

Ordinance 2010-09

*BOROUGH OF HIGHTSTOWN
COUNTY OF MERCER
STATE OF NEW JERSEY*

AMENDING CHAPTER 12, SUBSECTION 12-3, "PERMITS," THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN REGARDING DEMOLITION OF BUILDINGS AND STRUCTURES

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Hightstown as follows:

Section 1. Chapter 12-3, "Permits," is hereby amended by adding the following as Subsection 12-3.6, Demolition Permits:

PURPOSE. The purpose of this Section is to provide fair and comprehensive process prior to the issuance of a demolition permit in order to permit adequate consideration of all issues related to demolition activities. This Section is also intended to protect the safety and welfare of adjoining property owners from damage that may be caused by the demolition.

As used in this Chapter, "Adjoining Properties" shall mean any property having a common boundary, and any property which would have a common boundary if not interrupted by a street, alley or other right of way.

"Accessory structure" shall mean a structure which is subordinate to and serves a principal structure; is subordinate in area, extent and purpose to the principal structure; contributes or has contributed to the comfort, convenience or necessity of the principal structure, and is located on the same parcel or property as the principal structure.

"Demolition" shall mean the razing and removal of all or at least sixty percent (60%) of the first floor footprint of a principal or accessory structure.

"Principal structure" shall mean the building in which the principal or primary use on the lot is conducted.

B. Demolition Permits:

a. **Permit required.** The demolition of any building or structure shall require a demolition permit which has been reviewed and approved by the Construction Official and the Zoning Officer in conformance with this Section and applicable law. Nothing contained in this Section shall limit the authority of the Construction Official or other appropriate Borough official to order a structure demolished in a life- or health-threatening emergency situation, or as may be otherwise authorized by State statute, other Borough Ordinance or the common law.

b. **Application. Principal structure.** In order to obtain a demolition permit for the demolition of any principal structure, a demolition permit application form must be completed and submitted to the Construction Official and the Zoning Officer. The demolition permit application shall contain the following information:

- (1) Property address, block and lot and current legal owner of property.
- (2) Site Plan identifying all buildings and structures to be demolished and the location and size of all remaining structures, including pictures indicating the elevations of the buildings to be demolished.
- (3) Whether the buildings or structures on the property are listed on the National Register of Historic Places, are located within the Borough's Historic District, identified in the Borough's Master Plan or subsequent Re-examination Report, or are located within one hundred fifty (150) feet of a federal, state or local historic district or are listed within the state, national or local Historic Register.

(4) Plans for the reuse of the property. If the reuse plan contemplates construction of a principal structure, the application shall include a site plan, a building plan and specifications.

(5) If commencement of construction of a new principal structure is not planned to occur within sixty (60) days after the completion of demolition, the application shall include a detailed site restoration and maintenance plan depicting all work required to restore the subject property to a safe, clean condition until construction of a new structure has commenced, including without limitation backfilling of any excavation, grading, seeding, fencing, stormwater management and utility disconnections.

(6) In addition to all other required plans and specifications, the application shall include detailed plans and specifications for stormwater management, soil erosion control and grading on the subject property. Such plans and specifications shall be on a drawing or drawings separate from all other plans and specifications labeled "Stormwater Management Plans." Additionally, such plans and specifications shall be in conformance with the requirements of the Borough's Stormwater Management Ordinance.

(7) A tree preservation plan shall be submitted identifying all trees with a six-inch (6") diameter or larger trunk located on the subject property. The plan shall identify any trees which would be removed as a consequence of the demolition or reuse of the subject property and provide for their replacement.

c. Application; accessory structure. Demolition permit applications for accessory structures shall be submitted to the Construction Official and the Zoning Officer. Demolition permit applications for accessory structures shall be submitted with all information set forth in paragraph b. of this Section.

d. Application review. The Construction Official and the Zoning Officer shall be responsible for the processing, review and approval of demolition permit applications. Within five (5) business days of the submission of a complete demolition permit application for a principal structure, the Applicant shall notify all owners of adjoining properties by Certified Mail, Return Receipt Requested. All information submitted shall be available for public inspection during normal business hours in Borough Hall.

(1) A demolition permit for a principal structure shall not be issued within the first thirty (30) days from the receipt of a completed demolition permit application but in no event shall a demolition permit for a principal structure be issued later than sixty (60) days from the receipt of a completed demolition permit application.

(2) The demolition of a principal or accessory structure may also be sought as part of a subdivision or site plan application. Any such application including the proposed demolition of a structure shall include all information set forth in paragraph b. of this Subsection.

(3) In accordance with N.J.A.C. 5:23-2.34 (Protection of Adjoining Properties) a complete demolition permit application shall be referred to the Planning Board for review and recommendations pursuant to N.J.S.A. 40:55D-26b prior to the issuance of a demolition permit. Unless extended, the Planning Board shall report back to the Construction Official and Zoning Officer within forty-five (45) days of the referral date.

a. Any review and recommendation by the Planning Board regarding a demolition permit application shall be done only after notice and hearing in accordance with N.J.S.A. 40:55b - 12 and 11.

(5) A complete demolition permit application shall also be referred to the Historical Preservation and Environmental Commission for review and report prior to the issuance of a demolition permit.

e. Review standards, requirements. The Construction Official and the Zoning Officer shall review all demolition permit applications in accordance with the Section and the Borough Ordinances, including the following standards:

(1) The granting of a demolition permit shall not be detrimental to the public health, safety and general welfare of the Borough or its residents.

(2) Adequate utilities, access ways, drainage and other necessary facilities and protective measures shall be provided.

(3) The reuse of the property shall be consistent with the Borough's Zoning Ordinance and Master Plan.

(4) Any new structure or use to be constructed on the subject property shall conform to the applicable requirements of this Zoning Ordinance unless the applicant has first applied for and been granted, a variance by the Borough's Planning Board.

(5) The applicant shall demonstrate conformance with N.J.A.C. 5:23-2.15(f), 2.17, 2.34 and all other applicable laws and regulations.

f. If the Construction Official and the Zoning Officer issue a building demolition permit, the demolition shall take place in accordance with the provisions of the Borough's Building Code in force at that time, the requirements of this Ordinance and any additional requirements or conditions imposed by the Construction Official or Zoning Officer. Proof of the disconnection of utilities serving the structure shall be provided to the Construction Official at least fifteen (15) days prior to the commencement of demolition.

g. Silt/Construction fencing shall be installed as approved by the Construction Official. Such fencing shall be removed no later than the completion of restoration as required by subsection (h) below. Required restoration or rough grading, when allowed by the Construction Official, shall be completed no later than forty-five (45) days after the completion of demolition.

h. Barring a force majeure event, if construction or reconstruction of a new principal structure has not commenced within sixty (60) days of the completion of demolition, the subject property site shall be restored within fifteen (15) days. Restoration of the property shall include without limitation: permanent disconnection of sewer and water, if applicable, at mains, final grading and seeding, the removal of dangerous conditions, rubbish and debris, restoration of damaged public property and removal of safety and tree protection fencing. If weather does not permit final grading and seeding. The Construction Official may permit rough grading until weather conditions permit final grading. Silt fencing and other stormwater measures shall remain in place in accordance with the Borough's Stormwater Ordinance.

i. Demolition Bond. The applicant shall post with the Clerk of the Borough, at the time of issuance of the permit for the demolition of a principal or accessory structure, a demolition performance bond, letter of credit or cash equivalent in the amount of ten percent (10%) of the cost of demolition or ten thousand dollars (\$10,000), whichever is less. Such Bond shall be in addition to all other application and processing fees, costs, escrows, bonds and other performance securities.

(1) The Borough shall have the right at all times, upon notice, at its option, to draw on the demolition bond or cash equivalent for costs, including legal fees and administrative expenses, incurred or to be incurred by the Borough in exercising any of its rights under this Section in the event the applicant undertakes any work in violation of any provisions of this Section.

(2) If the Borough draws on the demolition bond, or cash equivalent, the applicant shall replenish the bond, or cash equivalent, to the full amount required under subsection i above immediately after demand is made to the applicant in writing by the Borough. Any failure of the applicant to replenish the bond shall result in cancellation of the related permit, which permit shall not be reissued thereafter except after the filing of a new application, payment of the permit fee and the establishment of a new bond.

(3) Upon the completion of the demolition, the applicant shall submit in writing a request for the return of the demolition bond or the release of the demolition letter of credit. The Borough shall return any unused portion of the demolition bond or cash equivalent to the applicant, without interest, within thirty (30) days after final demolition inspection of the property and approval of the demolition by the Construction Official and the Zoning Officer. Properties where construction of a new principal building has not commenced within thirty (30) days of demolition shall be restored as required by this Section before the demolition bond shall be returned.

j. A non-refundable application fee of two hundred fifty dollars (\$250) shall be required for a demolition permit for a principal structure. A non-refundable fee of fifty dollars (\$50) shall be required for a demolition permit for an accessory structure. Fees shall be submitted with the demolition permit application.

k. If deemed essential by the Historic Preservation Commission (“HPC”), applicant shall provide access at reasonable times and on convenient days to the structure or structures to be demolished, and allow members of the HPC or their agents, to take measurements and pictures of interior, exterior and pertinent details. These measurements and pictures will memorialize the architecture and aesthetics of the structure proposed for demolition. Access, as needed to obtain legible photographs, shall be during a maximum thirty (30) day period or until the HPC has signed off, but in no event later than forty-five (45) days from the receipt of a completed demolition permit application. Prior to the issuance of a demolition permit, the HPC Chairperson or Vice Chairperson shall advise the Construction Official and the Zoning Officer that the photographs under this section have been completed. A demolition application shall not be deemed complete until the HPC inspection is completed.

(1) The HPC shall be permitted to draw against the demolition fee set forth in paragraph j above for the purchase of digital storage media and photographic printing costs, in an amount not to exceed fifty dollars (\$50).

Section 2. Penalties. This Ordinance may be enforced by the Zoning Officer, Construction Official or Police Department of the Borough of Hightstown. Any person found to be in violation of this Ordinance shall be subject to the penalty provide in Chapter 1, Section 5 of the *Revised General Ordinances of the Borough of Hightstown*.

Section 3. Severability. If any sentence, paragraph or section of this Ordinance, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any sentence, paragraph or section of this Ordinance shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective immediately upon final passage and publication in accordance with the law.

Section 5. Repealer. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Introduction::

Adoption:

DEBRA L. SOPRONYI,
MUNICIPAL CLERK

ROBERT F. PATTEN,
MAYOR