

CHAPTER 4

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## Part 1

## Building Regulations and Permits

§101. Definitions. Certain words and terms used in this Part 1 are defined for the purpose thereof:

BUILDING or STRUCTURE - anything enclosing an area of twenty-five (25) square feet or more constructed or erected, the use of which demands a location on the soil, or attachment to something located in or on the soil.

COMMERCIAL or INDUSTRIAL BUILDING - any building or structure designed, built or altered for use entirely or in part for commercial or industrial purposes.

DWELLING - any building, which is designed for and occupied in whole or in part as a residence. [Ord. 195]

FAMILY - a family is (i) a person or (ii) no more than two (2) unrelated persons or (iii) two (2) or more persons, all of whom are related by blood, marriage, parentage or adoption, including foster children, living together as a single housekeeping unit. Domestic servants employed on the premises and temporary gratuitous guests may be housed on the premises without being counted as part of the family. [Ord. 195]

MULTIFAMILY DWELLING UNIT - any building which is designed for or occupied in whole or in part as a home or residence for two (2) or more families. [Ord. 195]

PRIVATE GARAGE - a building or structure or any part thereof used appurtenant to a dwelling home primarily for the storage of motor vehicles.

ROADS - roads and road right-of-way include all lands established by dedication, usage, Borough ordinances or laid out upon Borough plans as highways, and shall be synonymous with "streets", "avenue", "highway", "parkway" and other terms commonly applied to public highways.

SINGLE FAMILY DWELLING UNIT - any building which is designed for and occupied in whole or in part as a home or residence for a single family unit. [Ord. 195]

(Ord. 125, 2/16/1976, §A; as amended by Ord. 195, 5/8/2001, §§1, 2)

§102. Building Committee. Council shall appoint a Building Committee, consisting of three (3) members of the Borough Council. Said Building Committee shall have charge of the inspection of plans and specifications for all buildings, additions or alterations submitted in connection with requests for permits to erect or alter buildings in the said Borough and shall act in the approval or disapproval of the said plans and specifications and shall perform the duties of regulation and inspection of buildings in the Borough of Millheim in accordance with this Part 1. (Ord. 125, 2/16/1976, §B)

§103. Building Permits.

1. No excavation for a construction of a dwelling, private garage, commercial or industrial building to be erected or moved; and no excavation or construction altering or enlarging a dwelling, private garage, commercial or industrial building, which when completed will change the exterior

dimensions of the dwelling, private garage, commercial or industrial building shall be begun until or unless the person excavating, constructing, erecting or moving the same shall have first obtained a permit hereof. Such permit shall be issued by the Borough Secretary, only when he shall have received an approval from the Building Committee or from the Council.

Applications for a building permit shall be accompanied by a fee, based upon the following schedule:

Building permit application fee (non-refundable) \$25.00

In the event the application is approved by the Borough, an additional building permit fee shall be paid based upon five cents (\$0.05) per square foot of the proposed residential or agricultural construction (including the square footage of porches, decks, garages and basements) or fifteen cents (\$0.15) per square foot of the proposed commercial or industrial construction.

Upon completion of the construction, occupancy or use of the new construction shall not take place until an occupancy permit is issued by the Borough.

Future amendments to building permit fees shall be adopted by resolution(s) of Millheim Borough.

[Ord. 200]

2. Each application for a building permit shall be accompanied by a plot, showing the actual dimensions of the lot to be built upon, the size and location of the building to be erected, or in the case of a building already in existence which is being altered or enlarged, it's present size and its contemplated size at the completion of the alteration, or enlargement, together with a set of plans in duplicate of the construction, excavation, alteration or enlargement as the case may be, and any other information necessary for the Building Committee to determine whether or not the requirements of the ordinance will be satisfied with respect thereto. A file of such applications and plots and plans together with a notation indicating whether or not a permit was issued therefor shall be kept in the Borough office.

3. The plot and plans accompanying each application for a building permit must conform with the present or any future Flood Zone Regulations promulgated by the State or Federal government.

4. After the issue of a permit for any construction as covered by this Part 1, and before any excavation or construction shall be begun, the permit for said construction shall be posted conspicuously at the front of said construction, and the permit shall remain posted until the construction is completed.

(Ord. 125, 2/16/1976, §6; as amended by Ord. 151, 11/12/1984; and by Ord. 200, 7/10/2001, §§1, 2)

§104. Lot Size. The minimum requirements as to lot areas for a dwelling house and other buildings to be built or erected shall be as follows:

1. Lots where private wells and septic tanks are provided shall have a minimum width of one hundred feet (100') at the building line and a minimum area of twenty thousand (20,000) square feet per single family dwelling unit. Special exception shall be granted below the minimum if soil percolation tests indicate a smaller lot has been accepted and approved by the Department of Environmental Resources, provided that this exception shall not be greater than twenty percent (20%) of the minimum lot area.

2. Lots served by either public water or sanitary sewers shall have a minimum of eighty feet (80') at the building line and a minimum area of ten thousand (10,000) square feet per single family dwelling unit.

3. Lots where both public water and sanitary sewers are provided shall have a minimum width at the building line of seventy-five feet (75') and a minimum area of seventy-five hundred (7,500) square feet per single family dwelling unit.

4. Lots where private wells and septic tanks are provided shall have a minimum width of one hundred (100) feet at the building line and a minimum area of forty-three thousand five hundred sixty (43,560) square feet per multifamily dwelling unit. Special exception may be granted for less than the minimum lot size if soil percolation tests indicate a smaller lot has been accepted and approved by the Pennsylvania Department of Environmental Protection, provided that this exception shall not be greater than twenty percent (20%) of the minimum lot area. [Ord. 195]

5. Lots served by either public water or sanitary sewers shall have a minimum width of eighty (80) feet at the building line and a minimum area of twenty-two thousand (22,000) square feet per multifamily dwelling unit. [Ord. 195]

6. Lots where both public water and public sewers are provided shall have a minimum width at the building line of seventy-five (75) feet and a minimum area of five thousand (5,000) square feet per multifamily dwelling unit. [Ord. 195]

Provided, however, that if the land affected be an unplotted lot having area or frontage less than that stated herein and held under separate ownership, the area of such unplotted and so held under separate ownership from the adjoining land at the time of the adoption of this Part shall be minimum requirements for such unplotted land, and provided further, that a lot in a recorded plan of lots divided at the time of the adoption of the ordinance having area and/or frontage less than that stated herein shall constitute the minimum area requirement for such plot of ground. That portion of a lot on which is located the right-of-way for a road shall not be included in the determination of minimum requirements as to the area of the lot.

(Ord. 125, 2/16/1976, §D; as amended by Ord. 195, 5/8/2001, §3)

#### §105. Setback of Buildings.

1. Buildings erected or to be erected, altered or enlarged shall not be placed so that any portion of the structure shall be nearer to the edge of the road right-of-way than forty feet (40') on a primary state highway or

more than thirty feet (30') on all other roads except that where an existing building within two hundred and fifty feet (250') on either side of the location of the proposed building is closer to the highway or road right-of-way than the distance specified herein, this closer distance shall constitute the minimum setback for the proposed building.

2. Buildings erected or to be erected, altered or enlarged shall not be placed nearer to a side or rear property line than eight feet (8'), except that for a lot recorded or held under separate ownership at the time of the adoption of this Part having less than fifty-six feet (56'), this setback shall be decreased by one foot (1') for each three feet (3') of width less than fifty-six feet (56') except that under no circumstances shall the setback be less than six feet (6').

3. A dwelling to be erected, altered or enlarged on a lot on which there previously exists one or more dwellings shall be so located that the aforesaid lot can be subdivided in a manner consistent with §104 of this Part 1 and in such a manner consistent with the minimum setback regulations set forth in paragraphs 1 and 2 of this section.

(Ord. 125, 2/16/1976, §E; amended by Ord. 155, 5/12/1986, §1)

§106. Size of Dwelling. The foundation of a dwelling erected or to be erected, altered or enlarged shall not cover less ground than five hundred (500) square feet. This provision is not applicable to trailers used as a home or residence. (Ord. 125, 2/16/1976, §F)

§107. Foundations for Dwellings and Commercial Buildings.

1. Except when erected upon hardpack or solid rock, foundation walls and other permanent supports shall be carried not less than three feet (3') below the finish grade ground level.

2. Foundations under dwellings shall be solid faced masonry wall.

(Ord. 125, 2/16/1976, §G)

§108. Siding of Certain Buildings. No dwelling, private garage or commercial building shall be left standing without approved permanent siding for more than twenty-four (24) months. One (1) year extensions may be granted by the Borough Council for cases of practical difficulty and unnecessary hardship. (Ord. 125, 2/16/1976, §H)

§109. Fire Zone. Within the following fire zone, to-wit: all that portion of the Borough or territory, bounded on the east by Sugar Alley, on the south by Race Street, on the west by State Street and on the north by Poplar Street, no building shall be constructed, rebuilt, enlarged or materially changed with materials other than brick, stone, cement blocks or other incombustible materials, nor shall any shingle roof, or any roof with combustible material be erected, repaired or constructed within said zone, nor shall any building constructed with material mentioned herein, be moved into the zone described. Provided this shall not apply to one story out buildings containing not over one thousand (1000) cubic feet. (Ord. 125, 2/16/1976, §I)

§110. Trailers and Their Appurtenances. All setback provisions of §105

above, shall apply to any trailer used as a home or residence or for commercial purposes. All of the foregoing provisions of this Part shall apply to trailers. (Ord. 125, 2/16/1976, §J)

§111. Farm Buildings. Farm buildings do not come under the provisions of this Part 1 except a dwelling or garage or a building being altered for the use of a dwelling or a garage. (Ord. 125, 2/16/1976, §K)

§112. Board of Adjustment. A Board of Adjustment is hereby established which shall consist of all the Borough Council. This Board shall have the powers, upon cause shown, to change or modify any decision made by the Building Committee, which will, in their opinion, better effectuate the provisions of this Part 1. (Ord. 125, 2/16/1976, §L)

§113. Penalties.

1. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense. [Ord. 222]

2. In addition to the penalty set forth in paragraph 1 above, the Borough Council is hereby authorized, or their properly appointed agents are hereby authorized to issue stop, cease, and desist orders, to any person, partnership or corporation, who or which shall violate any provisions of this Part by the instituting of appropriate action or proceedings, at law or in equity, to enjoin and restrain any such persons, partnership or corporation, from violating any of the provisions of this Part.

(Ord. 125, 2/16/1976, §M; as amended by Ord. 151, 11/12/1984; by Ord. 189, 6/1/1999; and by Ord. 222, 12/14/2004, §1)

§114. Compliance with Sewage Facilities Act. No building permit shall be issued until the applicant has complied with the provisions of the Sewage Permits Act 537. (Ord. 125, 2/16/1976, §N)



Part 2  
Numbering of Buildings

§201. Buildings to be Numbered. In accordance with Section 1202 (25) of the Borough Code, from and after the effective date of this Part 2, all buildings erected within the Borough used for residential, commercial or industrial purposes shall be numbered as hereinafter set forth: (Ord. 106, 12/12/1969, §1)

§202. Numbering Plan. The plan for establishing numbers for all such buildings as hereinbefore mentioned shall be as follows:

1. Numbering will start at the intersection of Main, Penn and North Streets; buildings on the north side of all streets running east and west shall have even numbers beginning with 100; buildings on the south side of streets running east and west will have odd numbers beginning with 101;
2. Streets running north and south, the buildings on the west side will have even numbers beginning with 100 and buildings on the east side will have odd numbers beginning with 101;
3. Streets intersecting with Main Street, Penn Street and North Street, other than these three mentioned streets, will have numbers 100 and 101 as the starting numbers at the intersection with the before named streets, with the even numbers and odd numbers on the sides of the street as hereinbefore designated;
4. Other outlying streets not intersecting Main Street, Penn Street or North Street, will have numbers 100 and 101 as starting numbers at the street intersection nearest to the main center of town; i.e., Hillcrest Avenue will start with 100 and 101 at the intersection with North High Street and be numbered eastward; even numbers and odd numbers will be on the sides of these respective outlying streets where hereinbefore designed;
5. Apartments will be designated with the house number of the apartment building following the letters "A", "B" etc. for each individual apartment;
6. Double houses will each receive a separate number;
7. All vacant lots upon which buildings for residential, commercial or industrial use could be erected will be assigned a number on the plan; and
8. East Main Street shall be divided into two (2) blocks, the 100 block from the main square east to High Street; the 200 block from High Street east to the Borough line.

(Ord. 106, 12/12/1969, §2)

§203. Planning Commission to Implement. The Planning Commission for the Borough is designated as the agent of the Borough to implement this Part 2, to assign the numbers to each building and vacant lot as herein set forth. (Ord. 106, 12/12/1969, §3)

§204. Owners Responsible for Number. Upon the numbering plan being completed, the owner of each property will be notified of the designated number for his building or vacant lot, as the case may be, and each property owner shall, within thirty (30) days thereafter, procure at his expense the appropriate number as assigned and place the same on the building as designated. Property owners shall be responsible to continually maintain the designated number on the building. As buildings are hereafter erected on vacant lots, the property owner shall immediately place and maintain the designated number on the building. (Ord. 106, 12/12/1969, §4)

§205. Borough to Erect Street Signs. The Borough will furnish and erect, at its expense, street signs designating the name of the particular street. (Ord. 106, 12/12/1969, §5)

§206. Enforcement. Any person subject to the provisions of this Part 2 failing to comply with the terms hereof by placing the designated number on the building, after notice, shall be deemed to be in violation hereof and the Borough shall have the right to purchase and install the appropriate number and charge the cost and expense thereof to the property owner and collect the same as a municipal lien in accordance with the Act of Assembly regulating municipal liens. (Ord. 106, 12/12/1969, §6)

Part 3  
Historic District

§301. Legal Authorization and Purpose.

1. Legal Authorization.

A. Pursuant to authority contained in the Act of June 13, 1961, P.L. 282, No. 167, as amended, there is hereby created a Historic District within the Borough of Millheim, Centre County, Pennsylvania.

B. This Part shall be known and may be cited as the "Millheim Borough Historic Preservation Ordinance" or "Historic District Ordinance."

2. Purposes. This District is created for the following purposes:

A. Pursuant to Article I, §27 of the Pennsylvania Constitution which states that:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustees of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

Now therefore it is the purpose and intent of the Borough of Millheim to promote, protect, enhance, perpetuate, and preserve historic districts for the educational, cultural, economic and general welfare of the public through the preservation, protection and regulation of buildings, structures, and areas of historic interest or importance within the Borough of Millheim to safeguard the heritage of the Borough of Millheim by preserving and regulating historic districts which reflect elements of its cultural, social, economic, political, and architectural history; to preserve and enhance the environmental quality of neighborhoods; to strengthen the Borough's economic base by the stimulation of the tourist industry; to establish and improve property values; to foster economic development; to foster civic pride in the beauty and accomplishments of the Borough's past; and to preserve and protect the cultural, historical and architectural assets of the Borough of Millheim for which the Borough has determined to be of local, state or national, historical and/or architectural significance.

(Ord. 213, 1/21/2004, Art. I)

§302. Definitions. For the purpose of this Part, all words used in the present tense include the future tense. All words in the plural number include the singular number and all words in the singular number include the plural number, unless the natural construction of the word clearly indicates otherwise. The word "shall" is mandatory. The word "used" includes "designated, intended, built, or arranged to be used."

ALTERATION - any act or process requiring a building permit and any other act or process not requiring a building permit but specifically listed in this Section as a reviewable action including, without limitation, the demolition or razing of any structure or object, or any part of a structure or object, which is visible from the public way.

BUILDING - any enclosed or open structure which is a combination of materials to form a construction for occupancy and/or use for human or animal habitation and is permanently affixed to the land, including manufactured homes.

BUILDING PERMIT - an approval statement signed by the Code Enforcement Officer authorizing the demolition or razing of all or a part of any building (within a historic district).

BUILDING PERMIT APPLICATION - the request filed by any person with the Code Enforcement Officer that seeks authorization to demolish or raze all or a part of any building or structure within a historic district that requires a certificate of appropriateness.

CODE ENFORCEMENT OFFICER - a municipal employee of or individual retained by or contracted with by the Borough of Millheim designated by the Millheim Borough Council as the individual who enforces compliance of building and/or other Borough codes and issues the permit for the demolition or razing of all or a part of any building or structure within a historic district.

CERTIFICATE OF APPROPRIATENESS - the approval statement signed by the Borough of Millheim which certifies to the historical appropriateness of a particular request for the demolition or razing of all or a part of any building or structure within a historic district and authorizes the issuance of a building permit for said request.

COMPLETED APPLICATION - a completed permit or certificate of appropriateness application is an application which conforms to the submittal criteria for specific historic preservation projects, as determined by the Historical Architectural Review Board.

DEMOLITION - the dismantling or tearing down of all or part of any building and all operations incidental thereto, including neglecting routine maintenance and repairs which can lead to deterioration and decay.

DEMOLITION BY NEGLECT - the absence of routine maintenance and repair which can lead to a building's or structure's structural weakness, decay and deterioration resulting in its demolition.

ERECTION - the result of construction such as a building, structure, monument, sign, or object on the ground or on a structure or building.

RECONSTRUCTION - the act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time but not necessarily of original material.

STRUCTURE - anything constructed or erected, having a permanent or semi-permanent location on another structure or in the ground including, without limitation, buildings, sheds, manufactured homes, garages, fences, gazebos, freestanding signs, billboards, antennas, satellite sending or receiving dishes, vending machines, decks, and swimming pools.

MILLHEIM BOROUGH HISTORICAL ARCHITECTURAL REVIEW BOARD (HARB) - the agency that advises the Millheim Borough Council on any requests for authorization to demolish or raze all or part of any building within a

historic district.

MILLHEIM BOROUGH COUNCIL - the governing body of the Borough of Millheim, Centre County, Pennsylvania.

(Ord. 213, 1/21/2004, Art. II)

§303. Delineation of Historic Districts.

1. The Millheim Borough Historic District shall be described in writing and delineated on a map designated as the Historic District Map of the Borough of Millheim.

2. The Historic District Map of the Borough of Millheim shall be located in the office of the Code Enforcement Officer and made available for public inspection.

3. The Millheim Borough Historic District is more fully described on Exhibit A and more fully shown on Exhibit B, both of which Exhibits are attached hereto and made a part hereof by reference.

(Ord. 213, 1/21/2004, Art. III)

§304. Historical Architectural Review Board.

1. The Creation and Membership of the Historical Architectural Review Board.

A. A Historical Architectural Review Board, hereinafter referred to as HARB, is hereby established to be composed of five (5) members appointed by the Millheim Borough Council. The membership of HARB shall be as follows:

- (1) One (1) member shall be a registered architect;
- (2) One (1) member shall be a licensed real estate broker;
- (3) One (1) member shall be the Code Enforcement Officer;

and two (2) member(s) shall be person(s) with demonstrated interest, knowledge, ability, experience or expertise in restoration, historic rehabilitation, or neighborhood conservation or revitalization who have interest in the preservation of the Historic District and are property owners who reside in the District.

B. The initial terms of the first member(s) shall be so fixed that no more than two (2) members shall be replaced or reappointed during any one (1) calendar year. Vacancies on the HARB shall be filled within one hundred and twenty (120) days. However, every member shall continue in office after expiration of the term until a successor has been appointed. Their successors shall serve for a term of five (5) years. The position of any member of HARB appointed in his/her capacity such as a registered architect, a licensed real estate broker, Code Enforcement Officer, Planning Commission member, etc., who ceases to be so engaged shall be automatically considered vacant. An appointment to fill a vacancy shall be only for the unexpired portion of the term.

C. It shall be the duty of each HARB member to remain conscious of and sensitive to any possible conflict of interest (including but not

limited to financial considerations) which may arise by virtue of his/her membership on the Board. A member, promptly upon determining that said member has a conflict relative to any matter brought before the Board, shall disqualify said member from participating, in any manner, publicly or privately, in the presentation, discussion or deliberation of and the voting on any such matter, including temporarily absenting said member from the room in which the discussion is being held.

2. Powers and Duties of HARB.

A. Advisory Role. HARB shall give recommendations to the Millheim Borough Council regarding the advisability of issuing any certificate of appropriateness required to be issued in accordance with the said Act of June 13, 1961, as amended and this Part.

B. Board Role Making Power. HARB may make and alter rules and regulations for its own organization and procedure, provided that they are consistent with the laws of the Commonwealth and all provisions of this Part.

C. Removal of Members. Any Board member may be removed for misconduct or wrongdoing, unlawful execution of this Act, or failure to perform his or her responsibility pursuant to this Act, or for other just cause by a majority vote of the Millheim Borough Council, but not before he or she has been given the opportunity of a hearing to defend to any alleged infractions of said Act.

D. Annual Reports. The members of HARB shall make an annual report to the Millheim Borough Council which shall include:

- (1) Any recommendations for changes in the ordinance.
- (2) The number and types of cases reviewed.
- (3) The number of cases for which a certificate of appropriateness was either approved or denied.
- (4) Number of HARB meetings which each member attended.
- (5) Historic preservation related training which each member attended.
- (6) A narrative summary describing the state of preservation in the Millheim Borough Historic District with recommendations on policy, goals, and objectives for consideration by Millheim Borough Council.

E. Compensation. HARB may employ secretarial and professional assistance, and incur other necessary expenses with the approval of the Millheim Borough Council.

F. Meetings. HARB shall meet publicly at least once every month at regularly scheduled intervals. Further, HARB may hold any additional meetings it considers necessary to carry out its powers and duties indicated in this Part. Such meetings shall be open to the public. A majority of HARB shall constitute a quorum and action taken at any meeting shall require the affirmative vote of a majority of the members present.

G. Training. HARB members and HARB support staff may be required

to attend up to eight (8) hours annually of seminars, conferences or workshops related to historic preservation and HARB administration.

3. Additional Powers and Duties of HARB. In addition to the above, HARB shall have the following powers and duties:

A. To conduct a survey of buildings, structures, objects and monuments for the purpose of determining those of historic and/or architectural significance and pertinent facts about them; action in coordination with the Millheim Borough Council, Planning Commission, Zoning Hearing Board (if any) and other appropriate groups and to maintain and periodically revise the detailed listings (resource inventories) of historic resources and data about them, appropriately classified with respect to national, state and local significance in accordance or consistent with the Pennsylvania Historical and Museum Commission's "Cultural Resource Management in Pennsylvania: Guidelines for Historic Resource Surveys."

B. To propose, from time to time as deemed appropriate, the establishment of additional historic districts and revisions to existing historic districts.

C. To formulate recommendations concerning the establishment of an appropriate system of markers for selected historic and/or architectural site and buildings including proposals for the installation and care of such historic markers.

D. To formulate recommendations concerning the preparation and publication of maps, brochures and descriptive material about the Borough of Millheim historical and/or architectural sites and buildings.

E. To cooperate with and advise the Millheim Borough Council and other agencies of the Borough of Millheim in matters involving historically and/or architecturally significant sites and buildings.

F. To cooperate with and enlist assistance from the National Park Service, the National Trust for Historic Preservation, Preservation Pennsylvania, the Pennsylvania Historical and Museum Commission and other agencies, public and private, from time to time, concerned with the preservation of historic sites and buildings.

G. To advise owners of historic buildings regarding rehabilitation, repairs, maintenance methods and technologies, adaptive use, economic and tax incentives and other historical preservation strategies.

H. To promote public interest in the purpose of this Part by carrying on educational and public relations programs.

(Ord. 213, 1/21/2004, Art. IV)

§305. Design Guidelines. In determining the recommendations to be made to the Millheim Borough Council concerning the issuance of a certificate of appropriateness, HARB shall consider only those matters that are pertinent to the preservation of the historical and/or architectural aspects and nature of the building, site, area, or district, certified to have historical significance, including the following:

A. Broad historical values representing the cultural, political, economic, or social history of the Borough of Millheim.

B. The relationship of the building or structure to historic personages or events.

C. Significant architectural types representative of a certain historical period and a style or method of construction.

D. The effect of the proposed change upon the general historical and architectural nature of the District.

E. The appropriateness of the exterior architectural features which can be seen from a public street or way.

F. The general design, arrangement, texture, and material of the building or structure and the relation of such factors to similar features of buildings or structures in the District. Consideration shall be given but not limited to the following:

(1) Proportion of Buildings Front Facades. Preserving the relationship between the width of the front of the building and the height of the front of the building.

(2) Proportion of Openings Within the Building. Preserving the relationship of width or height of windows and doors.

(3) Rhythms of Solids to Voids in the Front Facade. Preserving the relationship between a recurrent alteration of strong and weak architectural elements thereby maintaining a rhythm of solids to voids.

(4) Rhythm of Spacing of Buildings on Streets. Preserving the existing rhythm of recurrent or repeated building masses to spaces between each building.

(5) Rhythm of Entrance and/or Porch Projections. Preserving the existing rhythm of entrances or porch projections to maintain a pedestrian scale.

(6) Relationship of Materials. Preserving the predominant materials of the District such as brick, stone, stucco, wood siding, or other material.

(7) Relationship of Textures. Preserving the predominant textures of the District which may be smooth, such as stucco or rough such as brick, with tooled joints or horizontal wood siding or other textures.

(8) Relationship of Architectural Details. Preserving character defining features of buildings, such as architectural details including, but not limited to, cornices, lintels, arches, quoins, balustrades and iron work, chimneys, etc.

(9) Relationship of Roof Shapes. Preserving compatible roof shapes such as gable, mansard, hip, flat, gambrel, and/or other kinds of roof shapes.

(10) Walls of Continuity. Preserving physical elements which comprise streetscapes such as brick walls, wrought iron fences, building facades or combinations of these which form visual continuity and cohesiveness along the street.

(11) Directional Expression of Front Elevation. Preserving the orientation of structural shapes, plan of openings and architectural detail that reflect a predominantly vertical, or horizontal character to the building's facade.

(12) Scale. Preserving the scale of the built environment created by the size of units of construction and architectural detail that relate to the size of persons. In addition, preserving building mass its relation to open space.

G. Variations. The HARB shall grant variations in a manner that will be in harmony with the character of the other buildings or structures on the street and/or districts.

H. The height of any new building or structure shall not exceed the height of the tallest adjacent building or structure by ten (10) percent. This requirement shall also apply to any proposed modifications to existing buildings or structures.

I. In such rare cases where the HARB recommends and the Millheim Borough Council approves demolition of a historic building or structure a good faith effort shall be made by the Millheim Borough Council and the owner(s) to move said building or structure to a proximate site. If moving a building or structure slated to be demolished is economically or practically infeasible, efforts shall be made to salvage architectural features of said building or structure for use within the Borough of Millheim.

J. In addition to the above the Millheim Borough Zoning Ordinance (if any) shall be so amended as to be compatible with the purpose of and objectives of this Part.

K. All other Millheim Borough laws and ordinances shall be complied with, including the zoning and subdivision ordinances (if any).

L. Financial Feasibility. The HARB shall consider the financial feasibility of its recommendations in response to a request for a certificate of appropriateness or building permit for the demolition or razing of a building or structure. Financial feasibility shall be determined by the HARB on the basis of an unreasonable cost for demolition or razing of whole or part of a building or structure. The applicant shall submit a minimum of three (3) estimates from bona fide contractors and or vendors substantiating his or her claim that the financial feasibility of repair in-kind is unreasonable. The Board shall determine as to the condition of said architectural feature based on its inspection, photographs or report from the building inspector or preservation staff or consultant. No substitute material shall be approved which is inappropriate, incompatible, or is destructive or has the potential to be destructive to the original fabric of the building or structure. No vinyl or aluminum siding or other material shall be allowed on the exterior of any masonry wall of a building or structure. No capping with aluminum or vinyl or other material shall be allowed on the exterior of character defining features of a building or structure.

(Ord. 213, 1/21/2004, Art. V)

§306. Application Review Procedure.

1. Upon receipt of a completed application for a building permit or a certificate of appropriateness for work to be done within the District, the Code Enforcement Officer shall act in accordance with the procedures being followed in that office, except those procedures that are modified by the following requirements:

A. The Code Enforcement Officer shall determine whether the work proposed needs to be forwarded to HARB staff for administrative approval review. If not, he shall forward copies of the completed application for a building permit together with copies of any plot plan and building plans and specifications filed by the applicant to HARB.

B. The Code Enforcement Officer shall not issue a building permit for any demolition or razing of all or part of any building in the District until the Millheim Borough Council has issued a certificate of appropriateness (COA). If the Code Enforcement Officer or his representative issues a building permit without a COA due to an administrative or clerical error said building permit shall be voided.

C. The Code Enforcement Officer shall require applicants to submit a sufficient number of additional copies of material required to be attached to a completed application for a building permit or certificate of appropriateness so that the information needed to make the determination set forth in subsection (7)(A) through (H) will be available.

D. The Code Enforcement Officer shall maintain in his office a record of all such applications and final dispositions of the same.

2. Board Review of Applications. Upon receipt of a completed building permit or certificate of appropriateness application under the jurisdiction of this Part, HARB shall consider such at its next regularly scheduled meeting or special meeting.

3. Notification of Application of HARB Meeting. The owner of record or his or her representative(s) applying for a certificate of appropriateness and/or a building permit shall be advised of the time and place of said meeting and be invited to appear to explain his or her reasons at least ten (10) days before the HARB meeting. HARB may invite such other persons as it desires to attend its meeting.

4. Design Guidelines. In determining both oral and written recommendations to be presented to the Millheim Borough Council concerning the issuance of a certificate of appropriateness authorizing a permit for the demolition or razing of all or a part of any building within the Historic District, HARB shall consider the design guidelines set forth in §305 and such design guidelines developed by the HARB pursuant to and congruent with the objectives of this Part.

5. Time Frame for Board Decision. HARB shall render a decision and recommendation on any application for a building permit under its review no later than forty-five (45) working days after the hearing/meeting provided for in §304(2) of this Part and shall submit, in writing to the Millheim Borough Council, recommendations concerning the issuance of a certificate of appropriateness.

6. Application Disapproval by HARB. If the HARB decides to advise against the granting of a certificate of appropriateness, it shall so indicate to the applicant for a building permit. The disapproval shall indicate to the applicant the changes in plans and specifications, if any, which would protect (A) the distinctive historical character of the Historic District and (B) the architectural integrity of the building or structure. The HARB shall withhold its report for five (5) days to allow the applicant to decide whether or not to make the suggested changes in the applicant's plans and specifications. If the applicant determines that the applicant will make the necessary changes, the applicant shall so advise the HARB, which shall in turn advise Millheim Borough accordingly.

7. Contents of Written Report. The written report to Millheim Borough Council concerning HARB's recommendations on the issuance of a certificate of appropriateness shall set out the findings of fact which shall include, but not be limited to, the following matters:

A. The exact location of the area in which the work is to be done.

B. The exterior changes to be made or the exterior character of the structure to be erected.

C. A list of the surrounding structures with their general exterior characteristics.

D. The effect of the proposed change upon the general historic and architectural nature of the District.

E. The appropriateness of exterior architectural features of the building which can be seen from a public street or way.

F. The general design, arrangement, texture, and material of the building and the structure and the relation of such factors to similar features of building or structures in the District.

G. The opinion of HARB (including any dissent) as to the appropriateness of the work or project proposed as it will preserve or destroy the historic character and nature of the District.

H. The specific recommendations of HARB based on findings of fact as to the issuance by the Millheim Borough Council or its refusal to issue a certificate of appropriateness.

8. Notification of Applicant by the Millheim Borough Council of Their Consideration. Upon receipt of the written report from HARB as provided in subsection .7 of this Section, the Millheim Borough Council shall consider, at the next regularly scheduled or special meeting, the question of issuing to the Code Enforcement Officer a certificate of appropriateness authorizing a permit for work covered by the application. The applicant shall be advised by the Millheim Borough Secretary of the time and place of the meeting at which the applicant's application shall be considered. The applicant shall have the right to attend this meeting and be heard as to the reasons for filing the application.

9. Design Guidelines. In determining whether or not to certify to the appropriateness of the proposed demolition or razing, of all or a part of any building within the Historic District, Millheim Borough Council shall consider the same factors as HARB set forth in §305 of this Part and the report of the Board.

10. Approval by the Millheim Borough Council. If the Millheim Borough Council approves the application, it shall issue a certificate of appropriateness authorizing the Code Enforcement Officer to issue a (building) permit for the work covered.

11. Disapproval by the Millheim Borough Council. If the Millheim Borough Council disapproves, a written reason(s) shall be given to the Code Enforcement Officer, the applicant and to the Pennsylvania Historical and Museum Commission. The disapproval shall indicate what changes in the plans and specifications would meet the conditions for protecting (A) the distinctive historical character of the District and (B) the architectural integrity of the building or structure. Upon receipt of a written disapproval of the Millheim Borough Council, the Code Enforcement Officer shall disapprove the application for a building permit and so advise the applicant. The applicant may appeal this disapproval to the Centre County Court of Common Pleas within the time specified by law.

12. Final Notification by Millheim Borough Council. In either case of approval or disapproval the Millheim Borough Council shall notify the applicant of its decision within five (5) days of its meeting at which the application was considered.

(Ord. 213, 1/21/2004, Art. VI)

§307. Unreasonable Economic Hardship.

1. When a claim of unreasonable economic hardship is made due to the effect of this Part, the owner of record must present evidence sufficient to prove that as a result of the HARB's action, he is unable to obtain a reasonable return or a reasonable beneficial use from a resource. The owner of record shall submit by affidavit to the HARB some or all of the information below at the discretion of the HARB which shall include, but not be limited to, the following:

- A. Date the property was acquired by its current owner.
- B. Price paid for the property (if acquired by purchase) and a description of the relationship, if any, between the buyer and the seller of the property.
- C. Mortgage history of the property, including current mortgage and the annual debt service, if any, for the previous two (2) years.
- D. Current market value of the property.
- E. Equity in the property.
- F. Past and current income and expense statements for the past two (2) years.
- G. Past capital expenditures during ownership of current owner.
- H. Appraisals of the property obtained within the previous two (2) years.
- I. Income and property tax factors affecting the property.
- J. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with purchase, offerings for sale, financing or ownership of the property, or state that none was obtained.

K. All studies commissioned by the owner as to profitable renovation, rehabilitation or utilization of any structures or objects on the property for alternative use, or a statement that none were obtained.

L. Estimate(s) of the cost of the proposed demolition or razing and an estimate(s) of any additional cost(s) that would be incurred to comply with the recommendations of the Planning Board for changes necessary for it to approve a certificate of appropriateness.

M. Form of ownership or operation of the property, whether sole proprietorship, for-profit or nonprofit corporation, limited partnership, joint venture or other.

2. The HARB may require that an applicant furnish additional information relevant to its determination of unreasonable economic hardship.

3. The HARB may receive and consider studies and economic analyses from other Borough agencies and from private organizations relating to the property in question.

4. Should the HARB determine that the owner's present return is not reasonable, it must consider whether there are other uses currently allowed that would provide a reasonable return and whether such a return could be obtained through investment in the property for rehabilitation purposes. The HARB may choose to recommend to the Millheim Borough Council that special economic incentives be developed to assist the owner of the resource in maintaining it and obtaining a suitable economic return or achieving a reasonable beneficial use.

5. The HARB may seek the assistance of appropriate local, statewide or national preservation organizations in developing solutions which would relieve the owner's economic hardship. If the HARB chooses to explore such options, the HARB may delay issuing a certificate of appropriateness for demolition on the basis of economic hardship for a period of ninety (90) days in addition to time periods otherwise applicable.

6. Should the applicant satisfy the HARB that the applicant will suffer an unreasonable economic hardship if a certificate of appropriateness is not approved, and should the HARB be unable to develop with the Millheim Borough Council or appropriate local, statewide and national preservation organization a solution which can relieve the owner's economic hardship, the HARB must recommend a certificate of appropriateness for demolition.

(Ord. 213, 1/21/2004, Art. VII)

§308. Demolition by Neglect. All buildings and structures within the Millheim Borough Historic District shall be maintained in good repair, structurally sound, and reasonably protected against decay and deterioration. Examples of such deterioration include:

- A. Deterioration of exterior walls or other vertical supports.
- B. Deterioration of roofs or other horizontal members.
- C. Deterioration of exterior chimneys.
- D. Deterioration of crumbling of exterior stucco or mortar.

E. Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors.

F. Deterioration of any feature so as to create a hazardous condition which could lead to the claim that a demolition is necessary for the public safety.

(Ord. 213, 1/21/2004, Art. VIII)

§309. Administration.

1. Notice of Violation. The Code Enforcement Officer shall serve a notice of violation on the person in violation of this Part which would result in but not be limited to (A) failure to apply for a certificate of appropriateness or a building permit required for the demolition or razing of any building or structure, in whole or in part, which can be seen from a public way, and (B) failure to comply with HARB approved work. Such notice shall direct the abatement of said violation.

2. Enforcement. The Code Enforcement Officer or his designated representative shall have the power to institute any proceedings at law or in equity necessary for the enforcement of this Part.

3. Penalty. Any person, property owner, occupant, firm or contractor failing to obtain a building permit or certificate of appropriateness pursuant to this Part shall be fined the sum of three hundred dollars (\$300.00) for each day the violation is unabated.

4. Amendments. The provisions of this Part may be amended in the future by the Millheim Borough Council after notice and hearing as provided by law.

(Ord. 213, 1/21/2004, Art. IX)

## Exhibit A

Starting at a point along the eastside of North Street and lot 219 moving north along street for 100 feet to north line of lot 219; then NE along lot line of lot 219 crossing to east bank of Elk Creek for 133 ft.; then south along east bank of Elk Creek for 3850 feet to north boundary line of lot 167; then SE along north line of lot 167 for 462 ft.; then south and south east along the eastern boundaries of lots 167, 168, 177 for 1232 ft.; then west along southern boundaries of lots 177, 178, 179, 180, 191, to east bank of Elk Creek for 550 ft.; then southeast along east bank of Elk Creek to South St., for 2112 ft.; then southwest along north side of South St. for 715 ft.; then north along lots 63, 64, 65, 67, 68 for 462 ft.; then southwest along southern lot line of lot 70 for 200 ft.; then northwest along western lot lines of lots 70, 75, 79, 80, 93 for 1012 ft.; then east along north line of lot 83 for 132 ft.; then north along western lot lines of lots 84, 90, 99, 101 for 715 ft.; then west along southern line of lots 112, 113, 114, 115, 116, 117, 118 for 650 ft.; then northwest along western lot line of lot 118 & crossing Main St. for 264 ft.; then west along north side of Main St. for 200 ft.; then north along western lot line of lots 139, 140 for 462 ft.; then east along south side of alley to western lot of lot 253 for 682 ft.; then north along western side of lot 253 for 33 ft.; then east along north lines of lots 253, 252, for 231 ft.; then north along western lot line of lot 251 for 198 ft.; then east along northern lot line . . .<sup>1</sup> for 99 ft.; then north along western side of North St. to the southern point of lot . . . for 1045 ft.; then north along western lot lines of lots 249, 248, 246, 245, 244-224 . . . 3300 ft.; then east along northern lot line of lot 224 and crossing North St. for 231 ft. to starting point.

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<sup>1</sup>Editor's Note: Material omitted in Exhibit A to Ord. 213, 1/21/2004

Exhibit B

