

**ORDINANCE 08- 05**

**AN ORDINANCE TO AMEND THE TOWAMENSING TOWNSHIP ZONING ORDINANCE OF 1991, AS AMENDED, TO ESTABLISH REGULATIONS FOR THE REVIEW OF APPLICATIONS FOR THE DEMOLITION, RELOCATION OR REMOVAL OF CERTAIN HISTORIC BUILDINGS AND STRUCTURES.**

**BE IT ENACTED AND ORDAINED** by the Board of Supervisors of Towamensing Township, Carbon County, Pennsylvania, and **IT IS HEREBY ENACTED AND ORDAINED** by authority of the same, that the following be added to the Zoning Ordinance as Article XVI (Historic Preservation Overlay District):

1.     **A.     Purpose**

The purpose of this Article is to create a historic preservation overlay district to promote the general welfare of Towamensing Township through the following goals:

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 resources are reviewed by the Towamensing Township Historic Commission ("Historic Commission") and the Board of Supervisors.
3.     To mitigate the negative effects of proposed changes affecting historic resources.
4.     To encourage the continued used of historic resources and facilitate their appropriate reuse.
5.     To encourage the preservation of historic settings and landscapes.
6.     To discourage the demolition of historic resources.
7.     To implement the following sections of the Pennsylvania Municipalities Planning Code (MPC): Section 603(b)(5), Section 603(g)(2), Section 604(1) and Section 605(2)(vi).

**B. Applicability**

1. **Boundaries.** The historic preservation overlay district shall include all parcels within the geographic boundaries of Towamensing Township. An inventory of historic resources shall be conducted and a map and list of those resources shall be incorporated herein by reference. The overlay district shall include each parcel listed on the historic resource inventory.
  - a. All of the provisions of the applicable underlying zoning districts shall continue to apply in addition to the provisions of this Article. In the event of a conflict between the provisions of the overlay district and the underlying zoning district, the provision that is most restrictive shall apply.
  - b. Should the boundaries of the overlay district be revised as a result of legislative or administrative actions or judicial decision, the underlying zoning requirements shall continue to be applicable.
2. **Covenants and Easements.** It is not intended by this Article to repeal, abrogate or impair any existing easements, covenants or deed restrictions.

**C. General Provisions**

1. **Identification.** The historic resources inventory shall contain a listing of parcels within the historic preservation overlay district that contain one or more historic resources.

A historic resource shall be classified as: Class 1) a structure that is at least 100 years old and is a good example of a type or style or that has local, state or national significance; Class 2) a structure that contributes to the character or the fabric of the community or serves as an illustration of the history of Towamensing Township. (Class 2 structures may be less than 100 years old); Class 3) a structure that has been renovated or modified to the point that it has lost its historical integrity but would otherwise be in Class 1 or 2; and Class 4) the site or ruins of a historic structure or event; for example, a former post office or a battlefield.

The historic resources inventory shall identify every historic resource by tax parcel number. The street address, owner's name, type of resource and category of each resource shall also be included in the list.

All parcels identified as containing one or more historic resources shall be shown on an official historic resource map that shall be maintained, with the corresponding historic resources inventory, at the municipal office. The historic resource map shall be an overlay on any zoning district now or hereafter enacted to regulate the use of land in the Township.

2. **Compliance.** Changes to any class of buildings shall occur only when in compliance with the terms of this Article and other applicable regulations.
3. **Revisions.** The historic resource inventory and historic resource map may be revised from time to time by resolution of the Board of Supervisors (with recommendations from the Historic Commission) following a public hearing.
  - a. Revisions are defined as additions, deletions, or changes of classifications. Revisions do not include routine list maintenance to update ownership information or to add information about a change that occurred to the building.
  - b. Proposed revisions to the historic resources inventory and historic resource map shall be compiled and reviewed, no less often than every two (2) years, by the Historic Commission prior to submission to the Board of Supervisors for their review and action.

**D. Demolition, Removal or Relocation of Historic Resources**

1. **General Requirements.** All applications for demolition, removal or relocation of a structure shall be reviewed against the historic resource inventory and historic resource map. Except for emergency demolitions, no historic resource shall be demolished, removed or relocated unless a permit is obtained from the Zoning Officer in accordance with the provisions of this section. An "emergency demolition" shall be a demolition of a building or structure which due to its condition poses a real and immediate threat of injury to a person or property.

2. **Application Procedures.** One copy of a properly completed application for demolition, removal or relocation shall be forwarded to the Zoning Officer along with:
  - a. name, address and phone number of owner of record;
  - b. classification of historic resource;
  - c. recent interior and exterior photographs of the resource proposed for demolition;
  - d. a site plan showing all buildings and natural features on the lot;
  - e. an explanation of the reasons for the demolition, removal or relocation;
  - f. method of demolition, removal or relocation;
  - g. proposed use for the lot;
  - h. proposed disposition of materials; and
  - i. timeline for implementation of proposed use for the parcel.
  
3. **Review by Towamensing Township Historic Commission.** The Zoning Officer shall notify the Historic Commission of the application for demolition within five (5) days of acceptance of a properly completed application, including the necessary filing fee. Within forty-five (45) days of receipt of a complete application, at its next regular meeting or at a special advertised meeting, whichever occurs earliest, the Historic Commission shall review the application for demolition, removal or relocation. The applicant shall be notified of the meeting and encouraged to present evidence or testimony pertaining to the demolition, removal or relocation. In reviewing the application, the Historic Commission shall take into account the purpose of this Article as set forth in Section A above and the following:
  - a. It is not feasible to continue the current use.
  - b. 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 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 or demolition would result in unreasonable economic hardship to the owner.
- 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.

4. **Recommendation of the Towamensing Township Historic Commission**

- a. The Historic Commission may recommend immediate approval of the permit and may so advise both the Zoning Officer and the Board of Supervisors; or,
- b. The Historic Commission may elect to recommend that the permit not be approved for a period not to exceed ninety (90)

days to enable the applicant to obtain a grant or low interest loan to rehabilitate or refurbish the historic resource, or otherwise reconsider his or her decision to demolish, remove or relocate the historic resource, and so advise both the Zoning Officer and the Township Board of Supervisors.

5. **Issuance of Permit.** Except as set forth in paragraph 6 below, if the Historic Commission does not recommend immediate approval of the permit, then at the end of the ninety (90) day review period (or such shorter a period as may be recommended by the Historic Commission) the Zoning Officer shall issue the permit.
6. **Associated Land Development Plan.** If the application for a permit for demolition, relocation or removal of a historic resource is being requested to facilitate future development of the land, the said permit shall not be issued by the Zoning Officer until the following additional requirements have been satisfied:
  - a. approval of the land development plan by the Board of Supervisors;
  - b. issuance of any necessary zoning approvals; and
  - c. the recording of the approved subdivision or land development plan for the parcel where the demolition, removal or relocation is proposed.
7. **Enforcement.** In addition to the enforcement provisions found in Article XIII of the Zoning Ordinance, the Board of Supervisors may authorize action to withhold issuance of any and all zoning and building permits for a period of up to two (2) years for any property that at the time of the enactment of these provisions, was occupied by a historic resource that was subsequently demolished, removed or relocated without obtaining a permit as provided for herein.

In addition, the Board of Supervisors may take other appropriate legal action which may include equitable and injunctive relief, to enforce the provisions of this Ordinance.

2. All ordinances or parts of ordinances conflicting with the provisions of this ordinance are hereby repealed.

3. The Zoning Ordinance is amended in no other way.

4. This ordinance shall become effective five (5) days after its enactment.

THIS ORDINANCE IS ENACTED AND ORDAINED this 29<sup>th</sup> day of December,  
2008

BOARD OF SUPERVISORS  
TOWNSHIP OF TOWAMENSING

/S/ RODNEY GEORGE

/S/ GARY K. ANTHONY

/S/ PENNY L. KLEINTOP

ATTEST:

/S/ PATRICIA L. SNYDER  
Secretary