

City of Dover Code of Ordinances
Appendix B: Zoning Ordinance

Article 3 - District Regulations

Section 21. - Historic district (H).

21.1 *Purpose.* The purpose of this historic district regulation is to preserve and enhance that unique character and value of the old portion of Dover as an area of special charm and interest. It is particularly intended that the regulations prevent, in the historic district, any change of conditions that would be deemed to be a disfigurement or degradation of the present unique visual and architectural qualities of the district.

21.2 *[Use and bulk requirements.]* In the historic district, use[s] and bulk shall be governed by those provisions of this ordinance related to the zone designation of each property, except those aspects of building height, bulk and setback that are subject to architectural review as set forth in article 10, section 3 of this ordinance.

21.3 *[Architectural review certificate.]* An architectural review certificate shall be required for the demolition, construction, reconstruction, alteration or restoration of any new or existing structure or where general exterior repairs are made within the historic district, as provided in article 10, section 3 of this ordinance.

21.4 *[Amendments, supplements and repeals.]* The city council shall not take any action to amend, supplement, or repeal the historic district in accordance with article 10, section 5, amendments, without a report by the historic district commission in accordance with article 10, section 3.3, unless the historic district commission fails to render such a report within 75 days after its regularly scheduled meeting following referral by the city council.

21.5 *[Signs.]* Signs shall meet the regulations found in article 5, section 4, supplementary sign regulations.

(Ord. of 3-24-1986; Ord. of 7-26-1993; Ord. of 2-12-2001)

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Article 10 – Planning Commission

Section 3. - Historic district commission and architectural review.

3.1 *Historic district commission established.*

3.11 *Creation and purpose.* There shall be a historic district commission for the purpose of assisting the planning commission and city planner in reviewing applications for architectural review certifications as specified in subsection 3.2; and for making recommendations for designation of historic district zones; and for establishing guidelines for the preservation and conservation of historic district zones; and for advising other officials and departments in the City of Dover in matters concerning historic preservation; and for reviewing all proposed National Register nominations in the City of Dover; and for acting as a liaison on behalf of the City of Dover to individuals and organizations concerned with historic preservation; and for carrying out programs of historic preservation education in the City of Dover.

3.12 *Appointment.* The commission shall consist of five members nominated by the mayor and approved by the city council, who are residents of the City of Dover and who have demonstrated special interest, experience, or knowledge in history, architecture, or historic preservation. Two of the members, to the extent available, shall be professional members representing the professions of architecture, history, archaeology, planning, historic preservation or related disciplines. At least two members shall be residents of the district, and at least one shall represent the business within the district.

3.13 *Term.* The members of the commission shall serve for three-year staggered terms. Vacancies shall be filled within 60 days in accordance with subsection 3.12.

3.14 *Organization.* The commission shall meet at least four times per year in a place that is advertised in advance and open to the public and shall keep minutes of its meetings that are available to the public. All review decisions shall be made in public. The commission shall establish bylaws for its general procedure, which shall include a section addressing conflicts of interest. The commission shall produce an annual report of its activity that is kept on file for public review with the city planning office.

3.2 *Architectural review certification.*

3.21 *Effect of architectural review certificate.* No building permit or certificate of occupancy may be issued for any structure in the historic district until an architectural review certificate is issued as required under article 3, section 21, subsection 21.3 for the historic district.

3.22 *Architectural review certification by the city planner.*

(A) An architectural review certificate for specific classes of building permits, including fences, signs, siding, window and door replacement, roofing, the addition or replacement of decorative features, minor demolition, residential additions, and other construction of a minor nature, may be issued by the city planner, after a review and determination that the proposed construction is in general accordance with the standards set forth in subsection 3.25.

(B) The city planner may refer any permit application for demolition or construction in the historic district for consultation with commission.

(C) All decisions of the city planner pursuant to this subsection shall be documented on the building permit. When the city planner grants a conditional approval under this section, all conditions of approval shall be set forth in writing on the building permit. In the event of a denial, the reasons for such denial shall be documented in a written notice of decision which shall identify all elements of the application found to be contrary to the provisions or intent of this section.

(D) An applicant may appeal the decision of the city planner to the historic district commission and such appeal shall be considered as an architectural review certification application to the historic district commission and shall meet all of the requirements set forth in subsection 3.23.

3.23 *Architectural review certification by the historic district commission.*

(A) The historic district commission shall issue architectural review certificates for the construction or demolition of single-family and two-family homes, and nonresidential structures or additions involving a gross floor area of 3,000 square feet or less, after review of the proposed construction and after a determination that the construction is in general accordance with the standards set forth in subsection 3.25 below.

(B) All applications to the historic district commission for architectural review certification shall be subject to the procedures set forth in subsection 3.26.

(C) All decisions of the historic district commission pursuant to this subsection shall be formalized in a written notice of decision. When the commission grants a conditional approval under this subsection, all conditions of approval shall be set forth in writing in the notice of decision. In the event of a denial, the notice of decision shall state the reasons for denial and shall identify all elements of the application found to be contrary to the provisions or intent of this subsection.

(D) An applicant may appeal the decision of the historic district commission to the planning commission, and such appeal shall be considered as an architectural review certification application to the planning commission and shall meet all of the requirements set forth in subsection 3.24 and subsection 3.26.

3.24 *Architectural review certification by the planning commission.*

(A) The planning commission shall issue architectural review certificates referred or appealed to it, upon review of the recommendations of the historic district commission and upon a determination that the proposed construction is in accordance with the standards set forth in subsection 3.25.

(B) All applications to the planning commission for architectural review certification shall be subject to the procedures set forth in subsection 3.26.

(C) All decisions of the planning commission pursuant to this subsection shall be formalized in a written notice of decision. When the planning commission grants a conditional approval under this subsection, all conditions of approval shall be set forth in writing in the notice of decision. In the event of a denial, the notice of decision shall state the reasons for denial

and shall identify all elements of the application found to be contrary to the provisions or intent of this subsection.

3.25 *Architectural review standards.*

(A) An architectural review certificate may be issued if it is found that the architectural style, general design, height, bulk and setbacks, arrangement, location and materials and structures affecting the exterior appearance are generally in harmony with neighboring structures and complementary to the traditional architectural standards of the historic district as set forth in the historic district design guidelines and standards adopted by the planning commission and as set forth in the United States Secretary of the Interior's Standards for Rehabilitation.

(B) The city planner, historic district commission or planning commission shall not consider normal maintenance and repair (see Definitions, article 12), interior arrangement, or building features not subject to public view.

3.26 *Procedures for an architectural review by the historic district commission and/or planning commission.*

(A) *Architectural preapplication meeting.* Prior to action on any application for an architectural review certificate, the applicant shall meet in person with the city planner or his delegated representative. The purpose of such conference shall be to discuss the proposed construction or other action requiring the certificate in order to determine what information is useful in the determination of conformity with the provisions and intent of the historic district regulation as expressed in this article.

(B) *Application and fee.* The application to the historic district commission for an architectural review certificate and related information shall be submitted to the city planner at least 30 days prior to the historic district commission meeting at which review is requested and shall be accompanied by a fee as provided for in Appendix F—Fees and Fines.

(C) *Public hearing.* Prior to the review and action on an architectural review certification, the historic district commission shall hold a public hearing subject to the following public notification procedures:

- (1) The applicant shall advertise the public hearing newspaper of general circulation at least 15 days prior thereto.
- (2) The applicant shall notify, by mail, all property owners within 200 feet of the extreme limits of the subject property as their names appear on the municipal tax record at least 15 days prior thereto.
- (3) The applicant shall post a notice outlining the date, time, place, and nature of the hearing in a conspicuous location on the property. Such notice shall be designed in accordance with standards set forth by the planning commission.
- (4) The applicant shall provide the planning office with a copy of the notice, verification of newspaper publication, a date-stamped photo of the property posting, and post office mail receipts indicating date of mailing for all letters on or before the meeting date.
- (5) Said notices shall state the date, time, and place of the hearings before the historic district commission, a brief description of the

project and shall state that a copy of the application and plan is on file with the planning office for public review.

(6) If the planning commission is reviewing a project in accordance with other sections of this article, then the public hearing notice on those applications must also give notice of architectural review certification.

(D) *Application information.* The applicant shall provide such information and documents listed below which will satisfactorily illustrate the proposed action as indicated in the architectural preapplication meeting required in subsection 3.26(A):

(1) All plan elements required in subsection 2.5.

(2) Plans and specifications indicating existing and proposed development, including structures, architectural elevation drawings, trees and any other landscaping, existing and proposed, including the general design, location and orientation of structures in relation to curb line, right-of-way line and neighboring buildings, colors, and materials to be used on exterior surfaces, detailed plans for any signs, photographs of the existing site and neighboring buildings, and such other information as will enable the historic district commission or planning commission to determine conformity with the ordinance.

(E) *City planner report.* For each application to the planning commission the city planner shall issue a report to the planning commission including comments from other agencies detailing how the application conforms to the requirements of the zoning ordinance and other provision of city and state codes. This report shall not be deemed to represent a comprehensive list of all city and state code requirements. The city planner shall transmit copies of the proposed site development plan and the city planner's report at least seven days prior to the date of the meeting at which approval of the site development plan is to be requested.

(F) *Historic district commission action.* The historic district commission shall act to review and render a recommendation to approve any such application within 45 days of transmittal to the commission or within such additional time as may be consented to by the applicant. The recommendation of the historic district commission shall be forwarded to the planning commission and acted upon by the planning commission in conjunction with action on the associated site development plan. If a site development plan application is not filed in accordance with the provisions of subsection 2.4 of this article within one year of recommendation, the recommendation shall expire. The historic district commission may grant a one-year extension of its recommendation upon written request by the applicant. Such request shall be made in writing to the planning office at least thirty days prior to the expiration of the historic district commission's recommendation.

(G) *Substantial amendments.* Substantial amendments to an application or an architectural review certificate shall be acted upon in the same manner as the original plan.

(H) *Expiration of architectural review certification issued by the historic district commission.*

- (1) Architectural review certification approval shall expire on the last day of the 12th month after the date of approval if construction of the work authorized or use permitted has not started or unless an extension of time is applied for by the applicant and granted by the historic district commission. Approval shall also expire if the construction of work authorized has stopped for a period of one year unless an extension of time is applied for and granted by the historic district commission.
- (2) Request for extension of approval shall be made no later than 30 days prior to the final approval expiration date. Upon receipt of such request, the matter shall be considered at the next regularly scheduled meeting of the historic district commission.
- (3) In considering a request for an extension of approval, the historic district commission shall consider, but not be limited to, the following:
 - (a) Whether the project has been delayed for reasons beyond the control of the applicant, excluding economic or financial reasons.
 - (b) Whether the applicant has made substantial progress toward obtaining final approvals.
 - (c) Whether there have been any significant changes in the surrounding neighborhood.
 - (d) Whether there has been any related amendments to the zoning map or text, or the comprehensive plan, or if any waivers or variances have been granted.
- (4) Requests for extensions shall be submitted in writing to the planning office.
- (5) Under no circumstances shall the historic district commission grant extensions beyond 24 months from the date of first approval.

3.3 *Historic district amendments.*

3.31 *Historic district commission review required.* Any motion or petition to amend, supplement, or repeal a historic district by the city council in accordance with section 5, Amendments, shall require a report by the historic district commission as set forth in article 3, subsection 21.4.

3.32 *Review criteria for placing individual structures in a historic district.* The historic district commission may recommend that an individual structure or property be placed in an existing contiguous historic district or be placed in a historic district specifically created for the property or structure upon considering the following criteria and factors:

- (A) Significant value as part of the historical, cultural, artistic, social, ethnic or other heritage of the nation, state or community;
- (B) Association with an important person or event in national, state, or local history.
- (C) Representative of the distinguishing characteristics of an architectural type inherently valuable for the study of a period, style, craftsmanship, method of construction or use of indigenous material;

- (D) Notable work of a master builder, designer, architect, or artist whose individual genius has influenced an era;
- (E) The desire of the owner to have the property designated;
- (F) Increased potential of economic or community development.

3.33 *Review criteria for amendments or creation of new historic districts.* The historic district commission may recommend amendments to an existing historic district, recommend repeal of an existing historic district or recommend the creation of a new historic district upon considering the following criteria:

- (A) Any criteria listed in subsection 3.32.
- (B) Distinctive character or homogeneity of architectural design or dates of construction throughout the area.
- (C) Identifiable by clear and distinctive boundaries.
- (D) Repetition of distinguishing architectural or land use characteristics throughout the area.

3.34 *Public hearing required.* For all proposed amendments to the boundary of the historic district, the historic district commission shall hold a public hearing subject to the following public notification procedures:

- (A) The planning office shall advertise the public hearing in a newspaper of general circulation at least 15 days prior thereto.
- (B) The planning office shall notify, by mail, all directly affected property owners and all property owners within 200 feet of the extreme limits of the properties proposed for addition to or removal from the district as their names appear on the municipal tax record at least 15 days prior thereto.

3.4 *Demolition by neglect.*

3.41 *Responsibility of property owners.* Property owners of properties within the historic districts shall not allow their buildings to be demolished by neglect (see Definitions, article 12) by failing to provide ordinary maintenance or repair.

3.42 *Responsibility of the historic district commission.* The historic district commission shall monitor the condition of historic properties and existing buildings in the historic district to determine if they are being demolished by neglect by failing to provide ordinary maintenance and repair (see Definitions, article 12). In the event that the commission determines a demolition by neglect is occurring, it shall carry out the following:

- (A) Determine and set forth steps required to remedy the situations or defects.
- (B) Direct the city planner to inform the property owners of its findings, determination, and recommended remedies.
- (C) In the event that the property owners fail to commence work within the reasonable time allotted by the commission, the commission may direct the building inspector to begin proceedings under chapter 22, buildings, and building regulations, article XI, dangerous buildings, of the Code of Ordinances for the City of Dover to bring about the repair or demolition of the building.

3.43 *Responsibility of the city planner.* The city planner shall notify the historic district commission of buildings within the historic district that have been referred to him by the building inspector that meet the definition of dangerous buildings under the provisions of chapter 22 Buildings and Building Regulations, article XI Dangerous Buildings, of the Code of Ordinances for the City of Dover. In such cases the commission shall determine if the building is being demolished by neglect. Before referring a property to the commission for consideration as demolition by neglect, the city planner shall give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building, as shown by the records of the recorder of deeds of the county, to appear before historic district commission at the time, date and location specified.

(Ord. No. 2011-14, 8-8-2011)

Section 4. - Development information requirements.

4.1 In order to more effectively evaluate the probable impact of proposed development and thereby to carry out the purposes of this ordinance when making decisions and recommendations regarding development proposals, the planning commission, historic district commission, or city planner may adopt a standard set of information requirements, which may be updated from time to time as necessary.

4.2 The information requirements shall be administered by the city planner and shall be a part of submission requirements for all applications to the planning commission.

(Ord. No. 2011-14, 8-8-2011)

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Excerpt of Definitions associated with Historic District activities.

Article 12 - Definitions

Unless otherwise expressly stated, the following terms shall, for the purpose of this ordinance, have the following meanings. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "person" includes a corporation, association or partnership, as well as an individual. The word "lot" includes the word "plot." The term "occupied" or "used," as applied to any building, shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used":

Accessory building: A building or use clearly incidental or subordinate to, and customarily in connection with, the principal building or use on the same lot.

Applicant: A landowner or developer, as hereinafter defined, who has filed application for development, including his heirs, successors and assigns.

Architectural review certificate: A signed and dated document indicating the approval of the City of Dover Planning Commission, or the historic district commission, or city planner upon the authority of the historic district commission, for alteration, construction, relocation, or demolition within the historic district.

Building: Any combination of materials forming a construction. The term "building" is not intended to include underground construction which permits the use of the ground above as if no construction existed. The term "building" shall include the term "structure," as well as the following:

- (a) Signs;
- (b) Fences;
- (c) Walls, except retaining walls projecting above the ground not more than three feet at the higher ground level and not more than 6½ feet at the lower ground level;
- (d) Radio and television antennae, except for such antennae installed on the roof of a building and extending not more than 15 feet above the highest level of the roof of such building; and
- (e) Porches, carports, bins and other similar structures;
- (f) All areas used for outdoor display and storage of products for sale on the site for more than 14 consecutive days or 21 days in a calendar year. Excluded from this definition are approved motor vehicle, boat and trailer sales establishments; contractors' yards; nurseries and landscaping material sales (where the sale of these materials is the primary use on the lot); wholesale building supply stores and lumber yards; or similar uses.

Demolition by neglect: Improper maintenance or lack of maintenance of a building, structure or object which results in substantial and widespread deterioration of the building, structure or object which threatens the likelihood of preservation and which presents a threat to the public safety, health and welfare of the immediate community.

Historic district: The geographic areas of Dover that have been designated by the City of Dover, and graphically illustrated on the official zone map of the City of Dover, as possessing a significant concentration of properties, buildings, structures or objects associated with and representative of the historical development of Dover and which meet at least one of the following criteria:

- (a) Exemplifies or reflects the broad cultural, political, economic, or social history of Dover, Kent County, the State of Delaware, or the United States of America; or
- (b) Is associated with the lives of persons of historic importance or with events of historic significance to Dover, Kent County, the State of Delaware, or the United States of America; or
- (c) Embodies distinguishing architectural characteristics which are invaluable resources for the study, understanding and appreciation of periods, styles, society, methods of construction, craftsmanship and the use of indigenous materials; or
- (d) Represents the notable work of master builders, designers or architects whose designs, construction and craftsmanship have been recognized as distinctive and whose work has influenced the period of time in which they lived.

Historic district design guidelines and standards: The document adopted by the City of Dover Planning Commission as being the source reference document for construction and maintenance of buildings, structures and additions within the Dover Historic District and which is the guiding document for the historic district commission and city planner in their review of applications for architectural review certification.

National Register of Historic Places: A federal list of cultural resources worthy of preservation, authorized under the National Historic Preservation Act of 1966 as part of a national program to coordinate and support public efforts to identify, evaluate, and protect the nation's historic and archaeological resources. The national register program is administered by the state historic preservation office and by the National Park Service under the department of the interior.

Ordinary maintenance and repair: Work performed to prevent deterioration of a building, structure or object, or any part thereof, by restoring the building, structure or object as nearly as practical to its original condition prior to such deterioration or damage by using replacement materials and applications, wherever possible, of the kind used in original construction.

Public view: That which can be seen readily from a public street, public building or public property, excluding views from alley rights-of-way.