

ORDINANCE NO. 1409-13

**AN ORDINANCE OF THE BOROUGH OF GETTYSBURG,
ADAMS COUNTY, PENNSYLVANIA, AMENDING THE
GETTYSBURG BOROUGH HISTORIC DISTRICT ORDINANCE,
CHAPTER 11 OF THE CODE OF ORDINANCES OF THE
BOROUGH OF GETTYSBURG.**

The Borough Council of the Borough of Gettysburg hereby enacts, adopts and ordains this ordinance, amending the Gettysburg Borough Historic District Ordinance, Chapter 11 of the Code of Ordinances, as follows:

SECTION 1: Section 104.1. Administrative Definitions is hereby amended by adding the following definition:

H. Demolition by Neglect – the absence of routine repair that leads to structural weakness, decay and deterioration of a building to a point that causes a need for major repair or may cause a need for demolition.

SECTION 2: Section 104.2.C. Project Treatment Definitions is hereby amended by revising the following definition:

C. Demolition – the dismantling, tearing down, removal or razing of a building, in whole or in part. This term shall not include changes to the interior of a building, provided such changes do not alter the structural integrity of the building.

SECTION 3: Section 110.3 is replaced in its entirety with the following:

3. Demolition

A. Application Requirements

1. An individual or entity proposing to raze or demolish a building in the Historic District shall first submit a written application in a form provided by the Borough which shall contain the following information:
 - a. The name, address and telephone number of the applicant (and such information for the owner if not the applicant).
 - b. The address of the building to be razed or demolished.
 - c. The date and manner in which the current owner acquired the property.
 - d. The proposed use of the property following the proposed demolition of the building.

- e. Photographs of the building or part thereof, proposed for demolition.
 - f. Photographic evidence and written description of the deteriorated condition of the building.
 - g. The reason or reasons for the proposed demolition.
 - h. An explanation as to why rehabilitation, reuse, plan alteration, or stabilization with the intent to market and sell the property is not feasible or desirable.
 - i. A statement on the proposed disposition of architectural features/building materials.
2. The Borough Planning Department shall prepare a report to the Board that includes: the maintenance of the building by the applicant/owner since it was acquired; whether the applicant/owner has neglected maintenance to destroy the building's historic integrity or its structural integrity; whether the applicant/owner has removed architectural fixtures from the exterior of the structure or otherwise damaged the property; and any previous or current code enforcement citations.
 3. An application involving demolition of a sensitive building, as defined in this ordinance, shall not be deemed complete or be considered by the Board unless the following information is also submitted for review and consideration:
 - a. An appraisal report relative to the fair market value of the subject property obtained by the applicant/owner for the purpose of obtaining financing or for other purposes.
 - b. A report by a registered professional engineer, with experience in structural engineering, setting forth an opinion of the structural integrity of the building to be razed or demolished and any other useful information. The payment of costs of such report shall be the responsibility of the applicant/owner. The Borough shall forward the report to an independent registered professional engineer for review and recommendation to the Board.
 - c. Two (2) written cost proposals from qualified contractors to determine both the cost of the repairs required to bring the building into conformity with all applicable codes and the cost to demolish the building.
 - d. A site plan, prepared by a registered design professional, showing the property boundaries and the location of all buildings, utilities,

rights-of-way, easements, entrances, and/or exits on said property as well as a site plan showing new structures, utilities, rights-of-way, easements, entrances, and/or exits.

- e. A list of bona fide offers for sale or lease of said property and, if the property is for sale, a copy of the contract listing the sales agreement.
- f. At its discretion, the Board may request that a study be completed and a report of such study be prepared by an architect or planner with a background in historical preservation. The study shall address the relationship of the building proposed to be demolished to the Historic District, as well as the impact the demolition of the building and site development will have on the immediate block or area where it is located. The cost and review of such study shall be the responsibility of and shall be paid for by the applicant/owner.

B. Criteria

In making a recommendation to the Borough Council regarding the issuance of a Certificate of Appropriateness where a permit is sought for demolition of a building within the Historic District, the Board shall consider the following criteria:

1. Whether the building under consideration for demolition contributes to the character of the Historic District or if the building has significant historic character.
2. In requesting an issuance for a Certificate of Appropriateness for demolition, the applicant/owner shall provide credible evidence that the following conditions exist:
 - a. The existing building cannot feasibly and reasonably be reused or is structurally unsound, and that its condition is not the result of the intentional neglect or the demolition by neglect by the applicant/owner.
 - b. The denial of the demolition would result in unreasonable economic hardship to the owner, based on the following criteria:
 - (1) The applicant/owner has demonstrated that the condition of the building constitutes a serious and immediate threat to the safety of the public or occupants that cannot be eliminated without repairs required to meet specified safety code standards that would exceed fifty percent (50%) of the appraised value of the structure itself documented in Sections 110.3.A.3.a and 110.3.A.3.c.

- (2) The applicant/owner has demonstrated that there would be no reasonable long-term economic benefit from the preservation of the building. In making a claim of unreasonable economic hardship in Section 110.3.C, all potential uses for the building shall be thoroughly examined and addressed in the application. When a claim of unreasonable economic hardship is being made in reference to a proposed demolition pursuant to this Part, the owner/applicant shall present evidence sufficient to prove that as a result of denial of a demolition permit, the owner/applicant is unable to obtain a reasonable return or a reasonable beneficial use from the property. The owner/applicant of record shall submit by affidavit to the Board all the information set in Section 110.3.C. An assertion that the owner/applicant can achieve a greater economic return by demolishing the building or that the owner lacks adequate funds to pursue potential uses or adaptive reuses are considered to be insufficient to sustain a claim of unreasonable economic hardship.
- c. The demolition is necessary to allow a project to occur that will have substantial public benefit which outweighs the loss of the building, and the proposed project must occur at that specific site.
 - d. The demolition will result in a new building that will be an improvement to the character of the Historic District, considering the architectural design proposed for the new building.
 - e. The building proposed for demolition does not contribute to the character of the Historic District.
 - f. When the Board deems a proposed demolition undesirable, it may recommend that the demolition be postponed for a period not to exceed nine (9) months for the consideration of the application by Borough Council. During this period, so as to render demolition unnecessary, the Board and Borough Planning Department shall make all reasonable efforts in identifying alternatives to demolition or resolving problems that resulted in the request for the proposed demolition.
 - g. In the case where the Board recommends and Borough Council approves demolition of a building, a good-faith effort shall be made by the owner/applicant to move the building to a nearby site. If moving a building slated to be demolished is economically or practically infeasible, best efforts shall be made to salvage architectural features of the building for use within the Borough.

C. Unreasonable Economic Hardship

When a claim of unreasonable economic hardship is made pursuant to this ordinance, the owner/applicant must present credible evidence that if the issuance of a Certificate of Appropriateness is denied that the owner/applicant will be unable to obtain a reasonable return from or a reasonable beneficial use of the property. The owner/applicant shall submit by affidavit to the Board the relevant information outlined below, which shall include, but not be limited to, the following:

1. The date the property was acquired by its current owner.
2. The price paid for the property (if acquired by purchase) and a description of the relationship, if any, between the buyer and seller of the property.
3. The form of ownership or operation of the property, whether sole proprietorship, partnership, for-profit or nonprofit corporation, limited liability company, limited partnership, joint venture or other.
4. The mortgage history of the property, including current mortgage and the annual debt service, if any, for the previous two (2) years.
5. The current market value of the property.
6. The owner's equity in the property.
7. An income and expense statement for the current year and for the past two (2) years.
8. The capital expenditures made for the benefit of the property during its ownership by the current owner.
9. Any appraisals of the property obtained within the previous two (2) years.
10. The income and property tax factors affecting the property.
11. All studies commissioned by the applicant/owner as to the profitable renovations, rehabilitation or utilization of any structures or objects on the property for alternative use, or a statement that none were obtained.
12. Estimate(s) of the cost of the proposed demolition and estimate(s) of any additional cost(s) that would be incurred in order to comply with the recommendations of the Board for changes or conditions necessary for the Board's recommendation to Borough Council for the approval of a Certificate of Appropriateness.

13. The Board may require that an applicant/owner furnish additional information relevant to its determination of unreasonable economic hardship.
14. Should the Board determine that the present economic return of the applicant/owner is not reasonable, it must consider whether there are other uses currently allowed that would provide a reasonable economic return and whether such a return could be obtained through investment in the property for rehabilitation purposes. The Board may choose to recommend that special local, state or federal economic and tax incentives be developed to assist the applicant/owner of the property in maintaining it and obtaining a suitable economic return or achieving a reasonable beneficial use.
15. The Board may seek the assistance of appropriate local, statewide or national preservation organizations and/or economic development agencies for solutions or funding, which may relieve the economic hardship of the applicant/owner. If the Board chooses to explore such options, the Board may delay its recommendation for the issuance of a Certificate of Appropriateness for demolition based on economic hardship for a period of up to ninety (90) days in addition to any other applicable time periods for approval of the project.
16. Should the applicant/owner satisfy the Board that an unreasonable economic hardship will result if a Certificate of Appropriateness is not approved for demolition, and should the Board be unable to develop with the Borough or appropriate local, statewide and national preservation organization and/or economic development agencies a solution which can relieve the economic hardship of the applicant/owner, the Board shall recommend the approval and the issuance of a Certificate of Appropriateness for demolition.

D. Issuance of Certificate of Appropriateness Permit for Demolition

1. Prior to the issuance of any permit for the demolition of a building or structure in the Historic District, the applicant/owner shall have obtained all necessary approvals and permits associated with the project, which shall include, but not be limited to, zoning approvals or permits; subdivision and land development approval; any Commonwealth of Pennsylvania approvals to include, but not limited to Department of Transportation and Department of Labor and Industry approvals; any Gettysburg Municipal Authority approvals and the issuance of water and sewer connection/disconnection permits; and the issuance of building permits for the construction of new buildings.
2. Prior to the issuance of any permit for the demolition of a building in a Historic District, the applicant/owner shall provide financial security

in the form of cash, certified funds, or an irrevocable letter of credit for the cost of constructing the proposed new improvements, including any buildings. The applicant/owner shall enter into an agreement with the Borough authorizing said financial security and providing for completion of the improvements within twelve (12) months from the date of issuance of the permits.

3. No demolition may occur until all permits necessary for the project, as well as licenses, zoning or land use permits, or other necessary documents or approvals, have been obtained or met and the agreement set forth in Section 110.3.D.2 above has been executed by all parties.
4. Vacant structures in the Historic District shall be properly and adequately secured against the elements and vandalism to prevent deterioration and the exterior of the property shall be maintained in accordance with all applicable ordinances of the Borough.
5. The Borough shall have the authority to issue a permit for the demolition of a building in the Historic District when, in the opinion of a registered professional engineer with experience in structural engineering, such building represents an immediate and present danger to the life or property of any residents or visitors of the Borough.
6. A permit for demolition without compliance of this ordinance may be issued if the Borough's building inspector certifies in writing that the building represents an immediate and present danger to public health, safety and welfare and that no other reasonable alternatives exist other than to demolition.

E. Demolition by Neglect

1. All buildings within the Historic District shall be maintained in good repair, structurally sound and reasonably protected against decay and deterioration, pursuant to the Borough Property Maintenance Code. Examples of such deterioration include:
 - a. Deterioration of exterior walls and other vertical supports.
 - b. Deterioration of roofs or other horizontal members.
 - c. Deterioration of exterior chimneys.
 - d. Deterioration or 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 that could lead to the claims that a demolition is necessary for the public safety.

2. Any unresolved notices of ordinance violations issued to the property owner may be considered in a determination of demolition by neglect.

SECTION 4: All remaining provisions of the Gettysburg Borough Historic District Ordinance shall remain in full force and effect unless otherwise repealed by any other ordinance. All other ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 5: This Ordinance shall take effect upon enactment.

ENACTED, ADOPTED AND ORDAINED this 13th day of May 2013.

BOROUGH OF GETTYSBURG

By: Michael J. Birkner
Michael J. Birkner
President of Borough Council

ATTEST:

By: Sara L. Stull
Sara L. Stull, Secretary

APPROVED this 13th day of May 2013.

By: William E. Troxell
William E. Troxell, Mayor