



Delaware's Certified Local Government (CLG) Program Guidelines



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TABLE OF CONTENTS

I. INTRODUCTION 3

II. BENEFITS OF CLG CERTIFICATION..... 3

III. CLG PROGRAM REQUIREMENTS 4

IV. APPLYING FOR CLG CERTIFICATION 6

V. DECERTIFICATION PROCESS..... 7

VI. AMENDING THE CLG CERTIFICATION AGREEMENT 8

APPENDIX A 9

APPENDIX B 11

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I. INTRODUCTION

The Certified Local Government (CLG) Program is a local, state, and federal partnership focused on promoting historic preservation at the grass roots level. Authorized as part of the 1980 amendments to the National Historic Preservation Act of 1966 (NHPA), the CLG Program provides local governments with a formally recognized role in the nation's preservation program.

The CLG Program is jointly administered by the Department of the Interior, through the National Park Service (NPS), and State Historic Preservation Offices (SHPOs) in each state. In Delaware, the SHPO is the Director of the Division of Historical and Cultural Affairs. The NPS is responsible for establishing the CLG Program's broad regulations and standards, which are further defined by each SHPO to meet the needs and abilities of their local governments.

In Delaware, local governments may include any of the counties or any municipality incorporated under the authority of the General Assembly. To participate in the CLG Program, which is an entirely voluntary commitment, the local government's chief elected official (CEO) must first submit a signed application demonstrating that it meets the basic program criteria. It is important to consider that CLG certification encompasses the entirety of the local government, rather than simply the body designated to carry out preservation activities. Therefore, the local government's CEO has a significant role in the CLG Program and possesses an independent voice in dealings with the SHPO. If approved, the CLG certification agreement functions as annually self-renewing unless, however, the local government voluntarily withdraws or fails to perform its necessary functions.

This document outlines the benefits, requirements and management procedures of Delaware's CLG Program.

II. BENEFITS OF CLG CERTIFICATION

- **CLG Grants:** CLGs are eligible to apply to the SHPO for grant funding to pursue a wide variety of preservation-related projects and activities, including (but not limited to): historic property surveys, nominations (or amendments) to the National Register of Historic Places, preservation planning assistance, public outreach, and training for members of the historic preservation review commission or CLG staff.

Funding for CLG Grants is derived from the Historic Preservation Fund (HPF), which is awarded annually to the State. In turn, the State is required to allocate 10% of its HPF award to CLGs in the form of sub-grants. The CLG grants function on a 60/40 matching basis: the grant may constitute up to 60% of the project cost, while the applicant provides the remaining 40% through cash and/or donated services and materials.

- **Technical Assistance:** The SHPO is committed to working closely with CLGs to support historic preservation efforts and address issues of concern. The SHPO or SHPO staff are available to provide ongoing technical assistance and may, upon request, attend a CLG meeting to conduct a presentation or workshop.

III. CLG PROGRAM REQUIREMENTS

- A. The local government must adopt and enforce a zoning ordinance for the designation and protection of historic properties located within its jurisdictional boundary. The following provisions must be included in either the zoning ordinance or implementing regulations:
1. A statement of purpose and definitions;
 2. The establishment of an adequate and qualified historic preservation review commission (Commission);
 3. An assignment of powers to the Commission to carry out the provisions of the zoning ordinance;
 4. Procedures and locally-established criteria for the designation of local landmarks and/or local historic districts. [These local landmarks and local historic districts must not include properties listed on or eligible for listing in the National Register of Historic Places (National Register) unless already designated through the local designation process.];
 5. Procedures and standards for the review of demolitions, alterations, and other actions that may impact local landmarks and local historic districts. [The Commission's recommendations pertaining to the protection of these properties must be consistent with the Secretary of the Interior's Standards for Rehabilitation.];
 6. Procedures for enforcing the zoning ordinance and penalties for non-compliance with actions and determinations;
 7. An appeal process for decisions rendered under the zoning ordinance; and
 8. Procedures for public hearings and notification consistent with this document and the Delaware Freedom of Information Act (29 Del. C. §100).
- B. The local government must establish an adequate and qualified historic preservation review commission (Commission), which may consist of a board, council, or other similar collegial body.
1. The Commission must adopt and consistently adhere to by-laws or rules of procedures that are publicly-available and include a section prohibiting conflicts of interest.
 2. Commission meetings must be scheduled at regular intervals and occur at least four (4) times per year;
 3. Unless otherwise stipulated by the zoning ordinance, members of the Commission must be appointed by the local government's chief elected official (CEO).
 4. To the extent available in the community, appointees to the Commission must possess professional expertise in the disciplines of architecture, history, architectural history, planning, archaeology, or other historic preservation-related fields. At a minimum, all members of the Commission must possess a demonstrated interest, competence, or knowledge in historic preservation.

5. The Commission must have no fewer than five (5) members.
 6. Vacancies in the Commission must be filled within ninety (90) calendar days of an expired term or receipt of a letter of resignation.
 7. At least once annually, all members of the Commission must make a reasonable effort to participate in historic preservation training, which may consist of conferences, presentations, or workshops conducted by the SHPO or other preservation professionals, or web-based opportunities. The Commission chair should consult with the SHPO regarding the appropriateness and availability of training opportunities. The SHPO is responsible for providing the Commission with orientation materials and consulting with the Commission chair, or other designee, to determine training needs and requests.
- C. The local government must maintain a system for the survey and inventory of historic properties located within its jurisdiction.
1. The local government must maintain a publicly-available list and map of locally-designated landmarks and historic districts.
 2. If a historic property survey is undertaken by the local government, it must be conducted in accordance with the most recent survey guidelines established by the SHPO. Upon completion of the survey, all forms and reports must be submitted to the SHPO. The SHPO will ensure that survey materials are publicly-accessible except as withheld in accordance with Section 304 of the NHPA, which allows for the restriction of sensitive information regarding the location, character, or ownership of a historic resource that may cause a significant invasion of privacy, risk or harm to the historic resource or impede the use of a traditional religious site by practitioners.
- D. The local government must provide for adequate public participation in the historic preservation program, including the process of recommending properties to the National Register.
1. All Commission meetings must be announced by public notice with an agenda, open to the public, and conducted in accordance with the Delaware Freedom of Information Act (29 Del. C. §100).
 2. Adequate minutes of the Commission's decisions and actions, including applicable standards and criteria for reaching such determinations, must be maintained and be publicly-available.
 3. All of the Commission's decisions and actions must be made in a public forum and affected applicants must be provided written notification of such determinations.
 4. All policies, procedures, and guidelines used by the Commission must be readily accessible to the public.
 5. To ensure that decisions regarding the National Register take into account local concerns, the local government must actively participate in the review of National Register nominations.
 - i) For proposed National Register nominations located within the local government's jurisdiction, the SHPO must provide a copy of the nomination

to the CEO and Commission chair at least sixty (60) calendar days prior to deliberation by the Delaware State Review Board for Historic Preservation.

- ii) When considering a National Register nomination, the Commission are encouraged to seek the expertise of persons meeting the Secretary of the Interior's Professional Qualifications Standards (see Appendix A) in the discipline pertinent to the nomination.
 - iii) Following a reasonable opportunity for public comment, the local government must submit to the SHPO a National Register nomination report with:
 - (a) The recommendations of the Commission and CEO; and
 - (b) Statements from the Commission and CEO evaluating the property in accordance with the National Register Criteria for Evaluation.
 - iv) If either or both the Commission and CEO recommend that the property is eligible for nomination, the SHPO will place the nomination before the Delaware State Review Board for Historic Preservation in accordance with the procedures outlined in 36 CFR 60, and 36 CFR 61.
 - v) If both the Commission and CEO recommend that the property is not eligible for nomination, the SHPO may not nominate the property unless an appeal is filed in accordance with Section 101(c)(2) of the NHPA, and 36 CFR 60. If such an appeal is filed, the SHPO may then place the nomination before the Delaware State Review Board for Historic Preservation in accordance with the procedures outlined in 36 CFR 60, and 36 CFR 61.
- E.** The local government must submit to the SHPO on January 31 of each year, an annual historic preservation report which describes the Commissions activities and determinations for the period of the previous October 1 through September 30 (i.e. the federal fiscal year). The preferred method of submittal for this report is digitally on a CD, but a paper submittal is allowed. Appendix B contains an outline of the contents of this report.

IV. APPLYING FOR CLG CERTIFICATION

- A.** To apply for CLG certification, the local government's CEO must submit to the SHPO an application with the following materials:
 - 1. A request to participate in the CLG Program signed by the CEO; and
 - 2. A copy of *Delaware's Certified Local Government Program Application* with required attachments.
- B.** The SHPO will review the application and may request additional information from the local government. Once sufficient information has been provided, the SHPO will notify the CEO of its decision within sixty (60) calendar days.
- C.** If the certification request is denied, the SHPO will specify the cause(s). If the certification request is approved, the SHPO will prepare a certification agreement, which outlines the

responsibilities of the local government, and transmit it the CEO for signature. Upon receipt, the SHPO will then forward the application and signed certification agreement to the NPS for review.

- D. The NPS will provide a determination or request for additional information within fifteen (15) working days. If the NPS concurs with the certification request, the date of the NPS' concurrence will be the effective date of certification.
- E. The certification agreement will function as annually self-renewing and may be terminated or amended as outlined below.

V. DECERTIFICATION PROCESS

- A. A local government may be decertified from the CLG program either voluntarily or due to non-compliance. In either instance, open CLG Grants must be resolved.

1. Voluntary Decertification

- i) The local government's CEO may, at any time, request decertification by notifying the SHPO in writing and indicating the reason(s) for seeking decertification. The SHPO will then notify the NPS, and the decertification process will be considered complete.

2. Decertification for Non-Compliance

- i) If, at any time, the SHPO determines that the local government is failing to meet the requirements of the CLG program, the CEO and Commission chair will be notified and provided with recommended corrective measures.
- ii) Upon receipt of the notification, the CLG will be allotted 120 calendar days to address any deficiencies. By the end of this 120 day period, the CEO must submit a letter to the SHPO documenting how such deficiencies were addressed or, if not successful, a summary of ongoing progress along with time extension request. Within thirty (30) calendar days, the SHPO will respond to the CEO and Commission chair and will either note that the CLG has made the necessary changes, grant the requested extension, or recommend decertification.
- iii) If the SHPO recommends decertification, the CLG has thirty (30) calendar days to appeal the decision. This appeal should provide clear justification as to why the decision should be overturned. After this time frame, the SHPO will transmit all pertinent documentation, including any appeal filed, to the NPS for review. If the Secretary of the Interior concurs with the SHPOs recommendation for decertification, the local government will be considered decertified at the time of the NPS letter.

3. Financial Closeout Procedures

- i) If at the time of decertification the local government is a grant recipient, the SHPO will conduct financial assistance closeout procedures.

VI. AMENDING THE CLG CERTIFICATION AGREEMENT

- A.** For minor changes, technical corrections, and changes required by NPS policy directives, a written notification from the SHPO to all local governments will be considered sufficient.
- B.** Any substantive change(s) will require an amendment to the Certification Agreement.
 - 1. The SHPO must notify the affected CLGs and other potentially interested parties of the proposed amendment and allow sixty (60) calendar days for comment.
 - 2. At the end of this period, the SHPO will submit a record of any comments received and the proposed amendment to the NPS for review. Upon receipt, the NPS will have forty-five (45) working days to respond to the SHPO.
 - 3. If the NPS approves of the amendment, the SHPO must send amended certification agreements to each of the affected CLGs for signature and, once returned, forward them to the NPS within 120 calendar days.

Secretary of the Interior's Professional Qualifications Standards

Throughout this Appendix, a year of full-time professional experience need not consist of a continuous year of full-time work, but may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

I. History: The minimum professional qualifications in history are a graduate degree in history, or closely related field; or a bachelor's degree in history, or a closely related field, plus one of the following:

1. At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historical organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

II. Archeology: The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology, or closely related field, plus:

1. At least one year of full-time professional experience or equivalent specialized training in archeological research, administration, or management;
2. At least four months of supervised field and analytic experience in general North American archeology, and
3. Demonstrated ability to carry research to completion.

In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period; and a professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period.

III. Architectural History: The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with course work in American architectural history; or a bachelor's degree in architectural history, art history, historic preservation, or closely related field, plus one of the following:

1. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

IV. Architecture: The minimum professional qualifications in architecture are a professional degree in architecture, plus at least two years of full-time professional experience in architecture; or a State license to practice architecture.

V. Historic Architecture: The minimum professional qualifications in historic architecture are a professional degree in architecture; or State license to practice architecture, plus one of the following:

1. At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field; or
2. At least one year of full-time professional experience on historic preservation projects.

Such graduate study or experience shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specification for preservation projects.

Annual Historic Preservation Report

The local government must submit to the SHPO on January 31 of each year, an annual historic preservation report which describes the Commissions activities and determinations for the period of the previous October 1 through September 30 (i.e. the federal fiscal year). The preferred method of submittal for this report is digitally on a CD, but a paper submittal is allowed. Below is an outline of the materials to be contained in this report.

Historic Zoning Ordinance:

1. Copies of any new historic preservation zoning ordinances, amendments, regulations, by-laws, or guidelines implemented during the review period.
2. A total number of cases reviewed under the authority of the zoning ordinance during the review period.

Local Historic Preservation Commission:

1. A list of all currently serving members of the Commission, any changes in membership during the review period, and resumes for any members of the Commission appointed during the review period demonstrating their interest, knowledge, or competence in historic preservation. [Please note whether any of the Commissioners meet the Secretary of the Interior’s Professional Qualifications Standards as outlined in Appendix A].
2. Any vacancies on the Commission along with the duration of such vacancies.
3. Members of the Commission who participated in historic preservation training and a description of such training.
4. Any requests for technical assistance from the SHPO.

Public Participation:

1. Total number of Commission meetings held during this period.
2. Copy of the minutes and agenda for all Commission meetings.
3. Documentation of any changes to the public notification procedures.
4. List of National Register nominations reviewed by the Commission.

Local Survey and Inventory:

1. Names of new local landmark and local historic district designations and a map illustrating their locations.
2. Update on the status of historic property surveys in progress. [If completed but not submitted, a copy of the survey materials should be transmitted to the SHPO].