

# Ordinance 2014-05

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

## **AN ORDINANCE SUPPLEMENTING, AMENDING AND REVISING CHAPTER 12, “BUILDING AND CONSTRUCTION”, SECTION 12-3, “PERMITS”, SUBSECTION 12-3.6, “DEMOLITION PERMITS” OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN”**

**WHEREAS**, the purpose of this Ordinance is to amend and supplement requirements related to demolition activities and to protect the safety and welfare of adjoining property owners from damage that may be caused by the demolition. It also establishes the requirement of an escrow account for use by the Historic preservation Commission in their evaluation of the project.

**NOW, THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey as follows:

Section 1. Chapter 12, entitled “Building and Construction, Section 12-3, entitled “Permits”, Sub-section 12-3.6 entitled “Demolition Permits” of the “Revised General Ordinances of the Borough of Hightstown, New Jersey” is hereby amended and supplemented in order to establish the following provisions:

12-3-6 Demolition Permits.

### A. PURPOSE:

The purpose of this Section is to provide a 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.

“Selective Demolition” shall mean anything less than sixty percent (60%) of the first floor footprint of a principal or accessory structure. All projects which fall within this category shall be submitted to the Historic Preservation Commission (HPC) for determination if application to the Commission is required, and to allow the HPC to document the structure before any selective demolition is performed.

“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 only other person or entities that shall be consulted are the Historic Preservation Commission and Environmental Commission. 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 of all sides of all 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) 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. During the 60 day period the site shall be maintained in a safe and secure manner meeting the requirements of Section B.e. (1) – (5) (Review Standards).

(5) At the Zoning Officer's discretion, for structures or portions of structures less than 5,000 square feet; 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.

(6) A tree preservation plan shall be submitted identifying all trees with a six-inch (6") diameter or larger trunk located on the subject property, within 25 feet of the structure to be demolished. The plan shall identify any trees which would be removed as a consequence of the demolition and provide for their replacement.

(7) Provide proof that a pest control expert has investigated the property and either removed all pests or deemed it pest free. Pests include, but are not limited to carpenter ants, termites, rodents and other small mammals.

(8) Provide proof that structure has no lead paint or asbestos by providing report from professional of these fields, or provide report that all lead paint and asbestos has been removed in accordance with appropriate requirements.

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.

(1) Exceptions: A demolition permit shall not be required for the demolition of an accessory structure with a footprint of 120 square feet or less.

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, and in accordance with NJAC 5:23-2.34 (Protection of Adjoining Properties), 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 the Borough Offices.

(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) A completed permit application shall be submitted to the Planning Board for record purposes only.

(4) A complete demolition permit application shall also be referred to the Historic Preservation Commission 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 this 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) 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.

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

f. If the Construction Official and the Zoning Officer issue a 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. See 12-2-3 for applicable permit fees. A refundable escrow fee of \$50 shall be required for use by the Historic Preservation Commission.

(1) Upon the completion of the demolition, the applicant shall submit in writing a request for the return of the remaining escrow fee.

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) In accordance with 5:23-2.32 a structure which is deemed unsafe or a fire hazard must still be reviewed by the Historic Preservation Commission to deem whether or not the structure is essential. In the event that it is essential, 48 hours notice (business days only not including holidays) shall be given to the Historic Preservation Commission before the owner proceeds with demolition. This is to allow for steps to be taken to safely enter the site to document conditions prior to demolition.

(2) The HPC shall be permitted to draw against the escrow 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).

C. 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. (Ord. No. 2010-09)

See also

- 12-2-3 Fees
- 12-3-1 Building Permit Required; Exception.
- 12-3-2 Zoning Permit Required; Exception.
- 12-3-3 Moving Buildings or Structures.
- 12-3-4 Occupancy Permit Required.
- 12-3-5 Permit Application; Revocation; Inspection.

Section 2. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

Section 3. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.

Section 4. This Ordinance shall take effect following final passage and publication in accordance with the law.

Introduced: September 15, 2014

Adopted: October 6, 2014

**ATTEST:**

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Debra L. Sopronyi  
Municipal Clerk

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Steven Kirson  
Mayor