ORDINANCE NO. HR — ___

TREDYFFRIN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING CHAPTER 208, ZONING, ARTICLE XXIVA, HISTORIC RESOURCE OVERLAY DISTRICT, OF THE CODE OF TREDYFFRIN TOWNSHIP IN ITS ENTIRETY, AND AMENDING THE ZONING MAP FOR THE HISTORIC RESOURCES OVERLAY DISTRICT.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Tredyffrin Township, Chester County, Commonwealth of Pennsylvania, that Chapter 208, Zoning, of the Code of the Township of Tredyffrin (the “Code”), as amended, be amended, as follows:

SECTION I. Article XXVIA, Historic Resource Overlay District, is hereby amended in its entirety to read as follows:

Article XXIVA Historic Resources Overlay District

§208-122.2. Purpose.

A. It is hereby declared as a matter of public policy that the preservation and protection of historic resources in the Township are public necessities and are in the interests of the health, prosperity, and general welfare of the citizens of the Township.

B. The purposes of this Article are:

(1) To promote the general welfare by protecting the integrity of the historic resources of the Township;

(2) To establish a clear process by which the proposed demolition of historic resources is reviewed by the Historical Commission and Board of Supervisors;

(3) To encourage the continued, viable use and adaptive reuse of historic resources in the Township;

(4) To discourage the unnecessary demolition of historic resources in the Township;

(5) To implement the goals of §105 of the Pennsylvania Municipalities Planning Code (“MPC”), 53 P.S. §10105, and §603(b)(5) of the MPC, 53 P.S. §10603(b)(5), by regulating, protecting and promoting the preservation of the historic resources of the Commonwealth and the Township as expressly permitted by §603(c)(7) of the MPC, 53 P.S. §10603(c)(7), and as expressy required by §603(g)(2) of the MPC, 53 P.S. §10603(g)(2); and
To implement the goals of Article I, §27 of the Pennsylvania Constitution, which affords the people of the Commonwealth of Pennsylvania the right to the preservation of the natural, scenic, historic and esthetic values of the environment.

§208-122.3. Definitions.

A. As used in this Article, the following terms shall have the meanings indicated:

**CULTURAL STUDIO**: A building to present cultural, scientific, or academic lectures or performances or art displays to the general public by a nonprofit entity.

**DEMOLITION or DEMOLISH**: The razing or destruction, whether entirely or in significant part, of the exterior of a building, structure or site or any accessory structure. Demolition includes the removal of a building or structure from its site or the removal, stripping, concealing or destruction of the facade or exterior architectural features which are integral to the historic character of the resource, for whatever purpose, including new construction or reconstruction.

**DEMOLITION BY NEGLECT**:  
A. The failure to provide ordinary and necessary maintenance and repair to a building or structure designated as an historic resource on the Township Historic Resource List, except for ruins existing at the time of original adoption of this section, whether by ordinary negligence or willful neglect, purpose or design by the owner or any party in possession thereof, which results in the following conditions:

1. The deterioration of exterior features so as to create or permit a hazardous or unsafe condition to exist,

2. The deterioration of exterior walls, roofs, chimneys, or windows; the lack of adequate waterproofing; or deterioration of the structural system or foundations which will or could result in permanent damage or loss of exterior features.

B. Demolition by neglect includes having a building or structure open or vulnerable to vandalism or decay by the elements.

**HISTORICAL COMMISSION**: The commission of the Township which advises the Township on matters concerning the preservation of historic resources, the members of which are appointed by the Board of Supervisors.

**HISTORIC OVERLAY DISTRICT**: An overlay zoning district as established and applied under this Article, designating historic resources within the Township.
**HISTORIC RESOURCE(S):** Within the context of this Article, all buildings, sites, structures, and districts designated on the Historic Resources List.

**HISTORIC RESOURCES LIST:** The list adopted by the Board of Supervisors from time to time as part of this Article of the historic resources of the Township.

§208-122.4. Tredyffrin Township Historical Commission.

A. Establishment and membership. There shall be a Historical Commission which shall consist of seven (7) members all of whom shall be appointed by the Board of Supervisors. All members of the Historical Commission shall be residents of, or persons who conduct business in, the Township. The membership of the Historical Commission shall include individuals who have an interest in history, archeology, or historic preservation, and may include a registered architect, a building inspector, and a licensed real estate professional. Each Commission member shall serve for a term of three (3) years, which terms shall be so fixed that no more than two terms shall expire each year. The Historical Commission shall notify the Board of Supervisors of any vacancies in the Commission, and the Board shall act to fill those vacancies. Appointments to fill vacancies for unexpired terms shall be only for the unexpired portion of the term. Commission members shall serve without pay, but shall be reimbursed for any personal expenditure in the conduct of the Commission business when authorized by the Board of Supervisors.

B. Organization. The Historical Commission shall annually elect, from its own membership, a Chairperson who will direct the activities of the Historical Commission and such other officers as may be required for the conduct of its business. A quorum shall be not less than a majority of the current membership. The Historical Commission may make, alter, and rescind rules and forms for its procedures consistent with the ordinances of the Township and laws and regulations of the Commonwealth. The Historical Commission shall conduct business at regular public meetings or such special meetings as may be necessary. An agenda of each public meeting shall be available for inspection prior to the meeting. The Commission shall keep full public records of its business and shall submit a report of its activities to the Board of Supervisors by March 1 of each year.

C. Expenditures for service. Within the limits of funds appropriates by the Board of Supervisors, or when otherwise authorized by the Board of Supervisors, the Commission may employ staff or contract for clerical, consulting, or other technical or professional services, including legal advice from the Township Solicitor.

D. Functions and duties. In accordance with the purposes of this Article, the Historical Commission shall have the following functions and duties:

1. Maintain a system for the survey, inventory, and photographic documentation of historic buildings, sites, structures, and objects in the Township.
2. Conduct research on and nominate significant resources to the National Register of Historic Places and any other appropriate lists or programs.

3. Make recommendations to the Board of Supervisors concerning revisions, updates, or corrections to the Historic Resource List on an annual basis or more frequently as deemed necessary by the Historical Commission.

4. Maintain an updated list which clearly identifies buildings, sites, structures, objects, and districts and their respective classifications on the Historic Resources List.

5. Make recommendations to the Board of Supervisors concerning revisions, updates or corrections to the Historic Resources List.

6. Advise the Zoning Officer and Board of Supervisors on the issuance of demolition permits for historic resources as set forth in §208-122.9.

7. Photograph and/or otherwise document ongoing changes to the Township’s physical landscape.

8. Perform any other lawful activities that shall be deemed necessary to further the purposes of this Article.

§208-122.5 Historic Resource Designation.

A. Historic Resources List. The Historical Commission shall maintain the Historic Resources List. The Historical Commission may specify the historic resources located upon each property to which this Article applies. Where not otherwise specified on the Historic Resources List, the entire property shall be deemed a historic resource.

B. Identified historic resources. The Township shall consider all of the following factors when considering whether any building, site, structure, or object is an identified historic resource. An identified historic resource must meet a majority of the following criteria:

1. Is listed on, contributes to, or is determined eligible for inclusion in the National Register of Historic Places;

2. Is relevant to or associated with the significant development, heritage or culture of the Township or with a person of historic significance in the Township or elsewhere;

3. Is representative of a distinctive architectural style, vernacular building type, craftsmanship, or is the work of a notable architect or builder;

4. Is the site or location of a notable local event considered to have had a significant effect on the Township;

5. Is a distinctive example reflecting the cultural, social or ethnic heritage of the Township;
6. Possesses a notable location and physical characteristics as an established and familiar visual feature to a neighborhood or the Township overall; or

7. Has yielded, or is likely to yield, information in prehistory or history, such as an archeological site;

C. Revisions to the Historic Resources List. Any building, site, structure or object may be proposed for addition to, or removal from, the Historic Resources List by:

1. The owner of such resource; or

2. The Historical Commission; or

3. The Board of Supervisors.

D. Recommendation from Historical Commission.

(1) All proposals for addition to or removal from the Historic Resources List shall be referred to the Historical Commission.

(2) The Historical Commission shall hold at least one (1) public meeting for any proposal for addition or removal of a resource from the Historic Resources List. Written notice shall be provided to the owner of any resource proposed to be added or removed from the Historic Resources List at least thirty (30) days prior to the public meeting of the Historical Commission to consider such proposal. The Historical Commission shall consider public comment and/or documentary evidence regarding the proposal at the public meeting.

(3) The Historical Commission shall present a written report and recommendation to the Board of Supervisors, and to the owner of the resource proposed to be added or removed from the Historic Resources List, within thirty (30) days of the close of public comment at the final public meeting, stating its recommendation and grounds therefor.

E. Consideration by the Board of Supervisors. Within forty-five (45) days of receipt of the report and recommendation from the Historical Commission, the Board of Supervisors shall hold a public hearing pursuant to public notice in accordance with §208-154 to consider the recommendations of the Historical Commission. Written notice of the public hearing shall be provided to the owner of the resource at least thirty (30) days prior to the public hearing. The Board of Supervisors shall adopt a resolution to add or remove the resource to or from the Historic Resources List or otherwise correct an entry thereon.

§208-122.6. Compliance; overlay concept; construal of provisions.

A. Compliance. The demolition of a historic resource shown on the Historic Resources List shall occur only in full compliance with the terms and provisions of this Article.
B. Historic overlay concept. The Historic Resources List shall be deemed to be an overlay on any zoning districts now or hereafter enacted to regulate the use of land in the Township.

(1) For any property shown on the Historic Resources List, the requirements and provisions of this chapter shall supersede the otherwise applicable requirements of the underlying zoning district.

(2) Should it be determined that this overlay district is not applicable for any reason such as a result of legislative or administrative action or judicial decision, the zoning requirements and other regulatory measures applicable to the property in question shall be those of the underlying zoning district without consideration of this Article.

C. Preservation of other restrictions. It is not intended by this Article to repeal, abrogate, or impair any existing easements, covenants or deed restrictions.

§208-122.7. Permitted Uses.

A. By-right. The following uses and no other shall be permitted by-right in the Historic Resource Overlay District:

1. Any use permitted by-right in the underlying zoning district in which the property is located.

B. Conditional Use. In addition to the specific standards for conditional use approval contained in this section, the general standards for conditional use approval in §208-117 shall apply to the uses listed herein. The following uses and no other shall be permitted by conditional use in the Historic Resource Overlay District:

1. Bed-and-breakfast facility, subject to the following conditions:

   (a) A bed-and-breakfast facility shall be considered a low-impact home-based business and shall be subject to all applicable standards of §208-120. If there is a conflict between §208-120 and this section, the regulations in this section shall prevail.

   (b) A bed-and-breakfast facility shall be permitted only in single-family detached owner-occupied dwellings, or existing buildings accessory thereto on the same property.

   (c) A lot size of not less than 80,000 square feet shall be required for the operation of a bed-and-breakfast facility, provided that:

   (1) Parking shall meet the requirements of §208-103; and
An adequate sewage system exists to handle the anticipated sewage flows and the availability of sufficient backup area on the lot has been certified by the Chester County Health Department on the basis of an on-site inspection.

The principal use of the property shall remain that of a single-family detached dwelling.

2. Cultural studio, subject to the parking requirements of §208-103.

3. Gallery or museum, subject to the parking requirements of §208-103.C(26).

4. Conversion of a historic resource to a single-family detached dwelling, subject to the following conditions:
   (a) The converted historic resource shall be the only other single-family dwelling unit permitted on the property; and
   (b) Parking shall be in accordance with the provisions of §208-103.

5. Professional office as a low-impact home based business pursuant to the standards contained in §208-113

6. Art studio.

§208-122.8. Area and Bulk Incentives.

A. The applicable requirements of the underlying zoning district relating to front, side, and rear yard setbacks may be decreased by up to 15% for historic resources, subject to obtaining conditional use approval from the Board of Supervisors.

B. The additional building area and impervious surface coverages permitted by this section each may not exceed 50% of the building area of the historic resource and shall comply with all stormwater management requirements.

§208-122.9. Demolition of Historic Resources.

A. Demolition by neglect. No historic resource shall be demolished by neglect.

B. Demolition Permits. No historic resource shall be demolished, in whole or in part, unless a permit is obtained from the Zoning Officer in accordance with the procedures as provided in this Article, the Zoning Ordinance, and the Township Building and Fire Codes.

C. Application requirements for historic resources. In addition to applicable requirements under the Township Building and Fire Codes, any applicant seeking a permit to demolish
a historic resource shall provide the following information with regard to that historic resource:

1. The identity of the owner of record;
2. Site plan or drawing showing all buildings and structures on the property;
3. Recent photographs of the historic resource proposed for demolition;
4. Reasons for the proposed demolition;
5. Method of proposed demolition;
6. A statement of future use of the site and of the materials from the demolished resource; and
7. In any instance where there is a claim that a historic resource cannot be used for any purpose for which it is or may be reasonably adapted, or where a permit application for demolition is based, in whole or in part, on financial hardship, the applicant shall submit financial documentation as may be required pursuant to subsection (F) below.

D. Review by the Historical Commission. All applications for demolition of any property listed on the Historic Resource List shall be submitted to the Historical Commission and no permit shall be issued by the Zoning Officer without the completion of such review.

1. The Zoning Officer shall notify the Historical Commission of the application for demolition within five (5) business days of acceptance of a properly completed application, including the necessary demolition permit fee. Within thirty (30) days of the date of application, the Historical Commission shall consider the application at a public meeting, unless otherwise agreed to by the applicant.

2. The Historical Commission shall determine whether issuance of a demolition permit is in the public interest. After review, the Historical Commission shall make a written report to the Board of Supervisors setting forth its recommendation regarding proposed demolition.

3. The Historical Commission shall submit their recommendation to the Board of Supervisors not later than forty-five (45) days from the date application was filed. If the Historical Commission fails to act within such forty-five (45) day period, the applicant may proceed to a public hearing of the Board of Supervisors without such recommendation as outlined herein.
E. Within forty-five (45) days from receipt of the Historical Commission's recommendation or the expiration of the sixty (60) day period outlined in subsection D.3 above where no recommendation is issued by the Historical Commission, the Board of Supervisors shall meet at a public hearing subject to public notice to the application for demolition of the historic resource. The property owner shall be given a minimum of ten (10) days' written notice of the public hearing. The Board of Supervisors shall consider evidence, reports, or testimony from interested parties and will render a decision either to deny or approve the application for demolition within forty-five (45) days of the public hearing.

F. Financial analysis. In its review of an application to demolish a historic resource, the Historical Commission or the Board of Supervisors may require the applicant to prepare a financial analysis which may include any or all of the following:

1. The amount paid for the property, the date of purchase and the name of the party from whom it was purchased, including a description of the relationship, whether business or familial, if any, between the owner and the person from whom the property was purchased.

2. The assessed value of the land and improvements thereon according to the most recent assessment.

3. Appraisals obtained by the owner in connection with the purchase and/or financing of the property, or during such owner’s period of ownership of the property.

4. Bona fide offers of the property for sale or rent, price asked and offers received, if any.

5. Any consideration by the owner as to profitable, viable uses and adaptive reuses for the property.

G. Enforcement.

(1) Fines and penalties. Any person who violates the requirements of this section shall be subject to the fines and penalties imposed under this chapter in accordance with Article XXIX, as well as those fines and penalties imposed under the Township Building and Fire Codes.

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

SECTION II. If any part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the
remaining parts of this ordinance which shall continue to be fully operative as if the unconstitutional, illegal or invalid part had not been enacted.

SECTION III. Any and all provisions of any other ordinance which are inconsistent with the provisions of this ordinance are hereby repealed.

SECTION IV. This ordinance shall be effective thirty-one (31) days from the date of enactment hereof.

DULY ORDAINED AND ENACTED this _____ day of ______________________, of 2019.

BOARD OF SUPERVISORS
TREDYFFRIN TOWNSHIP

Murph Wysocki, Chair

Mark Freed, Vice Chair

Heather Greenberg

William F. Martin
Township Manager

Matthew Holt

Reaves C. Lukens, III

Paul W. Olsen

Kevin O’Neill

[Seal]
Appendix A