

ORDINANCE NO. A09-3

**AN ORDINANCE AMENDING THE BRIDGEVILLE LAND USE AND
DEVELOPMENT CODE BY PROVIDING REGULATIONS FOR THE OVERLAY
ZONE KNOWN AS “HISTORIC DISTRICT (HD)”**

WHEREAS, the Commissioners of Bridgeville have the power to preserve and protect historic, architectural, cultural, archaeological, and aesthetic resources for the general welfare of the citizens; and

WHEREAS, the Commissioners of Bridgeville have the power to identify, designate and regulate a historic zoning district and preserve the historic, architectural, cultural and aesthetic significance of historic building and sites within this district; and

WHEREAS, the historical heritage of Bridgeville is a public treasure that is recognized as a value to be protected and included in the Town’s Comprehensive Plan; and

WHEREAS, the Commissioners of Bridgeville have the power to promote community pride through the preservation of the Town’s unique historical past; and

WHEREAS, the Commissioners of Bridgeville are of the opinion that it promotes the health, safety, morals, beauty and good appearance of the Town to provide for historic preservation by creating a HD Historic District and promulgating regulations therefore.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE
COMMISSIONERS OF BRIDGEVILLE, AS FOLLOWS:**

Section 1. Amend the Land Use and Development Code, Chapter 234, by repealing §234-40 as it currently appears and substituting in lieu thereof the following:

**ARTICLE IX
Overlay Zoning Districts**

§ 234-40. HD Historic District.

§ 234-40.1. Purpose; definitions.

- A. These regulations are applicable to structures used for residential purposes.
- B. The purpose of this article shall be to accomplish the following:
 - (1) To assist in preserving the historic character and the historic fabric of the Town of Bridgeville;
 - (2) To safeguard the heritage of the Town by preserving the elements which reflect the cultural, social, economic, political or architectural history of the Town;
 - (3) To promote the use and preservation of the values as established by the Bridgeville Comprehensive Plan;
 - (4) To recommend alteration or new construction in keeping with the Historic District;
 - (5) To recommend restoration rather than demolition of contributing structures or historic properties;
 - (6) To encourage the proper maintenance, preservation and, when necessary, alteration of structures in the HD Historic District.

In this article, the following definitions shall be applicable unless the context clearly indicates to the contrary:

ALTERATION(S) – Any activity requiring a building permit, the approval of the Administrator, and/or any change in the exterior appearance (other than maintenance) or structural change, including but not limited to construction, reconstruction, renovation, modification, alteration, moving or demolition of a noncommercial structure within the HD Historic District of the Town of Bridgeville.

COMMERCIAL STRUCTURE/SITE – Any structure or site which is currently used primarily for commercial activities and not primarily for residential use.

COMMISSION – The Planning and Zoning Commission of the Town of Bridgeville.

CONTRIBUTING STRUCTURES – Structures that are judged to add to the HD Historic District's sense of time, place and historic development under criteria established by the Planning and Zoning Commission, including historical significance, integrity and context. Such structures are so designated because they meet an architectural test (i.e., compatible with surrounding buildings or represent an architectural style identified with Bridgeville's history) and a longevity test (more than 50 years old). No buildings individually listed on the National Register of Historic Places or listed as a historic property within or without the designated HD Historic District, or those buildings that may be candidates or are currently pending for such status, will be approved for demolition unless deemed by the Administrator to be a public hazard.

DEMOLITION – Destruction, razing, commencement of the work or steps of total or partial destruction with the purpose of completing the same, includes any willful neglect in the maintenance and repair of a structure that does not result from a financial inability to maintain and repair the structure and threatens to result in substantial deterioration of the exterior features or the structural integrity of the building.

HD HISTORIC DISTRICT – An overlay zoning district on the Town of Bridgeville Zoning Map identified and designated as having historic importance and further included in the Comprehensive Plan, as each may from time to time be amended.

HISTORIC PROPERTIES – Noncommercial structures and sites, public rights-of-way or areas designated by Town Commission as having importance in the history of the Town of Bridgeville.

IN PUBLIC VIEW – That portion of a structure that is visible, or could be visible but for a fence or landscaping, from a public right-of-way or public or private street.

MAINTENANCE/REPAIR – Ordinary repairs and maintenance, including design, materials, features or finishes of a structure which do not alter the exterior appearance of the structure and have no material effect on the historical, archaeological or architectural significance of the structure. Paint

color is included in this definition regardless of the effect on exterior appearance.

NONCONTRIBUTING STRUCTURE – Structures that do not add to the HD Historic District's sense of time, place and historic development. Such structures are so designated because they are not listed or pending to become listed on the National Register of Historic Places or do not meet either an architectural test (i.e., compatible with surrounding buildings or represent an architectural style identified with Bridgeville's history) or longevity test (more than 50 years old).

RESIDENTIAL STRUCTURE – Any structure or site currently used primarily for residential living purposes.

STRUCTURE – A combination of materials to form a construction that is stable, including but not limited to buildings, sheds, outbuildings, fences.

§ 234-40.2. Procedures.

- A. Before the construction, alteration, reconstruction, moving or demolition of any dwelling, residence or related structures on property within the HD Historic District that would affect the exterior appearance of a structure visible or intended to be visible from an adjacent public way, the owner, agent, or representative proposing to construct or change shall file with the Administrator of the Town of Bridgeville an application to construct, build, alter, reconstruct, move, demolish or make an addition.
- B. Actions not requiring review by the Commission. Ordinary repairs and maintenance that do not constitute a change to the appearance of the structure include:
 - (1) Repair of existing windows and doors, using the same material, including the installation of storm windows that will not alter the exterior appearance of the structure;
 - (2) Maintenance and repair of existing roof material involving no change in the design, scale, material or appearance of the structure;

- (3) Repair of existing roof structures, such as cupolas, dormers and chimneys, using the same materials that will not alter the exterior appearance of the structure;
- (4) Replacement of existing shingles, clapboards, or other siding, maintaining the exterior appearance of the structure;
- (5) Maintenance and repair of existing shingles, clapboard or other siding, using the same materials that are being repaired or maintained;
- (6) Repairs to existing shutters, fences, or retaining walls, using the same materials for those items being repaired;
- (7) Change of paint color.

C. Actions requiring review by the Commission.

- (1) The applicant shall apply for a building permit. If the proposed site is in the HD Historic District, the Administrator will notify the applicant that his/her project must be approved by the Commission (unless the project falls under Subsection B above) and will give him/her a Commission application.
- (2) For the initial application, the applicant shall fill out the application, attach four copies of plans that include a site plan, along with all existing structures, changes, and elevation drawings, of the proposed change, construction, alteration, or modification, including a description of the type and texture of the materials to be used for the exterior; current photographs of the property in question and of adjacent and neighborhood properties, including the streetscape of both sides of the street on which the subject property is located. An application is deemed complete when these items have been submitted. After the review process is completed, the Commission will return two sets of plans to the applicant and retain two for its records.
- (3) Completed initial applications submitted to the Administrator two weeks (10 working days) prior to a regular scheduled

Commission meeting will be heard at the next scheduled Commission meeting.

- (4) The Commission shall endeavor to arrive at a decision at the first meeting at which the application is presented; however, if the Commission decides they need more information or time in which to make a decision, they shall either place the application on the agenda for the next meeting or schedule a special meeting. The Commission shall grant or deny the application as expeditiously as possible, but in no event later than the second meeting at which the application is on the agenda and the applicant appears; failure to act within said time frame shall be deemed to be approval of the application as submitted; however, an extension may be granted if agreed to by both the applicant and the Commission.
- (5) If, after review of the application by the Administrator, he/she determines that the proposed activity will require a variance, the Administrator shall notify the applicant and provide information on the process for application to the Board of Adjustment. If no application to the Board of Adjustment is made by the applicant within thirty (30) days after notice has been given by the Administrator, the application shall be deemed to have been withdrawn. However, if the applicant desires to have the Commission review an application prior to applying to the Board of Adjustment, the applicant shall request the Administrator to forward the application to the Commission.
- (6) The Commission may grant approval, grant approval with conditions, or deny the application. A denial shall include the reasons that the proposal does not meet the criteria in this

article. The applicant shall have the opportunity to resubmit his/her application with modifications; such resubmissions shall meet the same requirements as the original. If the second submission of the application is denied, the applicant may either modify the application for another submission or appeal the denial to the Board of Adjustment. In no event may the Commission make recommendations for changes that will require violation of other requirements of this chapter.

- (7) Written notice of the decision of the Commission will be forwarded promptly by the Commission to the applicant and to the Administrator. Upon approval by the Commission, the applicant will be advised. The notice will inform the applicant to meet with the Administrator to complete the application for a building permit. Approval shall be valid for one (1) year for the approved project; if the project is commenced but not completed before the end of that period, the owner shall apply to the Administrator for an extension that may not exceed an additional period of one year.
- (8) Substantive changes to the Commission-approved project prior to or during construction, shall require review and approval by the Commission. For such changes, the applicant shall submit one copy of the original application and a description of the proposed changes, as well as any supporting documentation to illustrate the effect or non-effect of such proposed changes. Consideration by the Commission of those changes shall be made at the next regularly schedule meeting or at a special meeting, if appropriate.

D. Demolition. If the structure or any part thereof is deemed to be "contributing" and therefore has historic and architectural significance,

no demolition may take place until approved by the Commission. The applicant shall satisfy the Commission that he/she had considered reasonable means to either mitigate or to eliminate the demolition. If the Commission finds that the structure has no historic or architectural significance or is noncontributing, the Commission may approve the application for demolition.

- E. Interior features. The Commission shall consider only exterior features and shall not consider interior arrangements except to the extent that an interior alteration affecting the exterior is required by law or disability of owner or tenant.
- F. Designation of historic properties. Owners of property outside the boundaries of the HD Historic District may request his/her/their property be designated a historic property. Before any such designation may be assigned, specific procedures, information required and recordation procedures and requirements shall have been determined. Such procedures shall include reference to the guidelines of the Preservation Office of the State of Delaware and National Register of Historic Places.
- G. Appeals. Any person aggrieved by a decision rendered by the Commission shall have a right to appeal to the Board of Adjustment of The Town of Bridgeville

§ 234-40.3. Criteria; standards.

- A. Criteria. In reviewing the plans for any construction, change, or demolition, the Commission shall give consideration to:
 - (1) Historic or architectural value and significance of the structure and its relationship to the historic value of the surrounding area;

- (2) Relationship of the exterior architectural features of the structure to the remainder of the structure and to the surrounding neighborhood; Distinctive stylistic features or examples of skilled craftsmanship shall be preserved, if possible;
- (3) General compatibility of exterior design, arrangement, texture and materials proposed to be used with other structures contributing to the established character of the HD Historic District of Bridgeville;
- (4) When application is made to demolish a structure or any part thereof, the impact of its removal from the area in which it is located, and its structural condition and the economic feasibility of alternatives to the proposed demolition;
- (5) When application is made to move a historic structure, the potential loss of history to its original site and to the Historic District as a whole, and the reasons for not keeping the structure at its present location;
- (6) The effect of the structure on the health, safety and general welfare of the Town;
- (7) Other factors that the Commission deems to be pertinent, consistent with the Land Use and Development Code of Bridgeville;
- (8) When owners of structures in the HD Historic District that have been or are designated as "noncontributing" make application to the Commission for approval for alteration or demolition, the Commission's evaluation shall be based upon the potential impact on the streetscape setting of the property rather than the potential impact on the property itself. When

owners of structures in the HD Historic District designated as "contributing structures" make application to the Commission for alteration or demolition, preserving the property will be the Commission's primary criterion in evaluating the application. The Commission may require the applicant to submit both financial and construction details in support of any proposed demolition;

- (9) A proposed new structure or any alteration to an existing historic property shall be permitted to expand to the height and yard setbacks permitted in the underlying district.

Section 2. This ordinance shall become effective upon its adoption by a majority of all members elected to the Commissioners of Bridgeville.

COMMISSIONERS OF BRIDGEVILLE

By: 

President

Attest: 

Secretary

First Reading: February 9, 2009

Second Reading: March 9, 2009

Adopted: March 9, 2009

Synopsis

This ordinance promulgates the district regulations and Commission procedures related to the HD Historic District and the proposed regulations relate to exterior appearances only.

CERTIFICATE OF RESOLUTION

The undersigned Secretary of Commissioners of Bridgeville (the Municipality) hereby certifies that the following resolutions were duly adopted by the Commissioners of the Municipality on this 9th day of March, 2009, and that such resolutions have not been modified or rescinded as of the date hereof:

RESOLVED, that the form of amendment to the Commissioners of Bridgeville Profit Sharing Plan, effective May 1, 2009, presented to this meeting is hereby approved and adopted and that the proper officers of the Municipality are hereby authorized and directed to execute and deliver to the Trustee of the Plan one or more counterparts of the amendment.

RESOLVED, that the proper officers of the Municipality shall act as soon as possible to notify the employees of the Municipality of the adoption of the amendment to the Plan by delivering to each employee a copy of the Summary of Material Modifications to the Summary Plan Description of the Plan in the form presented to this meeting, which form is hereby approved.

The undersigned further certifies that attached hereto as Exhibits A and B, respectively, are true copies of Amendment Number Three to the Commissioners of Bridgeville Profit Sharing Plan and the Summary of Material Modifications approved and adopted in the foregoing resolutions.

Patricia M Correll
Secretary

March 9, 2009
Date