

BOROUGH OF MILLERSVILLE

Lancaster County, Pennsylvania

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE BOROUGH OF MILLERSVILLE, CHAPTER 27, ZONING, TO REVISE THE SECTION 309, HISTORIC PRESERVATION OVERLAY DISTRICT.

BE AND IT IS HEREBY ORDAINED AND ENACTED by Borough Council of the Borough of Millersville, Lancaster County, Pennsylvania, as follows:

Section 1. The Code of Ordinances of the Borough of Millersville, Chapter 27, Zoning, as amended by Ordinance No. 2003-3, Section 309, Historic Preservation Overlay District, shall be deleted in its entirety and a new Section 309, Historic Preservation Overlay District, shall be inserted which shall provide as follows:

309. HISTORIC PRESERVATION OVERLAY DISTRICT

309.A. Purposes. In addition to serving the overall purposes of this Ordinance, this Historic Overlay District is intended to:

1. To promote the retention of community character through preservation of the local heritage by recognition and protection of historic and cultural resources;
2. To establish a clear process by which proposed changes affecting Historic Properties are reviewed;
3. To mitigate the negative effects of proposed changes affecting Historic Properties;
4. To encourage the continued use of Historic Properties and facilitate their appropriate rehabilitation and adaptive reuse;
5. To encourage the preservation of historic settings and landscapes;
6. To discourage the demolition of historic resources;

7. To utilize historic preservation as a tool for economic revitalization, to promote the general welfare, education, and culture of the Borough.
8. To implement the following sections of the Pennsylvania Municipalities Planning Code: 603(g)(2) which states that “zoning ordinances shall provide for protection of natural and historic features and resources; 604 (1) which states that “the provisions of zoning ordinances shall be designed to promote protect and facilitate any or all of the following: . . . preservation of the natural, scenic and historic values . . .”; and 605 (2) (vi) whereby uses and structures at or near places having unique historical, architectural or patriotic interest or value may be regulated.

309.B. Boundaries. The Historic Preservation Overlay District shall be an overlay district that overlaps and supplements underlying zoning districts. The Historic Preservation Overlay District shall be each lot containing an historic building listed on the Millersville Borough Historic Resources Inventory which is incorporated into this Zoning Ordinance by reference.

1. 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 the Historic Preservation Overlay District and the underlying zoning district, the provision that is most restrictive shall apply.
2. Should the boundaries of the Historic Preservation Overlay District be revised as a result of legislative or administrative actions or judicial decision, the underlying zoning requirements shall continue to be applicable.

309.C. Historic Resource Inventory.

1. Identification.
 - a. The Millersville Borough Historic Resources Inventory shall be incorporated by reference into this Zoning Ordinance.
 - b. All lots containing historic buildings included on the inventory list shall be shown on an official Historic Resource Map incorporated into and made a part of this Zoning Ordinance which shall be maintained, with the Inventory List, at the Borough office.
 - c. Historic buildings shall be identified in the inventory as follows:
 - (1) Class I – Denotes historic resources listed in or determined eligible to be individually listed in the National Register of Historic Places.
 - (2) Class II – Denotes historic resources that contribute to an existing or eligible National Register Historic District or that have local histori-

cal and/or architectural significance.

- (3) Class III – Denotes buildings that are not historic resources because they are less than 50 years old; or they are more than 50 years old but not eligible for listing on the National Register individually or as a contributing building within a historic district.

2. Compliance. Demolition, removal or relocation of any historic building within the Historic Preservation Overlay District shall occur only when in compliance with the terms of this Section and other applicable regulations.
3. Revisions. The Historic Resource Inventory and Map may be revised from time to time by legislative action of the Borough Council following a public hearing at which time the proposed changes shall be presented. Council shall follow all procedures of the MPC and in addition shall solicit the recommendation of the Historic Commission.
 - a. Revisions are defined as additions, deletions, or changes of classifications. Revisions do not include routine list maintenance.
 - b. Proposed revisions to the Historic Resources List and Map shall be submitted by the Historic Commission to the Planning Commission in writing for review prior to submission to the Borough Council.
 - c. The owners of any property(ies) which are subject to any such proposed legislative action shall be given written notice of the Historic Commission's recommendation to Borough Council at least ten (10) days prior to the Borough Council Meeting.

309.D. Demolition, Relocation or Removal of Historic Buildings within the Historic Preservation District.

1. General Requirements. No historic building within the Historic Preservation Overlay District shall be demolished, removed or otherwise relocated without a permit. No historic building within the Historic Preservation Overlay District shall be demolished by neglect. Demolition by neglect includes leaving an historic building or structure open or vulnerable to vandalism or decay by the elements. Unoccupied structures should be tightly sealed and fenced off and the utilities turned off for safety.
2. Application Procedures. An applicant for a special exception to demolish, relocate or remove an historic building within the Historic Preservation Overlay District shall submit the required application fee and the required number of copies of the permit application to the Zoning Officer who shall forward a copy of the application to the

Historic Commission for its review and comment. In addition to the requirements in Section 103.D of this Ordinance, the application shall include the following:

- a. classification of the historic building for which the permit is being sought on the Historic Resource Inventory (i.e. Class I or Class II or Class III);
 - b. recent interior and exterior photographs of the historic building proposed for demolition, removal or relocation;
 - c. a report from a structural engineer describing the structural condition of the historic building proposed to be demolished, removed or relocated;
 - d. a report from the code enforcement officer indicating the historic building's compliance with the Property Maintenance Code;
 - e. documentation of all efforts to sell the property in the preceding three years;
 - f. reason(s) for demolition, removal or relocation;
 - g. explanation why rehabilitation, reuse, plan alteration or stabilization with the intent to market and sell the property is not feasible or desirable, including financial feasibility and a minimum of two, current fair market value cost estimates of alternatives, if available;
 - h. proposed disposition of materials;
 - i. time line for implementation of proposed use for the property;
 - j. proposed future use of the lot or part of thereof occupied by the historic building or structure proposed for demolition, or any designs of proposed construction;
 - k. form of ownership or operation of the property, whether sole proprietorship, for-profit or nonprofit corporation, limited partnership, joint venture, or other.
3. The applicant shall provide credible evidence that:
- a. the demolition, removal or relocation of the historic building in question will not adversely affect the historic significance or architectural integrity of neighboring historic buildings or the historic character of the neighborhood or community;
 - b. there is no feasibility to continue the current use;

- c. other uses permitted within the underlying zoning district, either as permitted uses, special exception uses, or conditional uses, have been denied or are not feasible due to constraints on the historic building proposed to be demolished, removed or relocated from the property;
 - d. adaptive use opportunities do not exist due to constraints related to the historic building proposed to be demolished, removed or relocated or the lot on which it is located;
 - e. the proposed new building, structure or use of the property will not adversely affect the historic character or architectural integrity of the neighboring historic properties, the neighborhood, or the community;
 - f. the historic building proposed to be demolished, removed or relocated, its permitted uses and adaptive use potential does not provide a reasonable rate of return based on a reasonable initial investment;
 - g. the applicant has not contributed to the existing conditions, either through neglect or prior renovation, conversion, alteration or similar physical action.
4. A zoning permit for the proposed demolition, removal or relocation of any historic building within the Historic Preservation Overlay District shall not be issued prior to and where applicable:
- a. the recording of an approved subdivision or land development plan for the property where the demolition, removal or relocation is proposed; and
 - b. issuance of any necessary zoning approvals.
5. Historic Commission Review.
- a. Completed applications for an application for special exception approval to demolish, remove or relocate an historic building within the Historic Preservation District must be received seven (7) business days before the next regularly scheduled meeting of the Historic Commission in order to be placed on the agenda for review at that meeting. Incomplete applications will be tabled until missing information may be provided.
 - b. Applicant Notification. At the time the completed application is submitted, the applicant will be notified of the date, time and place at which the Historic Commission will review the application. The applicant or representative must attend to explain the application.
 - c. Criteria for Deliberation. The Historic Commission shall consider the

following:

- (1) The effect of demolition on the historical significance and architectural integrity of the resource in question and neighboring historic resources, if any;
 - (2) Whether the applicant has demonstrated that he has considered all alternatives to demolition;
 - (3) Economic feasibility of adaptive reuse of the historic resource proposed for demolition;
 - (4) Alternatives to demolition of the resource;
 - (5) Whether the resource in its current condition presents a threat to public safety;
 - (6) Whether the resource has been intentionally neglected; and
 - (7) The anticipated cost to repair and/or adapt the resource in relation to the appraised value of the property on which the resource is located.
- d. The Historic Commission shall submit their written recommendation to the Zoning Hearing Board to:
- (1) Approve the application for a special exception;
 - (2) Deny the application for a special exception; or
 - (3) Approve the application for a special exception subject to specified changes and/or conditions to bring the proposed activity into compliance.
- e. The Historic Commission's recommendations shall be in writing and shall include findings of fact related to the specific proposal and shall set forth the reasons for the recommendation for approval, with or without conditions.
- f. The Zoning Hearing Board shall review the recommendations of the Historic Commission and shall take action upon the special exception application in accordance with the provisions of this Ordinance and the Municipalities Planning Code and within the time limits of this Ordinance and applicable statutes.

6. Documentation. Prior to the issuance of a demolition permit, the Historic Commission may recommend that the Zoning Hearing Board impose as a condition of approval that the applicant to provide documentation of the resource proposed for demolition. Such documentation may include photographs, floor plans, measured drawings, archeological survey, and any other comparable form of documentation stipulated by the Zoning Hearing Board.
7. Financial Analysis. In its review of an application to demolish a Class I resource, the Historic Commission may recommend that the Zoning Hearing Board impose as a condition of approval that the applicant to prepare a Financial Analysis which may include any or all of the following:
 - a. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship, whether business or familial, if any, between the owner and the person from whom the property was purchased;
 - b. Assessed value of the land and improvements thereon according to the most recent assessment;
 - c. For depreciable properties, a pro forma financial statement prepared by an accountant or broker of record;
 - d. All appraisals obtained by the owner in connection with his purchase of financing of the property, or during his ownership of the property;
 - e. Bona fide offers of the property for sale or rent, price asked, and offers received, if any;
 - f. Any consideration by the owner as to profitable, adaptive uses for the property.

Any costs incurred by the Commission, as agreed to by the applicant, to review plans or studies submitted by the Commission's consultant specifically retained for this purpose, shall be reimbursed to the Borough by the applicant.

309.E. Alterations, Additions, Reconstruction and Rehabilitation.

1. General Requirements. No permits for alterations, additions, reconstruction or rehabilitation, visible from a public street, on/to historic buildings within the Historic Preservation Overlay District shall be issued by the Zoning Officer prior to review and recommendations by the Historic Commission. The definition of terms not specifically defined in this document shall be the definition contained in the International Building Code or its successor.

- a. Alteration, as applied to an historic building or structure means a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height or depth; or the moving from one location or position to another.
 - b. No permit shall be required for repairs or maintenance of any historic building, structure or grounds provided such repairs do not change the use or otherwise violate the provisions of this section.
2. Standards for Alterations, Additions, Reconstruction and Rehabilitation. Any proposed alteration, addition, reconstruction or rehabilitation of an Historic Property shall be in substantial compliance with *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings* published by the U.S. Department of the Interior, National Park Service. These ten standards are reprinted in their entirety below:
- a. 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.
 - b. 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.
 - c. 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.
 - d. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
 - e. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
 - f. 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.
 - g. 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.

- h. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
- i. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall 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.
- j. 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.

3. Application Procedures for Alterations, Additions, Reconstruction and Rehabilitation.

- a. Applications for any proposed alteration, addition, reconstruction, or rehabilitation, of an historic building within the Historic Preservation Overlay District shall comply with the provisions in this Section in addition to the provisions found in Article 1, Section 103, Permits and Certificates. The completed application shall be submitted to the Zoning Officer and shall include:
 - (1) a written description of the proposed alteration, addition, reconstruction or rehabilitation; and, where applicable:
 - (2) a site plan at a scale designated by the Zoning Officer;
 - (3) schematic architectural drawings of the proposed construction or alterations;
 - (4) materials list and disposition of existing materials.

4. Administrative Review. Permits for the activities listed below may be issued by the Zoning Officer without review by the Historic Commission. The Zoning Officer shall provide a record of all administrative approvals to the Historic Commission monthly, for their information.

- a. In-kind replacements.
- b. Replacement of slate roofs with slate look-alike products. The color selected should be one that most closely matches the slate to be replaced.
- c. Pointing (Repointing) Masonry, except that the applicant shall be given informational materials.

5. Historic Commission Review.

- a. Completed applications for any proposed alteration, addition, reconstruction, or rehabilitation, of an historic building within the Historic Preservation Overlay District must be received seven (7) business days before the next regularly scheduled meeting of the Historic Commission in order to be placed on the agenda for review at that meeting. Incomplete applications will be tabled until missing information may be provided.
- b. Applicant Notification. At the time the completed application is submitted, the applicant will be notified of the date, time and place at which the Historic Commission will review the application. The applicant or representative must attend to explain the application.
- c. Criteria for Deliberation. The Historic Commission shall use *The Secretary of the Interior's Standards for Historic Properties with Guidelines for Preserving, Rehabilitation, Restoring and Reconstruction Historic Buildings*, hereinafter referred to as "Standards," and which appear in 309.E.2 of this Section. Any proposed work requiring a permit shall be in substantial compliance with the "Standards."
- d. The Historic Commission shall submit their written recommendation to the Zoning Officer to:
 - (1) Approve the permit;
 - (2) Deny the permit; or
 - (3) Approve the permit subject to specified changes and/or conditions to bring the proposed activity into compliance.
- e. The Historic Commission's recommendations shall be in writing and shall include findings of fact related to the specific proposal and shall set forth the reasons for the recommendation for approval, with or without conditions.
- f. The Zoning Officer shall review the recommendations of the Historic Commission and shall take action upon the permit application in accordance with the provisions of this Ordinance and the Municipalities Planning Code and within the time limits of this Ordinance and applicable statutes.

309. F. Modification to Area and Bulk Regulations.

The subdivision of a Historic Property shall be accomplished in such a manner that the resulting lot(s) are of adequate size and configuration to preserve the integrity of the setting

of the resource.

Section 2. All other sections, parts and provisions of the Code of Ordinances of the Borough of Millersville shall remain in full force and effect as previously enacted and amended.

Section 3. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this Ordinance, it being the intent of Borough Council that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 4. This Ordinance shall take effect and be in force from and after its enactment as provided by law.

DULY ORDAINED AND ENACTED this _____ day of _____, 2009, by Borough Council of the Borough of Millersville, Lancaster County, Pennsylvania, in lawful session duly assembled.

BOROUGH OF MILLERSVILLE
Lancaster County, Pennsylvania

Attest: _____
(Assistant) Secretary

By: _____
(Vice) President
Borough Council

[BOROUGH SEAL]

Examined and approved as an Ordinance this _____ day of _____, 2009.

Mayor