

LOCAL LANDMARK PRESERVATION ZONING OVERLAY

295-2200. LEGISLATIVE INTENT

- A. In expansion of the Declaration of Legislative Intent and the Statement of Community Development Objectives found in Article I of this Chapter, and pursuant to authority granted by Article VI, §§603 and 604 of the Municipalities Planning Code, the intent of this Local Landmark Preservation Overlay District is to:
1. Protect and enhance designated Local Landmarks which reflect the Township's cultural, social, economic, political, or architectural history.
 2. Safeguard the Township's historic and cultural heritage as embodied within the Local Landmarks;
 3. Promote appreciation of Local Landmarks for the education and enjoyment of local residents;
 4. Encourage beautification and private investment in the Township's Local Landmarks to enhance the visual character of the community;
 5. Stabilize and improve property values; and
 6. Foster civic pride in the history and architectural integrity of the Township.

§295-2201. DISTRICT ESTABLISHED

The Local Landmark Preservation Overlay District is hereby created to overlay all other zoning districts in Cheltenham Township. The Overlay District is defined and established to include and be an overlay upon all parcels listed on the Cheltenham Register of Historic Properties, as defined herein.

§295-2202. DEFINITIONS.

For the purposes of this Chapter, the following terms shall have the meanings indicated:

BUILDING – A construction, that is, a man-made piece of work, regardless of its state or condition of disrepair, built for the purpose of occupancy or use in the past, present or future, having a fixed location on, above or below the surface of land.

CERTIFICATE OF LANDMARK REVIEW (CLR) – Document issued by the Board of Commissioners, following a prescribed review procedure, certifying that the proposed actions by an applicant related to Demolition or Relocation are found to be acceptable in terms of criteria relating to the individual Local Landmark, pursuant to the criteria enumerated in this Article.

CHELtenham REGISTER OF HISTORIC PROPERTIES – The official list of local landmarks designated under the provisions of this Chapter.

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DEMOLITION – Any of the following:

1. The razing, removal, or demolition of an entire Local Landmark, or
2. The razing, removal, or demolition of any of the following:
 - a. fifty (50) percent or more of the roof area or exterior walls of a building;
 - b. any portion of any exterior wall substantially visible from a public street; or
 - c. a Structure which is not a Building or an Object,

if in any such case in this clause (2), in the determination of the Board of Commissioners, such razing, removal, or demolition will negatively and materially impair the structural, historic or architectural integrity or quality of the Local Landmark.

DEMOLITION BY NEGLECT – The absence of routine maintenance and repair which results in at least one of the following conditions:

1. Facades which may fall and injure members of the public or property;
2. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural member supports;
3. Members of ceilings, roofs, ceiling and ruff supports or other horizontal members which sag, split or buckle due to defective materials or deterioration;
4. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors;
5. Defective or insufficient water protection for exterior wall coverings, including lack of paint or weathering due to lack of paint or other protective covering;
6. Any fault or defect in the building which renders it not properly watertight or structurally unsafe.
7. Leaving a Local Landmark vulnerable to decay by the elements or vulnerable to actual or potential vandalism;
8. Appearance of graffiti or other signs of vandalism; or
9. Any other condition of a Local Landmark's structural weakness, decay, and/or deterioration, whether or not as a result of negligence or willful neglect, purpose or design, by the owner or any party in possession thereof to such a degree that the Township Zoning Officer is of the opinion that there is a reasonably significant possibility that the condition will lead to a Local Landmark's inability to be rehabilitated or reused.

Remedies under clauses (1) through (9) above may be enforced hereunder and/or under all

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applicable property maintenance ordinances including, the International Property Maintenance Code, International Fire Code, International Building Code, Nuisances, and the Vacant Building Registry Ordinance.

DISAPPROVAL – The written rejection of an application for work that is determined to be inappropriate due to the fact that the work would adversely impact a Local Landmark.

DEPARTMENT – The Cheltenham Township Department of Planning and Zoning or the department from time-to-time fulfilling the same functions.

ECONOMIC HARDSHIP – shall mean facts and circumstances which establish that there are no feasible measures that can be taken which will enable the property owner to make a reasonable beneficial use of the property or derive a reasonable economic return from the property in its current form.

LOCAL LANDMARK – Any Building, Structure, Site, or Object that demonstrates historical, architectural, cultural, archaeological, educational or aesthetic merit and which has been designated as such in accordance with the provisions of this Article.

OBJECT – Any personal property not attached to a Structure but having independent standalone structural, historic or architectural quality or integrity, including, but not limited to fountains, sculpture, freestanding signs, arborways and trellises, garages and accessory buildings, as the latter is defined in this Chapter.

PRESERVATION – The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a Local Landmark. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction.

RECONSTRUCTION – The act or process of reproducing, by means of new construction, the form, features, and detailing of a non-surviving Site, Building, Structure, or Object for the purpose of replicating its appearance at a specific period of time and/or in its historic location. Materials and design elements should be compatible with the style of the Local Landmark.

REHABILITATION – The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. Materials and design elements should be of a compatible with the style of the Local Landmark.

RELOCATION – Movement of a Local Landmark, or any part thereof, from one Site to another location. The relocated Local Landmark shall remain a Local Landmark, unless determined otherwise during the CLR review process.

REPAIR – The act or process of restoring a decayed or damaged Site, Building, Structure, or

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Object to a sound condition. Materials and design elements should be compatible with the style of the Local Landmark.

REPLACEMENT – The act of replicating any exterior architectural feature in order to substitute for an existing deteriorated or extensively damaged architectural feature. Materials and design elements should be of a compatible style to the Local Landmark.

RESTORATION – The act or process of accurately reproducing the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period that is selected. Materials and design elements should be of a compatible style to the Local Landmark.

SITE – The place where a significant event or pattern of events occurred. It may be the location of prehistoric or historic occupations or activities that may be marked by physical remains; or it may be the symbolic focus of a significant event or pattern of events that may not have been actively occupied. A Site may also be the location of a ruined Building, Structure, or Object, or the location itself possesses cultural, social, economic, political, architectural or archeological history of the Township or elsewhere.

STRUCTURE – A construction, regardless of its state or condition of disrepair, for the purposes of occupancy, use, or ornamentation, having a fixed location on, above, or below the surface of land. Structures include, but are not limited to, Buildings, flagpoles, fences, gazebos, pergolas, canopies, permanent signs, walls, paved parking areas, and driveways.

§ 295-2203. DESIGNATION OF LOCAL LANDMARKS.

- A. For the purpose of this Chapter, any Building, Structure, Site or Object, located outside of a designated Historical District may be designated a Local Landmark and entered into the Cheltenham Register of Historic Properties provided that it meets at least one of the following criteria:
1. Is associated with events that have made a significant contribution to the broad patterns of our history; or
 2. Is associated with the lives of significant persons in our past; or
 3. Embodies the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
 4. Has yielded or may be likely to yield, information important in history or prehistory.

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B. **Adding or removing a property from the Cheltenham Register of Historic Properties.** A property may be added to the Register if found to meet one of more of the Criteria for Designation, or removed from the list if it does not qualify under one or more of the Criteria, according to the following process and subject to legislative action by the Board of Commissioners;

1. **Nomination and Evaluation by Historical Commission.** The **Historical Commission**, acting of its own volition or at the request of the **Planning Commission**, the Board of Commissioners or any Township resident, shall determine whether a building, structure, object or site meets one or more Criteria for Designation as a Local Landmark.
2. The Planning Commission shall hold at least one (1) public meeting to receive public comments on the nomination.
3. The Planning Commission shall, within 45 days of receiving a nomination, transmit its findings, including relevant historical and/or architectural information, applicable Criteria for Designation, photographs and public comments received at the meeting, to the Board of Commissioners for review. A copy of the nomination will also be submitted to the Historical Commission.
4. **Review and Adoption by the Board of Commissioners.** The Board of Commissioners shall consider the recommendations of the Planning Commission and make a determination.

§ 295-2204. **CERTIFICATE OF LANDMARK REVIEW REQUIRED.**

No Demolition or Relocation shall be permitted without issuance of a permit. No permit for the Demolition or Relocation of any Local Landmark shall be issued without the applicant for such permit first obtaining a **Certificate of Landmark Review** under the review procedure required by this Chapter. If the Township becomes aware that any person or entity is demolishing or relocating a Local Landmark without a permit, the work shall be stopped upon issuance of an order of the Township until a permit granted hereunder has been issued. If the Demolition involves less than demolition of the entire Local Landmark, that is, the work may be a Demolition only under Subsection 2(a), (b) or (c) of the definition of Demolition, and therefore requires a determination by the Board of Commissioners, such question shall be submitted to the Board of Commissioners before work continues and/or a permit is required. If a Local Landmark proposed for Demolition or Relocation is located inside an Historical District, the provisions of Article XVIII of this Chapter shall apply.

§295-2205. **PLANNING COMMISSION.**

The Planning Commission shall be responsible for reviewing and recommending to the Public Works Committee of the Board of Commissioners actions to take regarding applications for Demolition or Relocation of Local Landmarks.

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The Board of Commissioners shall designate a member of the Historical Commission to serve as an ex officio, non-voting participant at the Planning Commission meetings at which applications for Demolition or Relocation of Local Landmarks will be discussed.

§295-2206. PUBLIC WORKS COMMITTEE OF THE BOARD OF COMMISSIONERS.

The Public Works Committee of the Board of Commissioners shall be responsible for reviewing and recommending to the Board of Commissioners actions to take regarding applications for Demolition or Relocation of Local Landmarks.

§295-2206. REVIEW PROCEDURE OF CERTIFICATE OF LANDMARK REVIEW APPLICATIONS FOR DEMOLITION OR RELOCATION OF LOCAL LANDMARKS.

- A. Prior to or at the time of submission of a permit application for the Demolition or Relocation of a Local Landmark, the applicant shall provide to the Department the following information, plans, photographs, and other supporting materials:
 1. Certificate of Landmark Review Application in the form from time to time in effect.
 2. Copy of deed showing ownership of property.
 3. 4" x 6" (or larger) labeled photographs showing:
 - a. All sides of all existing Buildings, Structures and Objects.
 - b. Site surrounding existing Buildings, Structures and Objects.
 - c. Adjacent Buildings, Structures, Objects and Sites including adjacent properties and across streets and rights-of-way.
 4. If the application relates to Demolition involving less than the entire Local Landmark, scaled drawings indicating all proposed changes, as applicable:
 - a. Site plan, including adjacent Sites and buildings;
 - b. Floor plans;
 - c. All elevations;
 - d. Details of all proposed work and new exterior elements (the latter, if applicable); and
 - e. Samples or catalog cuts of any new materials to be used.

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5. Any additional information deemed necessary by the Planning Commission or Board of Commissioners, in order to make a sound decision, after an initial consultation or review. This information may be required at any time before the final action taken on the permit application.
 6. A signed letter of authorization permitting a designated representative to present the project on behalf of the applicant, if applicable.
- B. The Department shall notify the Board of Commissioners and Planning Commission that a complete application for a **Certificate of Landmark Review** for a Local Landmark has been filed. The Township shall notify the applicant of the time and place of the next Planning Commission meeting when the application will be discussed, which shall occur no less than forty (40) days after the Department has determined that the application is complete.
- C. The applicant, or designated representative, shall appear to explain and present the application to the Planning Commission. If the applicant, or designated representative, does not attend the scheduled meeting, the application shall be tabled and will be heard at the next regularly scheduled meeting of the Planning Commission. If the applicant, or designated representative, does not attend the second scheduled meeting, without prior consent and approval from the Director of the Department, the Planning Commission can take action on the application.
- D. The Planning Commission and the Public Works Committee may recommend disapproval and the Board of Commissioners may deny the application upon finding Preservation of the Local Landmark is feasible. In determining whether Preservation is feasible, the following factors, among such others as the Planning Commission, Public Works Committee and/or Board of Commissioners deem appropriate, shall be considered:
1. Whether the Local Landmark is representative of a specific period of significance or is of a design or is of cultural or historic significance that is integral to the Township's history.
 2. Whether a Structure can be preserved by protecting its location from disturbance.
 3. Whether measures, such as Rehabilitation, Reuse, or Restoration, can result in Preservation of a Structure.
 4. Whether the steps necessary for Preservation of a Structure will create an economic hardship, as determined by **§295-2211**.
 5. Whether the measures taken to preserve a Structure are long-term in nature.

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- E. In determining whether Preservation of a Structure at another location is feasible, the following factors, among such others as the Planning Commission, Public Works Committee or Board of Commissioners deem appropriate, shall be considered:
1. Whether a Structure can be moved and still retain its historic significance.
 2. Whether a Structure is stable enough to permit Relocation.
 3. Whether it is feasible and practical to relocate a Structure without creating an economic hardship, as determined by **§295-2211**.
 4. Whether Relocation would result in the long-term preservation of a Structure.
- F. The Planning Commission will review the application and evaluate the probable impact of the Demolition or Relocation of a Local Landmark. The Demolition or Relocation will be considered based on the factors in subparagraph (D) above and subparagraph (E) if applicable, and the integrity of the Structure, the impact on the Sites immediately adjacent to the proposed Demolition or Relocation Site and the impacts throughout the immediate neighborhood or area. The Planning Commission shall first consider whether Preservation of the Structure in place is feasible, or failing that option, whether Preservation is feasible at another location.
- G. Only in the case of Demolition which is not the razing, removal or demolition of the entire Local Landmark, this subparagraph shall apply. The Planning Commission, on the basis of the information received at the meeting and from its general background and knowledge, shall indicate to the applicant the changes in plans and specifications, if any, which, in the opinion of the Planning Commission, would protect the distinctive character of the Local Landmark. The applicant shall be granted the opportunity to work with the Planning Commission to find an appropriate use for the property, to help find a buyer for the property, or to obtain grant or loan funding to complete rehabilitation work.
- H. Upon recommendation for approval or disapproval of the application by the Planning Commission, the application will be forwarded to the Publics Works Committee of the Board of Commissioners for review at its next regularly scheduled meeting. The Public Works Committee shall then submit to the Board of Commissioners, in writing, its recommendation concerning the issuance of a **Certificate of Landmark Review** authorizing a permit for the Demolition or Relocation.
- I. If the Board of Commissioners denies the application for **Certificate of Landmark Review**, it shall do so in writing, and copies shall be given to the applicant. Only in the case of Demolition of less than the entire Local Landmark, the disapproval shall indicate what changes in the plans and specifications would meet the conditions for protecting the distinctive historical character of the Local Landmark. Upon receipt of the written

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disapproval of the Board of Commissioners, the Director of the Department shall deny the application for a building permit and so advise the applicant. The applicant may appeal the disapproval as provided by law.

- J. The procedures required above for the granting of a permit for Demolition or Relocation of a Local Landmark may be suspended in cases where the property has been determined to be imminently dangerous, as determined by the Department and the Fire Marshal. In the case of an imminently dangerous Local Landmark, the Department and the Fire Marshal shall first consider the use of barriers, bracing and/or other alternatives to razing the Structure. If time permits, the Department and the Fire Marshal shall consult with the Township Manager and, if feasible, the Board of Commissioners, in an emergency meeting. The Township shall be responsible for notifying all property owners within five-hundred (500) feet of the designated site of the Demolition/Relocation application.
- K. The Township will be responsible for notifying the Township Historical Commission at least thirty (30) days prior to public review of the application by the Planning Commission, so that the Commission may provide advisory comments regarding the application.

§295-2207. TIME LIMITATIONS.

The Township shall have one hundred twenty (120) calendar days to act on a complete application for a **Certificate of Landmark Review**, from the date the application is deemed complete by the Township including notification in writing of the pendency of the application to both the Board of Commissioners and the Planning Commission. If no action has been taken after 120 days, such application shall be deemed to have been approved; and the issuance of any permit dependent upon the **Certification of Landmark Review** shall be so authorized by the Township. This time limit may be waived or extended at any time by mutual consent of the applicant and the Board of Commissioners.

§295-2208. EXPIRATION.

- A. Any **Certificate of Landmark Review** issued pursuant to the provisions of this Article shall expire one (1) year from the date of issuance, except that under the following circumstances the **Certificate of Landmark Review** shall continue to be in effect:
 - 1. The authorized work is commenced within said one-year time period and is continuing with reasonable diligence, and
 - 2. An active building permit for the authorized work is on file with the Township.

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§295-2209. WHEN A CERTIFICATE OF LANDMARK REVIEW IS NOT REQUIRED.

A Certificate of Landmark Review is not required for the routine repair, maintenance or replacement in kind of any exterior elements or features of any Local Landmark. If the work involves less than the type or amount of work which would make it a Demolition as defined above involving less than entire demolition, and the Director of the Department determines that the proposed work is routine repair or maintenance or replacement in kind, the applicant may then make application for a building permit, if applicable.

§295-2210. DOCUMENTATION OF LOCAL LANDMARK PRIOR TO DEMOLITION OR RELOCATION.

If the Township issues a permit for the Demolition or Relocation, the Board of Commissioners shall require the applicant to provide documentation of the Local Landmark proposed for Demolition or Relocation. Such documentation may include photographs, floor plans, copies of deeds, scaled site plans, archeological survey, summary descriptions, maps, and any other comparable form of documentation stipulated by the Board of Commissioners, in order to provide a record of the property for future generations. Copies of documentation shall be provided to the Department, the Cheltenham Township Historical Commission, and to any other research institution or document repository deemed appropriate by the Board of Commissioners, prior to the approved Demolition or Relocation.

§295-2211. CRITERIA AND PROCEDURE FOR ESTABLISHING ECONOMIC HARDSHIP.

- A. No demolition permit involving a claim of economic hardship shall be issued by the Township unless the applicant provides evidence of and the Board of Commissioners adopts findings that demonstrate all the following conditions are true:
1. The property is incapable of earning a reasonable return in its current or rehabilitated state, regardless of whether the return represents the most profitable return possible.
 2. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which will result in a reasonable return.
 3. Earnest and reasonable efforts to find a purchaser interested in acquiring the property and preserving have failed.
- B. Demonstration of an economic hardship shall not be based on or include any of the following circumstances:
1. Willful or negligent acts by the owners;
 2. Purchase of the property for substantially more than market value;
 3. Failure to perform normal maintenance and repairs;

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4. Failure to diligently solicit and retain tenants;
 5. Failure to provide normal tenant improvements;
 6. Failure to accept an offer of purchase of the property at fair market value.
- C. **Procedure for Establishing Economic Hardship.** In a case where applicant intends to seek approval on the basis of economic hardship, the following material shall be submitted as part of the application:
1. Form of ownership or operation of the property, whether sole proprietorship, for-profit or non-profit corporation, limited partnership, joint venture, or other method;
 2. The amount paid for the property, the date of purchase and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased;
 3. Remaining balance on any mortgage or other financing secured by the property;
 4. Estimated market value of the property both in its current condition, and after completion of the proposed demolition, relocation, or removal, to be presented through an appraisal by a qualified professional expert;
 5. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of the structure and its suitability for rehabilitation;
 6. An estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility or reuse of the existing structure on the property;
 7. The assessed value of the land and improvements thereon according to the two most recent assessments;
 8. Real estate taxes for the previous two years;
 9. Annual debt service, if any, for the previous two years;
 10. All appraisals obtained within the previous two years by the owner or applicant in connection with his purchase, financing or ownership of the property;
 11. All listing of the property for sale or rent, price asked and offers received, if any; and
 12. Any consideration by the owner as to profitable adaptive uses for the property.
- D. Procedure for establishing economic hardship in income-producing properties. In addition to the information required in **§295-2211.C.** above, applications for demolition

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of income producing properties shall also include the following:

1. Annual gross income from the property for the previous two years;
2. Itemized operating and maintenance expenses from the previous two years; and
3. Annual cash flow, if any, for the previous two years.

§295-2212. DEMOLITION BY NEGLECT.

Demolition by Neglect shall be a violation of the provisions of this Chapter and shall not be grounds for issuance of a **Certificate of Landmark Review** or permit for Demolition or Relocation, and shall be subject to the violation provisions and penalties provided for in this Chapter. In addition, unoccupied Buildings shall be tightly sealed, weatherproofed, fenced or otherwise protected, and their utilities shall be shut off for safety, violation of which shall be subject to the violation provisions and penalties provided for in this Chapter. Local Landmarks are also subject to all applicable property maintenance ordinances, including the International Property Maintenance Code, International Fire Code, International Building Code, Nuisances, and the Vacant Building Registry Ordinance.

§295-2213. VIOLATIONS AND PENALTIES.

Any person, partnership, corporation, unincorporated association or other entity who or which shall violate any of the provisions of this Article shall upon adjudication thereof in a civil enforcement proceeding commenced by the Township be subject to a civil penalty not to exceed \$1,000 per violation, plus costs of prosecution. Each day that such violation shall occur shall constitute a separate violation.

§295-2214. APPEALS.

The decisions of the Board of Commissioners under this Article shall be subject to appeal pursuant to 2 Pa.C.S. §751, *et seq.* known as the Local Agency Law, as amended.