, barns, corn cribs, railroad tracks, cemetery markers, etc.); "historic integrity" being the unimpaired state which allows the viewer of the resource to have a better understanding of the materials and culture of the past.

HISTORIC RESOURCE — A building, structure, or site which is historically or archaeologically significant, or which has significant architectural, engineering, scientific, economic, agricultural, educational, social, political, military, cultural or aesthetic merit, including those buildings, structures, and sites that are classified by Federal, State or local government authority as historic buildings or sites.

HISTORIC RESOURCE HOME OCCUPATION--A home occupation which involves not more than eight (8) commercial visits per day. There may be one employee in addition to the practitioner for every 500 square feet of gross floor area devoted to the home occupation.

Section 3. The Code of Upper Dublin Township, Chapter 255, entitled Zoning, Article III, General Regulations, shall be amended by the addition of a new Section 24.2, Overlay District Uses, to provide as follows:

§ 255-24.2 Overlay District Uses. Where a proposed use is permitted in an overlay district by conditional use, and is also permitted in the underlying district by special exception, conditional use application to the Board of Commissioners shall be made in accordance with the applicable provisions in lieu of a special exception application to the Zoning Hearing Board.

Section 4. The Code of Upper Dublin Township, Chapter 255, entitled Zoning, shall be amended by the addition of a new Article XXXIV, Historic Resource Overlay District, to provide as follows:

Article XXXIII.  
Historic Resource Overlay District

§ 255-253. Legislative intent.

It is hereby declared as a matter of public policy that the preservation and protection of buildings, structures and sites of historic, architectural, cultural, archaeological, educational and aesthetic merit are a public benefit and are in the interests of the health, prosperity and welfare of the people of Upper Dublin Township. To that end, a separate zoning district is hereby created to overlay all other zoning districts in the Township. The provisions of this article, coupled with the provisions of Chapter 73 and Chapter 127, are intended to:

- A. Promote the general welfare by protecting the integrity of the historic resources of Upper Dublin Township.
- B. Provide incentives for the continued use of historic resources and to facilitate their appropriate reuse.
- C. Establish a clear and public process by which proposed land use incentives affecting historic resources can be reviewed.
- D. Discourage the unnecessary demolition of historic resources.
- E. Encourage the conservation of historic settings and landscapes.
- F. Promote retention of historical integrity in the context of proposed land use and/or structural changes.

§ 255-254. Applicability.

The provisions of this article shall apply to all properties containing structures meeting the criteria for Class I and Class II Historic Resource as set forth in Chapter 127 of the Upper Dublin Township Code. Properties which meet the criteria shall constitute the Historic Resource Overlay District which shall constitute an overlay to the Township Zoning Map.

§ 255-255. Permitted uses.

The following uses and no others shall be permitted on properties within the Historic Resource Overlay District

- A. Any use permitted in the underlying zoning district in which the property is located.
- B. For those properties within the Historic Resource Overlay District which also contain a structure designated as a Class 1 or Class 2 Historic Resource on the Upper Dublin

Township Code, § A 264-1, Historic Resource Inventory, the following uses are permitted:

- (1) Provided that the guarantee referenced in § 255-257B(4) has first been submitted and approved, historic resources on properties which obtain **access from any street** may, in addition to the use permitted in Subsection A above, be used for any of the following uses, subject to obtaining a recommendation for approval from the Historical Commission pursuant to Chapter 127, and obtaining conditional use approval from the Board of Commissioners:
  - (a) Bed-and-breakfast, subject to the following conditions:
    - [1] The historic resource must have a gross floor area of 2,500 square feet or more to be eligible for this use.
    - [2] A maximum of five guest suites shall be permitted in any one bed-and-breakfast establishment, with a maximum occupancy of 15 guests.
    - [3] There shall be no kitchen or cooking facilities in any guest suite.
    - [4] The use of any amenities provided by the establishment, such as swimming pool or tennis courts, shall be restricted in use to guests staying at the establishment.
    - [5] Off-street parking spaces shall be provided at a rate of one space per guest suite plus the regularly required parking for any other permitted use.
    - [6] The property owner, the manager or the lessor of the Bed and Breakfast must reside on the premises.
  - (b) Artist studio or crafts workshop producing objects which may be sold at retail on the premises. Such crafts shall include painting, sculpting, model making, rug weaving, lapidary work, furniture making and similar crafts.
    - [1] The historic resource must have a gross floor area of 2,500 square feet or more to be eligible for this use.
    - [2] The property owner or artisan selling the objects must reside on the premises.
    - [3] There may be no more than three (3) employees.
    - [4] There may be no more than eight (8) retail visits per day.

- (c) Historic Resource Home Occupation; provided that one additional off-street parking space is provided for each employee.
- [1] No more than 1/3 of the gross floor area of the historic resource shall be utilized for the home occupation.
  - [2] An historic resource home occupation may be conducted in a structure accessory to the practitioner's principal residence, provided that the accessory structure already exists on the property as of the date of adoption of this Article and provided the Historic Commission recommends approval of the application because the architectural character of the accessory structure is complementary and sympathetic to the structure listed on the Historic Resource Inventory.
- (d) Accessory Apartment. This use may also be conducted in a structure accessory to the principal dwelling on the property, provided that the accessory structure already exists on the property as of the date of adoption of this Article and provided the Historic Commission recommends approval of the application because the architectural character of the converted accessory structure is complementary and sympathetic to the structure listed on the Historic Resource Inventory.
- (e) Conversion. The historic resource may be converted into a multi-family dwelling, subject to the following requirements:
- [1] Each dwelling unit shall not have less than 750 square feet of floor area.
  - [2] The lot area per dwelling unit shall be no less than 30% of that required by this chapter for a single family dwelling in the district in which the Historic Resource is situated.
  - [3] External alterations to the Historic Resource, as permitted herein below by conditional use, shall be reviewed and recommended for approval by the Historical Commission. Fire escapes, outside stairways or other life, health and safety improvements shall, where practicable, be located so they are not visible from any public right of way and/or to the rear of the building.
- (f) A Club or Fraternal Organization on a parcel having a gross lot area of twice that required by this chapter for a single family dwelling in the district in which the Historic Resource is situated. No more than 25% of the gross floor area of the historic resource may be utilized for this incentive use.

(2) Provided that the guarantee referenced in § 255-257.B(4) has first been submitted and approved, historic resources on properties which obtain **access from an Arterial, Primary or Secondary Street**<sup>1</sup>, may, in addition to the use permitted in Subsection A above, be used for any one of the following uses, subject to obtaining a recommendation for approval from the Historical Commission, pursuant to Chapter 127, and obtaining conditional use approval from the Board of Commissioners:

- (a) Any use permitted in § 255-255.B(1)[a] – [f].
- (b) Professional office, limited to one non-resident employee per 500 square feet of gross floor area devoted to professional office use.
- (c) Cultural studio, teaching skills such as music, theatre or dance, subject to the following conditions, if located in a residential zoning district:

[1] The historic resource must have a gross floor area of 4,000 square feet or more to be eligible for this use.

[2] The use shall be limited to one class at a time with no more than 10 students per class and no more than two instructors.

[3] The property owner or the manager of the studio must reside on the premises.

C. On properties where uses permitted in both § 255-255.A & B above occur, the use permitted in the underlying zoning district may only occur in a structure in existence on the lot as of the date of adoption of this Article.

D. For all uses permitted in § 255-255.B(1) & (2) on a property located in a residential zoning district, the following additional regulations shall apply:

- (1) Unless otherwise provided for in this Section the off-street parking requirements of this chapter are applicable.
- (2) To the extent that they are visible from neighboring residential properties, new off-street parking areas for guests, students, employees, patients or clients shall be visually screened from such properties. The screening shall meet the intent of a Screen Buffer, as defined in the SALDO, Chapter 212, but may utilize plant material or a combination of plant material, fencing or berms.
- (3) Newly required off street parking spaces built to serve an incentive use approved under this Article may be no closer than five (5) feet from a lot's side or rear property lines.

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<sup>1</sup> See Upper Dublin Township's Engineering and Construction Standards, Improvement Procedures for specific street names

- (0) There shall be no use of show windows or displays or advertising visible outside the premises, other than a single, non-illuminated sign, not exceeding three (3) square feet.
- (5) There shall be no outdoor storage of materials and/or supplies for a use occurring on a property, where that use was authorized as part of the review and approval process set forth in this Article.
- (6) Refuse on the property shall be stored indoors where possible feasible. In the alternative refuse may be stored outdoors within a trash enclosure that is architecturally compatible with the historic resource or is not visible to pedestrians or occupants within vehicles utilizing adjacent streets or sidewalks.
- (7) The hours of operation for the uses listed in § 255-255.B(1)(b) (c) & (f) or in 255-255.B(2)(b) & (c) shall fall between the hours of 9:00 a.m. and 9:00 p.m.
- (8) No use shall be permitted which generates noise perceptible at the property line.
- (9) Site lighting shall be designed to screen the source of illumination and glare from adjacent properties.
- (10) Special events which will generate an unusual volume of traffic beyond that normally generated by a permitted use on a daily basis, such as fund-raising events, recitals, stage performances, lectures and exhibitions, are prohibited unless specifically allowed by conditional use, in which case the applicant shall have the burden of proving that the public interest will be protected considering the criteria set forth at § 255-174.
- (11) No square footage added to a structure/property after the date of adoption of this Chapter may be used in the calculation of gross floor area for purposes of this section.

E. The provisions of Chapter 73 relating to building permits for Historic Buildings are incorporated herein by reference.

§ 255-256. Bulk, area and setback requirements.

Provided that the guarantee referenced in § 255-257.B(4) has first been submitted and approved, the underlying zoning district standards regulating building area, impervious surfaces and front, side and rear yard setbacks may be modified by up to 15% with respect to a property listed on the Township's Historic Resource Inventory, subject to obtaining a recommendation for approval from the Historical Commission, pursuant to Chapter 127 and obtaining conditional use approval from the Board of Commissioners. Any modifications shall apply to the area of the lot as it existed on the date of adoption of this Article.

- A. Where the requirements are modified pursuant to this section, the applicant must demonstrate to the satisfaction of the Board of Commissioners that the degree of relief is required to accommodate the reasonable development, use or enhancement of the historic resource.
- B. The additional building area and impervious surface coverages permitted by this section may each not exceed 100% of the building area of the historic resource(s) subjected to the guarantee submitted as required by § 255-257.B(4).
- C. Where the requested relief is determined by the Board of Commissioners to be essential to the preservation of the historic resource, because without such relief it would not be physically or economically possible to maintain the historic resource, the Board of Commissioners may reduce such dimensional requirements to a greater degree than that permitted by this section.

§ 255-257. Specific requirements for conditional use approval.

A. Application procedures.

- (1) An applicant seeking conditional use approval under the provisions of this article shall submit the appropriate application to the Director of Code Enforcement in accordance with the provisions of § 255-192. The information to be provided shall, in addition, include the following:
  - (a) Name and address of the record owner and applicant (if different).
  - (b) Site plan showing all buildings and structures on the property.
  - (c) Recent photographs of the historic resource.
  - (d) A detailed narrative description of the proposed use(s).
  - (e) Any physical changes proposed for the affected historic resource(s) and their surrounding landscape.
  - (f) Any proposed modifications to otherwise applicable area, bulk and parking regulations.
- (2) The conditional use application shall be accompanied by an historic resource impact study where any land development or subdivision is proposed on:
  - (a) Any property that contains any Class I or Class II Historic Resource(s).
  - (b) Any contributing property within the boundaries of any National Register Historic District or any local historic district.



- (3) The Director Of Code Enforcement shall forward the complete application to the Historic Commission and the Planning Commission in accordance with §255-193. The Historical Commission, at a regular or special meeting, shall review the application for conditional use and shall promptly forward its recommendations to the Director of Code Enforcement for distribution to the Board of Commissioners. In formulating its recommendations, the Historical Commission shall consider each of the criteria imposed by this section for the grant of conditional use approval.
- (4) The Board of Commissioners shall act upon the application in accordance with the provisions of Article XXV of this Chapter. The Board may refer the application to a hearing officer to conduct any hearings and make recommendations to the Committee.

B. Criteria for the grant of conditional use approval. Where a use is permitted in an Historic Resource Overlay District by conditional use, that use shall not be granted unless the following requirements have been satisfied in addition to those set forth at §255-194:

- (1) The applicant shall have the burden of demonstrating that approval of the application will not jeopardize the preservation of the Historic Resource(s) contained on the property subject to application. To sustain this burden the applicant shall present evidence demonstrating the following:
  - (a) The exact location of the area in which the work is to be done, supports the applicants ability to preserve the Historic Resource.
  - (b) The exterior changes to be made or the exterior character of the structure to be erected aids in the preservation of the Historic Resource.
  - (c) A list of the surrounding structures with their general exterior characteristics and how they relate to the Historic Resource and how and if the proposed improvements change that relationship.
  - (d) The effect of the proposed improvements upon the general historic and architectural nature of the property.
  - (e) The appropriateness of exterior architectural features of structures involved with the proposed work and how they support or enhance the application's preservation of the Historic Resource.
  - (f) The general design, arrangement, texture, material, scale, mass and color of any affected building, structure or site and how the proposed improvements affect the historic resource as well as the relationships between such factors to similar features of other structures on the property.

- (g) That proposed improvements and any rehabilitation work will preserve the distinguishing qualities or character of the historic resource and cultural landscape.
  - (h) In the event that replacement of contributing architectural features is necessary and can not be done in kind, the new material shall, as closely as possible, match the material being replaced. At a minimum, the composition, design, color, texture and other aesthetic qualities shall be sympathetic to and in character with the historic resource. In instances where original materials are either unavailable or their use economically infeasible, the Board may approve the use of materials which are aesthetically consistent with, even if not completely duplicative of, the character of the historic resource.
  - (i) That the distinctive stylistic features or examples of skilled craftsmanship are preserved.
  - j) Changes which may have taken place in the course of time are evidence of the history and development of the building, structure or site and its environment. Provided the Historical Commission deems these changes have acquired significance in their own right, the proposed application recognizes and respects this significance.
  - (k) The property is used for its historic purpose or is placed in a new use that requires minimal change to the defining characteristics of the building and its Cultural Landscape.
- (2) The most current version of the Secretary of the Interior's Standards for Rehabilitation of Historic Structures, as amended, shall be used as a guideline in carrying out any plans involving the rehabilitation, alteration or enlargement of historic resource(s).
- (a) Additions and/or expansions to Historic Resources shall be sited to the rear or side of the building being preserved, provided that location is the best opportunity to preserve the structure's significant architectural features.
- (3) Where plans involving the rehabilitation, alteration or enlargement of historic resource(s) will result in all or portions of any such resource(s) remaining unoccupied, such unoccupied resources shall be securely sealed and barred off and the utilities turned off for safety, in a manner not jeopardizing historical integrity, as per the most current construction techniques for historic structures.
- (4) A means to guarantee the permanent protection of the historical integrity of the subject resource(s), such as the establishment of conservation easement(s) or appropriate covenants in a form acceptable to the Township Solicitor, shall be provided.

- (5) The applicant shall have the burden of proving that the historical integrity of the resource has been provided for through the design of the building improvements as well as through implementation of buffering, landscaping, lighting, storage, access and traffic management, interior circulation, loading, parking, fencing, signage and all other land development features.
- (6) The applicant shall have the burden of proving that the grant of the application will not be destructive of the integrity of the historic resource or detrimentally affect the value of surrounding properties.
- (7) Unless otherwise provided for in this Article, the off-street parking requirements of this chapter are applicable to the proposed use as set forth in this article. The Board of Commissioners may prohibit any additional parking between the right-of-way and the facade of the building if the Board finds such parking would negatively impact the historical integrity of the resource.
- (8) The applicant must comply with the requirements of this chapter with respect to signage. The Board of Commissioners may condition approval on a reduction in the size of the signage if it finds that the permitted signage will obstruct views required to assure the safety of the public or to retain the historic nature of the property.
- (9) The Board of Commissioners may attach conditions to achieve the objectives set forth in this section and to promote the public health, safety and welfare, which conditions may relate to any aspect of the proposed use of the property, including but not limited to buffering, parking, signage, traffic volume and flow, hours of operation, noise and odor emission.
- (10) Where the Board of Commissioners waives any requirement which thereby increases the rate or volume of stormwater generated on the property, the additional rate and/or volume of runoff caused by such waiver shall be controlled for the one-hundred-year storm.

C. Any conditional use granted under this subsection shall expire unless a building permit to perform the work for which the conditional use was sought, or an occupancy permit to allow such use, is issued within one year after the same shall have been granted.

§ 255-258. Historic Resource Impact Study.

- A. The historic resource impact study shall be prepared by a qualified land planner with professional expertise in historic preservation, historical architecture or related disciplines as provided for in 36 CFR 61.
- B. Contents. The study shall contain the following information unless the Director of Code Enforcement determines them to be not pertinent to the application:

- (1) Background information.
  - (a) If not otherwise provided by the applicant, a site plan, including existing structures, topography, watercourses, vegetation, landscaping, existing drives, etc.
  - (b) General description and classification of all historic resources located on the subject tract as shown on the site plan, or on tracts immediately adjacent to the subject tract.
  - (c) Statement of the significance of each Class I or II Historic Resource, both relative to the Township and region in general.
  - (d) Sufficient number of black and white eight-inch by ten-inch photographs to show every historic resource identified in Subsection B(1) above, in its setting.
  - (e) Narrative description of the historical development of the subject tract.
- (2) Proposed change.
  - (a) General description and site plan of the project, including time table or phases.
  - (b) Description of impact on each Class I or II Historic Resource affected by the proposed development or subdivision, with regard to architectural integrity, historic setting and future use.
  - (c) General description of effect of noise and traffic and other impacts generated by the proposed change on any Class I or II Historic Resource affected by the proposed development or subdivision.
- (3) Mitigation measures. Recommendations for mitigating the project's impact on Class I or II Historic Resources, including design alternatives, buffering, landscaping, conservation of existing, shall be detailed.

Section 5. Nothing in this Ordinance or in Chapters 127 or 255 of the Code of the Township of Upper Dublin, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Chapters 127 or 255 prior to the adoption of this amendment.

Section 6. The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the

Board that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

Section 7. This Ordinance shall take affect and be in force from and after its approval as required by law.

Enacted by the Board of Commissioners of Upper Dublin Township this *14<sup>th</sup>* day of *June*, 2011.

BOARD OF COMMISSIONERS OF THE  
TOWNSHIP OF UPPER DUBLIN

*Robert J. Pesavento*  
FOR Robert J. Pesavento, President

ATTEST:

*Paul A. Leonard*

Paul A. Leonard, Secretary

Upper Dublin Chapter 127 & 259 Historic Resources  
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