

270-117 Historic buildings and historic preservation provisions.

- A. Additional uses within rehabilitated historic buildings. §270-46 permits certain additional uses within the LI and CI Districts within rehabilitated historic resources by special exception. To be eligible for these uses, the applicant shall prove the following to the satisfaction of the Zoning Hearing Board that:
- (1) the affected building is a historic resource; and
 - (2) a registered architect with substantial experience in the rehabilitation of historic buildings provides a written certification that the exterior of the building as visible from public streets will be historically rehabilitated in conformance with the Secretary of the Interior's Standards for Historic Rehabilitation and accompanying guidelines published by the National Park Service, and that any exterior repairs, alterations and additions visible from a public street will be in conformance with such standards and guidelines.
- B. Historic preservation requirements.
- (1) Purpose. The purpose of this section is to:
 - (a) provide a mechanism to discourage thoughtless and unnecessary destruction of valuable historic resources;
 - (b) provide a mechanism that allows interested parties an opportunity to encourage a property owner to consider alternatives to demolition, such as sale to another person, movement of the building or rehabilitation;
 - (c) provide opportunities for historic resources to be documented before they may be demolished; and
 - (d) seek that historic features be salvaged before demolition.
 - (2) Applicability.
 - (a) All of the provisions of the applicable underlying zoning districts shall continue to apply in addition to the provisions of this section. In the event of a conflict between the provisions of this section and the underlying zoning district, the provisions of this section shall apply.
 - (b) Covenants and easements. It is not the intent of this section to repeal, abrogate, or impair any existing easements, covenants or deed restrictions.
 - (3) Demolition, removal, or relocation of historic resources.
 - (a) Demolition, removal or relocation of a historic resource shall be regulated in accordance with this section. No historic resource shall be partially or entirely demolished, removed or otherwise relocated without receiving a conditional use approval from the Borough Council and a zoning permit issued by the Zoning Officer under the provisions of this section, except for emergency demolitions. Emergency demolitions to protect the health, safety and welfare of the citizens of Mount Joy Borough are regulated under the Property Maintenance Code, codified as

Chapter 195 of the Mount Joy Borough Code, and the UCC, and the provisions of these codes shall take precedence over the provisions contained in this section.

(b) Conditional use application.

- [1] Applications for a conditional use for demolition, removal or relocation of a historic resource shall be made in accordance with Article I.
- [2] Criteria for review. Applicants for a permit to demolish, remove, or relocate a historic resource in whole or in part must provide, as part of their application, a written statement as to whether the following statements are correct and provide detailed substantiation for each statement which is believed to be correct. In each instance, the burden of proof is on the property owner to demonstrate that the property owned has been deprived any profitable use of the relevant lot as a whole. The decision of the Borough Council shall be based upon a review of the information submitted by the applicant against all criteria and not any one criterion. The goals and development objectives of the Borough shall also be considered. The criteria for review shall be as follows:
 - [a] It is not feasible to continue the current use of the building.
 - [b] Other uses permitted within the underlying zoning district, either as permitted by right uses, special exception uses, or conditional uses, have been denied or are not feasible due to constraints on the building or structure.
 - [c] Adaptive use opportunities do not exist due to constraints related to the building, structure, or property.
 - [d] The building, its permitted uses, and adaptive use potential does not provide a reasonable rate of return, based on a reasonable initial investment. Such reasonable rate of return shall be calculated with respect to the property taken as a whole.
 - [e] The applicant has not contributed to the existing conditions, either through neglect or prior renovation, conversion, alteration or similar physical action.
 - [f] The demolition will not adversely affect the character of the property, streetscape, neighborhood or community.
 - [g] A proposed new building, structure or use (if applicable) on or of the property will not adversely affect the character of the streetscape, neighborhood or community.
 - [h] The building is structurally unsound.
 - [i] The denial of the demolition would result in unreasonable economic hardship to the owner. Forms for the determination of economic hardship are available at the municipal office.
 - [j] Sale of the building or structure is impossible or impractical.

[k] Denial of demolition will deprive the property as a whole of all beneficial use.

(c) Associated land development plans. If application for a permit for demolition, removal or relocation of a historic resource is being requested to facilitate future development of the land, then said permit shall not be issued until the following additional requirements have been satisfied:

[1] Approval of the land development plan by the Mount Joy Borough Council;

[2] Issuance of any necessary zoning approvals; and

[3] The recording of the approved subdivision or land development plan for the parcel where the demolition, removal, or relocation is proposed.

(d) Pre-demolition requirements. In those instances where an application for demolition is approved, the building(s) to be demolished shall be historically and photographically documented in a manner set forth as part of the conditional use decision. The extent of documentation will be determined by the significance of the building(s). If no requirements are set forth in the conditional use decision, the documentation shall be conducted in accordance with guidance from the Pennsylvania Historical & Museum Commission. When documentation is complete the building shall be dismantled and any dismantled materials should be salvaged for reuse to the greatest extent possible.

(e) Denial of demolition. If an application for demolition, removal or relocation has been denied, the applicant may appeal the decision of Borough Council to the Court of Common Pleas in accordance with the MPC.

(f) Enforcement. Violations of this section shall be enforced in accordance with §270-6 of this chapter.

(4) Demolition of historic resources by neglect.

(a) General requirements. Demolition by neglect is defined as the absence of routine maintenance and repair which leads to structural weakness, decay and deterioration in a building or structure to the point where the building or structure meets the criteria for condemnation under the Borough Property Maintenance Code.

[1] Codes violations. If the Zoning or Codes Enforcement Officer has cited a property owner of a historic resource for conditions that has or could lead to structural weakness, decay or deterioration in a building or structure and the property owner fails to correct the condition(s) in the time specified, the property owner may be cited for demolition by neglect under these provisions and be subject to the penalties contained herein. Enforcement notices shall be issued in accordance with §270-6.

[2] The owner of unoccupied principal or accessory buildings or structure that has been cited for violations shall develop a written maintenance program for the protection of any and all unoccupied historic resources. Said maintenance

program shall be established in accordance with the Mount Joy Borough Property Maintenance Code. A copy of the maintenance program shall be filed with the Zoning and Codes Enforcement Officer(s) and implementation begun in accordance with an established time-table.

[a] The maintenance program shall address measures to assure that structural components are protected and reinforced to stabilize and maintain the essential form of the building and structure. Structural features requiring stabilization include, but may not be limited to: roof, chimney(s), cornice, soffit, fascia, spouting, columns, beams, posts, as well as window and door sills, lintels and jambs.

[b] The exterior and interior of the building or structure may be inspected annually by the Zoning or Codes Enforcement Officer with the owner or the owner's agent to determine code compliance with the established maintenance program.

[3] Enforcement. Violations of this section shall be enforced in accordance with §270-6 of this chapter.

(5) Demolition, removal or relocation of potentially historic structures.

(a) Legislative intent. A waiting period is established to allow potentially historic structures to be historically and photographically documented prior to demolition.

(b) Permit procedure.

[1] An applicant must make application for a zoning permit for the demolition of a potentially historic structure in accordance with Article I.

[2] The Zoning Officer shall wait a minimum a 45 days after receiving a complete valid application for the demolition before issuing a permit for the demolition.

[3] Within ten days after receiving a complete valid application for demolition of a potentially historic structure, the zoning officer shall post notice at the property indicating the pending application and the date of expiration of the waiting period. The Zoning Officer may provide notification to other interested parties, by posting on the Borough's publicly-accessible website and/or announcement at a public meeting of Borough Council.

[4] Emergency demolitions to protect the health, safety and welfare of the citizens of Mount Joy Borough are regulated under the Property Maintenance Code, codified as Chapter 195 of the Mount Joy Borough Code, and the UCC, and the provisions of these codes shall take precedence over the provisions contained in this section.

(c) Documentation. Prior to issuance of the permit, the applicant shall grant reasonable access to the property for historic and photographic documentation of the potentially historic structure by a non-profit organization established for preservation of historic records.