

NEW GARDEN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA
ORDINANCE NO. _____

AN ORDINANCE OF THE TOWNSHIP OF NEW GARDEN, CHESTER COUNTY, PENNSYLVANIA, AMENDING CHAPTER 200 OF THE NEW GARDEN TOWNSHIP CODE, BEING THE ZONING ORDINANCE, BY AMENDING AND RESTATING ARTICLE XXI THEREOF PERTAINING TO HISTORIC PRESERVATION. EFFECTIVE FIVE (5) DAYS FROM ENACTMENT.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of New Garden Township, Chester County, Pennsylvania, and it is hereby **ENACTED** and **ORDAINED**, that Chapter 200 of the New Garden Township Code of Ordinances, being the Zoning Ordinance, is amended as follows:

Section 1. Chapter 200 of the New Garden Township Code of Ordinances being the New Garden Township Ordinance, Article XXI, Historic Preservation, is amended and restated in its entirety to read as follows:

§ 200-165 Purpose; statutory authority.

It is hereby declared as a matter of public policy that the preservation and protection of historic resources are public necessities and are in the interest of the citizens of New Garden Township, present and yet to come. It is the intent of this article to promote, protect, enhance and preserve historic resources for the educational, cultural, economic and general welfare of the public; to safeguard the Township's heritage by preserving and regulating certain historic resources that reflect cultural, social, economic, political and architectural history; to preserve and enhance its historic neighborhoods; to strengthen and foster economic development including the stimulation of tourism; to establish and improve property values; and to foster civic pride in the accomplishments of the Township's past. To achieve these purposes, and pursuant to the authorities granted to the Township by the Pennsylvania Municipalities Planning Code, 53 P.S. §§ 10604 and 10605 and the Pennsylvania Constitution, Article I, § 27, this Article establishes the New Garden Township Historical Commission to serve as an advisory body to the Board of Supervisors and Zoning Officer; requires the issuance of certain permits and approvals before a historic resource may be demolished or altered; provides for appeals from refusals of such permits; provides for modifications to bulk and density requirements; and encourages and permits the preservation of historic resources. In furtherance thereof, the purposes of this Article are to:

- A. Protect historic resources in New Garden Township;
- B. Identify all buildings and structures which are important to the culture, history and tradition of the citizens of New Garden Township (hereafter "historic resources") and to create an Historic Resources Map designating the categories of all such identified historic resources;
- C. Confirm the establishment of an Historical Commission in and for New Garden Township;

D. Establish a process by which proposed alterations, demolitions or relocations affecting historic resources are reviewed by both the New Garden Township Historical Commission and the New Garden Township Board of Supervisors;

E. Encourage the continued use and preservation of historic resources consistent with preserving the historic character and integrity of those resources and to facilitate their appropriate reuse; and

F. Encourage the preservation of historic settings and landscapes.

§ 200-166 Compliance required; effect on other restrictions; definitions.

A. Compliance. Any demolition, rehabilitation, enlargement, alteration or relocation of an historic resource shown on the Historic Resources Map shall occur only in full compliance with the terms of this article and other applicable regulations. For any historic resource shown on the Historic Resources Map, the requirements of this chapter shall apply, in addition to applicable zoning and other ordinances.

B. Preservation of other restrictions. It is not intended by this article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail.

C. Definitions. As used in this article, the following terms shall have the meanings indicated:

ADAPTIVE REUSE An historic resource which undergoes a process of rehabilitation, thus making possible a compatible new use for the property through repair, alteration and additions which retain the historic character of the property by retention of distinctive material and features of the structure which convey its historical, cultural, or architectural value.

ALTERATION Any act or process requiring a building permit, including without limitation the replacement, reconstruction, rehabilitation, demolition, or relocation of any structure or any part of a structure, which is visible from the public way.

CONTRIBUTING RESOURCE(S) - Any building, structure, object or site which is representative and supports or adds to an understanding of the broad patterns of local, state or national history.

CONVERSION An alteration of an historic resource by change of use theretofore existing to a new use which imposes other special provisions of law governing adaptive reuse, rehabilitation and zoning regulations.

CONVERSION, RESIDENTIAL A change in density and dwelling type of an existing historic resource by creating party walls and independent cooking, eating, bathing, housekeeping and sleeping areas, and thus creating a building containing two or more dwelling units with independent or common outside access.

DEMOLITION The dismantling or tearing down of all or part of any building or structure and all operations incidental thereto.

DEMOLITION BY NEGLECT The absence of routine maintenance and repair

which can lead to structural weakness, decay, and deterioration of a building or structure that may contribute to and/or necessitate its demolition.

HISTORIC RESOURCES Buildings, structures and landscapes which are important to the culture, history and tradition of the citizens of New Garden Township.

HISTORIC RESOURCES INVENTORY The New Garden Township Historic Resources Inventory supplements and provides supporting associated information for the Historic Resources Map as described in Section 200-167 (D).

HISTORIC RESOURCES MAP The map showing historic resources and their respective classifications more particularly described in Section 200-167 of this Chapter.

HISTORIC SITE A land area which is the site or location of a human event or activity that has made a significant contribution to the broad patterns of local, state, or national history.

MINOR REPAIR The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition, or any portion thereof, the removal or cutting of any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exit-way requirements.

NON-CONTRIBUTING STRUCTURES Any building or structure whose significance to the historical character of a property or of the township and its landscapes is deemed negligible.

REHABILITATION The process of returning an historic resource to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the resource which are significant to its historical, architectural and cultural values.

§ 200-167 Map created; Classification of Historic Resources and Revisions.

A. Historic Resources Map. The Board of Supervisors authorizes the research and creation of an Historic Resources Map for the Township ("Map"). The Map shall locate and identify all historic resources located within New Garden Township. The Map, as amended, shall be retained in the records of the Township at the Township office.

B. Classifications. The Map shall delineate two classifications of historic resources located in the Township. These include historic resources designated by the Township as meriting a review prior to the Township issuing a permit for any rehabilitation, enlargement, alteration, relocation or demolition. A historic resource shall be at least 50 years old and will meet at least on requirement of Class 1 or 2:

- (1) Class 1: National Register of Historic Places listed or eligible.
- (2) Class 2:

- (a). Shall have significant character, interest or value as an example of development, heritage or character of New Garden Township; or
- (b). Shall reflect the environment in an era of history characterized by a distinctive architectural style; or
- (c). Shall embody the distinguishing characteristics of an architectural style, engineering specimen, type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (d). Shall be associated with events that have made a significant contribution to the broad patters of history; or
- (e). Shall be associated with the lives of significant persons in the past; or
- (f). Shall have yielded or may be likely to yield, information important in history or prehistory.

C. Revisions. The Historic Resources Map may be revised from time to time by legislative action of the Board of Supervisors.

(1) In considering any revision, including additions, deletions or changes of classification to the Historic Resources Map, the Board shall receive a written recommendation from the New Garden Historical Commission.

(2) The owner of a property, which is the subject of any such proposed legislative action, shall be given written notice of the Historical Commission's recommendation to the Board of Supervisors at least 30 days prior to the public hearing.

D. Historic Resources Inventory. The Historical Commission shall maintain an updated list of properties shown on the Historic Resources Map, including their respective classifications. The Commission may further specify the significant resources located upon each property. Where not otherwise specified, the entire property shall be regulated as an historic resource.

§200-168 Powers, Functions and Duties of Historical Commission. Powers allocated to the New Garden Township Historical Commission shall include review of proposed rehabilitations, enlargements, alterations, demolition, landscaping, buffering, modifications to bulk and area or use regulations and relocation of an historic resource. In accordance with the purposes of this article, the Commission shall have the following functions and duties:

- (A) Maintain a system for the survey and inventory of historic resources in New Garden Township.
- (B) Conduct research on and propose the nomination of significant resources to the National Register of Historic Places and other appropriate lists or programs.
- (C) Advise the Board of Supervisors on the issuance of demolition permits for historic resources.
- (D) Review and comment on subdivision or land development applications which affect

historic resources, in accordance with the requirements and procedures of the Township Subdivision and Land Development Ordinance and this article.

(E) Make recommendations to the Board of Supervisors concerning revisions, updates or corrections to the Historic Resources Map.

(F) Maintain an updated list which clearly identifies historic resources and their respective classifications on the Historic Resources Map.

(G) Advise the Zoning Hearing Board and Board of Supervisors on all requests for special exceptions, conditional uses or variances affecting historic resources.

(H) Review applications for the rehabilitation, enlargement or alteration of historic resources as required by 200-170 below.

(I) Perform any other lawful activities which shall be deemed necessary to further the purposes of this article.

§200-169 Review of proposed rehabilitations, enlargements and alterations.

A. Building, zoning and other permits. No building permit, zoning permit or other permit (§ 200-148) for the rehabilitation, enlargement or alteration of an historic resource shall be issued by the Zoning Officer until the New Garden Historical Commission has made a determination as herein set forth.

B. Zoning Officer. The Zoning Officer shall provide the Historical Commission with a complete copy of the permit application, together with any plans or diagrams required by this article, within five working days of receipt of a completed application.

C. New Garden Historical Commission. The Commission shall, within 45 days of receipt of the application from the Zoning Officer, at a regular or special meeting, review the plans for compliance with the Rehabilitation Design Standards contained in section § 200-170, below.

(D) Within fifteen (15) days following the meeting, the Historical Commission shall prepare a written report and recommendation to the Zoning Officer and forward a copy to the Applicant and Board of Supervisors. The report and recommendation shall indicate the extent to which the proposed plans are in substantial compliance with the Rehabilitation Design Standards. When the plans for a proposed project are not in substantial compliance, the report shall recommend specific changes in the plans to bring them into substantial compliance.

(E) Action by Zoning Officer. Upon receiving a recommendation from the Historical Commission, the Zoning Officer:

1. May process the application, provided that the plans satisfy all requirements of the Township and are in substantial compliance with the Rehabilitation Design Standards and/or follow the recommendations of the Historical Commission; or
2. May deny the issuance of the permit if the Historical Commission's report indicates that the plans are not in substantial compliance with the Rehabilitation

Design Standards, § 200-170, until the plans have been revised by the Applicant in accordance with the Commission's recommendations.

3. May delay issuing a building/zoning permit. If the Historical Commission's report indicates that the plans are not in substantial compliance with the standards contained herein, the Zoning Officer shall not issue permits until:

- (1) The plans have been revised by the applicant in accordance with the Historical Commission's recommendations; or
- (2) The Historical Commission documents that a compromise has been worked out with the applicant; or
- (3) The applicant has demonstrated undue economic hardship or other reasons why the Historical Commission's recommendations won't be implemented and all other requirements of the Township have been satisfied.

F. Requirement of good faith. The applicant shall work, in good faith, with the Historical Commission to evaluate the Historical Commission's recommendations for changes needed to bring the application into substantial compliance with this article.

§ 200-170 Rehabilitation Design Standards.

A. Standards for rehabilitation. Any proposed rehabilitation, alteration or enlargement of the exterior of a Class 1 or Class 2 historic resource under § 200-169 should be in substantial compliance with the Secretary of the Interior's Standards for Rehabilitation, revised 2007. Those standards are as follows:

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials.

Replacement of missing features will be substantiated by documentary and physical evidence.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

B. Signs. Signs for historic resources shall comply with § 200-112 and shall adhere to the following standards:

(a) Materials: Natural materials are preferred for signs relating to historic resources. Under no circumstances will plastic, internally illuminated signs be allowed in relation to an identified Township Historic Resource.

(b) Freestanding signs may only be illuminated from ground level.

§ 200-171 Landscaping. When an historic resource is located within a tract proposed for subdivision or land development, a landscape plan for the grounds surrounding the historic resource shall be required by the Township as part of the preliminary plan submission.

A. The plan shall be prepared by a registered landscape architect or by a nurseryman or other individual deemed qualified by the Board of Supervisors.

B. The plan shall show all pertinent information, including the location, size and species of all individual trees and shrubs to be removed, planted or preserved.

C. The landscape plan shall be submitted to the New Garden Historical Commission for its review and comments prior to any decision by the Board of Supervisors on the subdivision or land development plan.

D. The Historical Commission shall ascertain whether the landscape plan will minimize the impact of the proposed development on the historic resource, and whether the integrity of setting and any significant vegetation will be protected.

§ 200-172 Modified area, bulk and special use provisions. In the interest of preserving the Township's historic resources and the historic context of these resources, and to encourage appropriate use/reuse of a resource, modifications to the lot size, dimension and yard size and/or use may be permitted, by the Board of Supervisors, through the grant of a conditional use,

provided the standards, conditions and procedures of this section are met.

A. Allowable modifications.

(1) Lot standards. In a subdivision proposing to use the lot averaging or cluster development option in accordance with Articles XV and XVI of the Zoning Ordinance, the lot size authorized in those articles may be adjusted downward for an identified Township historic resource in cases where the historic resource contains two or more contributing structures (barns, springhouses, etc.) to accommodate conversion of these structures to preserve the integrity of the historic resource.

(2) Number of dwellings. In subdivisions proposing to use the lot averaging or cluster development option, an additional dwelling unit may be created in excess of the maximum number of dwelling units otherwise permissible under this article for each contributing structure in a Township historic resource to be preserved as a dwelling unit in the subdivision plan.

(3) Setbacks. In proposed subdivisions, setback requirements may be modified, if necessary, to preserve the integrity of an identified historic resource.

B. Special use provisions for adaptive reuse or conversion. Any rehabilitation, alteration or enlargement of an historic resource to utilize the special use opportunities must be in substantial compliance with the most recent version of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

(1) Bed-and-breakfast. Conversion to a bed-and-breakfast use of an historic resource (or contributing structure) may be allowed even if the building is not an owner-occupied single-family dwelling or does not meet the minimum lot size and setback requirements of the Zoning Ordinance.

(2) Residential. Conversion of a currently nonresidential historic resource (barn, springhouse, etc.) into residential use may be allowed even if the lot does not meet the size requirement of the base zoning. Multiple-family use may also be allowed as long as the property meets the area and bulk requirements of the Zoning Ordinance.

(3) Adaptive reuse of a historic resource may be allowed for low turn-over businesses in a residential area without requiring all of the constraints of a home business:

(a) Professional office employing not more than 3 persons.

(b) Art, craft or music studio, employing not more than three persons. Where instructional classes are provided, the use shall be limited to one class at a time with not more than five students in the class.

(c) Antique or specialty shop with 1,500 square feet or less of gross leasable space.

(d) Catering or food production facility (no on-site food consumption).

(e) Personal services, not including a dry cleaner or laundromat and limited to one employee per 500 square feet of gross leasable floor area; up to a maximum of 1,500 square feet.

(f) Conference or meeting facilities as a principal use, only where located on tracts exceeding 25 acres and where the conference or meeting facilities and all activities associated therewith are located entirely within an historic resource building or structure.

(g) Adult or child care center.

(h) Within the Board's sole discretion and with the Board's approval, any other similar use as a conditional use.

(4) In determining if the conditional use will not be contrary to the public interest, the applicant shall have the burden to prove and the Board of Supervisors will consider whether the conditional use, if granted, will:

(a) Adequately protect and/or preserve the historic resource on the property.

(b) Not adversely affect the public health, safety, and welfare due to changes in traffic, storm water drainage, air quality, noise, natural environmental resources, neighborhood property values, and aesthetics.

(c) Be in accordance with the Landscapes 3 Comprehensive Plan.

(d) Not adversely affect the logical and efficient provision of public services such as refuse collection, police and fire protection, water and sewer.

C. Requirements and Procedures.

(1) In order for the application to be valid under the provisions of this article, the subject property must be on the New Garden Township Historic Resources Map & Inventory on the date that the conditional use approval is applied for.

(2) The Zoning Officer shall provide a copy of the plan to the Historical Commission which shall issue its recommendation to the Board of Supervisors within 30 days and whose report shall be admissible into evidence at a conditional use hearing.

§ 200-173 Demolition of historic resources. Procedures; enforcement; violations and penalties; appeals.

A. General rule. No Class 1 or Class 2 historic resource identified on the New Garden Historic Resources Map and accompanying Historic Resources Inventory may be demolished, in whole or in part, except as provided herein.

B. Demolition permit requirements for Historic Resources:

(1) Permit required. No part of a structure of a Class 1 or Class 2 historic resource

shall be demolished, including the indiscriminate removal, stripping or destruction of any significant feature, in whole or in part, unless and until the applicant complies with the procedures and requirements of this § 200-173. The provisions § 200-173 shall not be construed to prevent the ordinary maintenance or minor repair of any building, structure, site or object where such work does not require a permit and where the purpose and effect of such work is to correct any deterioration or decay of or damage to a building, structure, site or object and to restore the same to its condition prior to the occurrence of such deterioration, decay or damage.

(2) Procedure for obtaining demolition permit. The applicant shall submit to the Township an application for a demolition permit, as outlined in section § 200-173 (3) below. The Zoning Officer shall utilize the Historic Resources Map and the Historic Resources Inventory in evaluating an application for a demolition permit, and if the application requests the demolition of a Class I or Class II historic resource, the Zoning Officer shall not issue the demolition permit until approval is first obtained from the Board of Supervisors and the applicant complies with all applicable procedures and requirements of § 200-173. Within five days following the Township's receipt of a properly completed application, the Zoning Officer shall forward the application to the Historical Commission for review

(3) Information to be provided. In addition to applicable requirements under the Township Building and Fire Codes, an applicant seeking a permit to demolish a Class 1 or Class 2 historic resource shall provide the following information in writing:

- (a) Owner of record and date of purchase of the property;
- (b) Parcel number, street address, Historic Resource number and classification;
- (c) Geographic Information System parcel photo and site plan showing all buildings and structures on the property;
- (d) Recent photographs of the resource proposed for demolition;
- (e) Reasons for demolition;
- (f) Method of demolition;
- (g) Proposed future use of the site and proposed use of materials from the demolished resource;
- (h) In any instance where there is a claim that a Class 1 or a Class 2 historic resource cannot be used or reasonably adapted, or where a permit application for demolition is based in whole or in part on financial hardship, the applicant shall submit, by affidavit, facts reasonably sufficient to support those assertions, section § 200-173 D (2) (b). The Historical Commission may call upon the Township engineer or other professional, at the expense of the applicant, to provide it with a report on

the state of repair or stability, and whether the historic resource has or may have alternate uses consistent with preservation.

(4) Review by Historical Commission. The Historical Commission shall make every effort to open a dialogue with the applicant to inform him of the historical importance of the resource, its significance to the Township and alternatives to demolition (conditional and special uses, etc.) Within 45 days following the receipt of a complete application from the Zoning Officer, the Historical Commission, at a regular or special meeting, shall review the application for demolition. The applicant will be notified, in writing, of the meeting and shall have the opportunity to present his or her reasons for filing the application. The Historical Commission shall consider the following:

- (a) The effect of demolition on the historical significance and architectural integrity of the resource in question, neighboring identified historic resources, and the integrity of their respective historical landscape settings;
- (b) Whether the applicant has demonstrated that he or she has considered and/or pursued all alternatives to demolition;
- (c) Economic feasibility of adaptive reuse of the resource proposed for demolition;
- (d) Alternatives to demolition of the resource;
- (e) Whether the resource in its current condition presents a threat to public safety;
- (f) Whether the resource has been intentionally neglected; and
- (g) Whether the required retention of the resource would represent an unreasonable economic hardship.

(5) Historical Commission recommendation. Within 30 days following conclusion of the above- described regular or special meeting to review the application for demolition, the Historical Commission shall set forth specific findings and one of the following recommendations in a written report to the Board of Supervisors:

- (a) Immediate approval. After reviewing the demolition permit application with attachments, the Commission may recommend approval of the demolition permit.
- (b) Delay of demolition. The Commission may recommend delay of demolition to further evaluate the demolition permit application, explore alternatives to demolition with the applicant and/or set forth the findings and the recommendation described above.
- (c) Denial of demolition. The Commission may recommend denial of demolition.

(6) Board consideration. Approval, denial or delay of demolition permit by the

Board of Supervisors. Within 30 days of receiving the recommendation from the Historical Commission, the Board of Supervisors shall consider the application, together with the recommendations of the Historical Commission. The applicant shall be notified of the meeting of the Board to vote on the application at least 10 days prior to its date and shall have the opportunity to present the applicant's reasons for filing the application. The Board of Supervisors shall consider each of the factors set forth in § 200-173 B (4) and shall either adopt the findings of the Historical Commission or make new findings of its own and those findings shall be included as part of the written decision of the Board. Within five days of making its decision, the Board shall provide written communication of its decision to the applicant, Historical Commission and Zoning Officer.

- (a) Approval. Based on the recommendation of the Historical Commission, the Board may approve an application to demolish an historic resource.
- (b) Denial of application. Where the Board acts to deny the application, a notice of denial and the Board's findings and conditions shall be sent to the applicant.
- (c) Delay of demolition.

(1) Purpose of delay. The specified period of delay (60 days Class 2; 90 days Class 1) from the date of the Board of Supervisors' written decision, shall be used:

- a. to provide an opportunity for the applicant to engage in a dialogue with the Historical Commission about alternatives to demolition;
- b. to discuss with the historical Commission what changes to the plans and specifications, if any, would be sufficient to meet the standards of this section;
- c. for preparation of a financial analysis of economic hardship. Where the applicant alleges that demolition is necessary due to undue economic hardship or the lack of a reasonable alternative, the Board of Supervisors shall, to the extent such information is not provided under § 200-173(B)(4), request that the applicant prepare and submit an affidavit which sets forth facts, including a financial analysis, sufficient to support this assertion. Such an affidavit shall include the following information, as applicable:

[1] Amount paid for the property;

[2] Date of purchase and party from whom purchased, including a description of the relationship, if any, whether business or familial, between the owner and the person from whom the property was purchased;

[3] Assessed value of the land and improvements

thereon according to the most recent assessment;

[4] A pro forma financial statement prepared by an accountant or broker of record;

[5] All appraisals obtained by the owner in connection with his purchase or financing of the property, or during his ownership of the property;

[6] Bona fide offers to sell or rent the property, the price asked and offers received, if any;

[7] Any consideration by the owner as to reasonable, adaptive uses for the property and any other practical uses; incentives which could be offered by the Township to preserve the resource; and any input from local, state or federal historic preservation and architectural organizations or agencies; and

[8] Where relevant, written estimates of the cost(s) of restoration and/or renovation from at least two professional restoration contractors.

- d. to allow for complete historical documentation of the resource. When prescribing the delay of demolition, the Board of Supervisors may require the applicant to provide documentation of the resource proposed for demolition. Such documentation shall include historical data, surveys and other data provided by local, state and federal historic preservation organizations and agencies; photographs; floor plans; measured drawings; archaeological surveys (if appropriate); and any other comparable form of documentation recommended by the Historical Commission. Where necessary, the delay shall continue past the stipulated 90 days until the applicant has sufficiently satisfied the documentation requirements.

(7) Historical Commission recommendation, once the delay of demolition has expired. The Historical Commission shall review the application again and any further documentation requested by the Board of Supervisors at its next regular meeting. The applicant shall be notified of the meeting and shall have an opportunity to present its reasons for continuing with the application. The Commission within 5 days following the meeting, shall recommend to the Board of Supervisors approval of the demolition permit or, where the Commission does not believe that the applicant has proven undue economic hardship or that there is no reasonable alternative to demolition, denial of the demolition permit.

(8) Board consideration; Approval or denial of demolition permit for historic

resources after delay of demolition.

[1] At its next regular meeting after receiving the recommendation from the Historical Commission, the Board of Supervisors shall again consider the application, the recommendations of the Historical Commission, any further documentation which had been requested and the factors set forth in. Then the Board shall vote either to approve the application or to approve the application with changes as set forth in §200-173 B(4) above or to deny the application as set forth below. The applicant shall be notified of the meeting at least 10 days prior to its date and shall the opportunity to present his or her reasons for continuing to pursue the application. The Board of Supervisors shall either adopt the findings of the Historical Commission or it may make new written findings of its own and those findings shall be included as part of the written decision.

[2] Denial of application. Where the Board acts to deny the application, a notice of denial and the Board's findings and conditions shall be sent to the Zoning Officer and applicant indicating what changes in the plans and specification, if any, would be sufficient to meet the standards of this section.

[3] Issuance of demolition permit. Where the Board acts to approve the application, it shall authorize the Zoning Officer to issue the demolition permit. Where the approval is granted with conditions attached, the Zoning Officer shall be authorized to issue the demolition permit upon receipt from the applicant of written acceptance of those conditions.

C. Enforcement procedures and remedies.

(1) Violations and penalties. Any person who violates the terms of this article shall be subject to the penalties imposed under § 200-146, as well as applicable penalties imposed under Township building and fire codes. In addition:

(a) Any person who alters an historic resource in violation of the provisions of this article or in violation of any conditions or requirements specified in a permit issued under the terms of § 200-173 shall be required to restore the building, structure, site or object involved to its appearance prior to the violation. Such restoration shall be in addition to, and not in lieu of, any penalty or remedy available under the ordinance or any other applicable law.

(b) The Township shall withhold issuing any building permit for any property which was occupied by an historic resource that subsequently was demolished in violation of this article.

(c) Any conditional use application or subdivision or land development application involving any property which was occupied by an historic resource that subsequently was demolished in violation of this article shall not be approved except upon the condition of satisfactory restoration of any such resources or upon the granting of appropriate demolition

permit(s) in accordance with this section.

(2) Enforcement.

(a) The Zoning Officer, charged by the Board of Supervisors with enforcement of the provisions of this chapter, shall review the progress and status of any change being made to an historic resource and shall render such reports thereon to the Board and to the Historical Commission as may be necessary to assure compliance with the provisions of § 200-173 being attached to any building permit, demolition permit, special exception or conditional use approval for any historic resource.

(b) In addition to the above remedies, the Board of Supervisors may take other appropriate legal action, which may include equitable and injunctive relief, to enforce the provisions of this chapter.

D. Appeal procedures. Any person aggrieved by a recommendation of the Historical Commission and decision by the Board may, within 30 days after receiving notice of the decision, either file an appeal therefrom to the Zoning Hearing Board or apply for reconsideration of the initial decision by filing with the Zoning Officer a written notice requesting the Board to review said decision. In such event, the Board's decision shall be considered a final adjudication under the MPC.

§ 200-174 Demolition by neglect. No Class 1 or Class 2 historic resource shall be demolished by neglect. Historic Resources shall be maintained in good repair and shall be reasonably protected against decay, deterioration and vandalism so as to avoid a condition of demolition by neglect, as defined below. Vacant structures shall be tightly sealed, fenced off, have adequate protection from the elements, especially roofs, and the utilities turned off for safety.

- A. The owner of any Historic Resource shall not permit such resource to fall into a state of disrepair, which may result in Demolition by Neglect.
- B. The Zoning Officer shall notify the Historical Commission of any instance where, in his or her opinion, demolition by neglect may be occurring and the Historical Commission shall notify the Zoning Officer of the same.
- C. The Zoning Officer shall evaluate the condition of any such building or structure against the criteria for demolition by neglect contained in the currently adopted edition of the 2015 International Property Maintenance Code (IPMC). Where the Zoning Officer has determined that demolition by neglect is occurring, he or she, shall institute proceedings to avert or remedy such condition in accordance with the terms of the IPMC, and shall report his or her findings to the Historical Commission.
- D. Review by the Historical Commission. Within thirty (30) days of the inspection by the Zoning Officer, of a Historic Resource believed to be undergoing Demolition by Neglect, the Historical Commission, at its regular or a special meeting, shall review the results of the inspection. The property owner or authorized agent shall be given ten (10) days' written notice of the meeting and encouraged to present evidence and testimony pertaining to the claim of demolition by neglect. The Historical Commission shall consider:

- 1. The condition of architectural features that contribute to the historic

significance of the Historic Resource.

2. Whether the owner has made a reasonable effort to properly stabilize and secure the Historic Resource.
3. Whether there are plans, by the owner, for alternative uses of the Historic Resource.
4. Whether there is any current reasonable re-use of the Historic Resource.
5. Whether property maintenance and stabilization represent a financial hardship for the owner.

E. Historical Commission Recommendation. Within fifteen (15) days of its meeting, the Historical Commission shall forward written findings to the Board of Supervisors relative to the claim of demolition by neglect based on evidence provided by the Zoning Officer.

F. The Zoning Officer shall submit regular and timely reports to the Historical Commission regarding the status of the investigation and results of any enforcement.

G. Enforcement. Demolition by neglect shall constitute a violation of this Ordinance. Any owner of an historic resource who has allowed that historic resource to be demolished or to deteriorate as the result of neglect shall be subject to the same enforcement remedies as an owner who knowingly violates this chapter by demolishing an historic resource without a permit for demolition. The Zoning Officer shall have the power to institute any proceedings of law or in equity, as provided under the terms of this Ordinance, necessary for the enforcement of this section, including all remedies set forth in § 200-176, the Pennsylvania Municipalities Planning Code, and §106 of the IPMC.

§ 200-175 Relocation of historic resources. In the case of a proposed relocation of an historic resource, the Historical Commission shall consider whether or not:

- A. The proposed relocation will have a detrimental effect on the historic resource;
- B. The proposed relocation will provide an environment that will be a compatible cultural landscape, that is, one that is harmonious with the historic and/or architectural aspects of the building or structure;
- C. The proposed relocation will further the achievement of the purposes described herein.

§ 200-176 [Reserved.]

Section 2. This Ordinance shall become effective five (5) days after enactment.

ENACTED and **ORDAINED** this ___ day of _____, 2019.

**NEW GARDEN TOWNSHIP
BOARD OF SUPERVISORS**

Stephan Allaband, Chairman

J. Patrick Little, Vice Chairman

Richard Ayotte, Member

Randy Geouque, Member

Mike Loftus, Member

ATTEST:

Lewis Gay, Secretary