

**BOROUGH OF NORTH EAST
ORDINANCE NO. 944**

**AN ORDINANCE OF THE BOROUGH OF NORTH
EAST AMENDING CERTAIN PROVISIONS OF
ORDINANCE 903, ZONING, TO ADD SPECIFIC
REGULATIONS FOR THE DEMOLITION OF
HISTORIC STRUCTURES WITHIN THE BOROUGH**

PREAMBLE

WHEREAS, on September 4, 2018, the Borough of North East adopted the Zoning Ordinance pursuant to Ordinance 903; and

WHEREAS, the Zoning Ordinance did not provide for specific regulations related to preservation, alteration, and demolition of historic structures within the Borough; and

WHEREAS, the Borough Council has determined that the Zoning Ordinances needs to be amended in order to provide for regulation of the preservation, alteration, and demolition of historic structures within the Borough.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY the corporate authorities of the Borough of North East, County of Erie, and Commonwealth of Pennsylvania and it is hereby enacted by the authority of the same as follows:

Section 1. Preamble. The caption and Preamble of this Ordinance set forth above are incorporated herein by reference.

Section 2. Amendment. Ordinance 903 is hereby amended as set forth below. All deletions are shown as struck through; all additions are underlined.

Section 3. The Zoning Ordinance, as adopted by Ordinance 903 and based upon any subsequent amendments, is amended to include the following 606, Conditional Uses, as follows:

Section 606. Conditional Uses.

A. Procedure for Approval. The North East Borough Council shall hear and decide requests for Conditional Uses; however, the Council shall not approve a Conditional Use unless and until:

1. A written application for Conditional Use approval is submitted to the Zoning Officer no less than ten (10) working days prior to the regular meeting of the Planning Commission. The application shall indicate the Section of this Chapter

under which Conditional Use approval is sought and shall state the grounds upon which it is requested. The application shall include the following:

- a. A preliminary land development plan, if required by the Subdivision and Land Development Ordinance, or if a land development plan is not required, a current drawing of the property indicating all existing and proposed Structures and all proposed construction, additions or alterations on the site in sufficient detail to determine the feasibility of the proposed development and compliance with all applicable requirements of this Chapter.
 - b. A written statement showing compliance with the applicable Supplemental Regulations of this Chapter for the proposed Use.
 - c. The application fee required by this Chapter.
2. A written recommendation is received from the Planning Commission or forty-five (45) days has passed from the date of the Planning Commission meeting at which the application is first considered as complete and properly filed for approval.
 3. A public hearing is conducted by the Borough Council pursuant to public notice and said hearing is scheduled no more than sixty (60) days following the date of submission of a complete and properly filed application.
 4. The Borough Council shall render a written decision within forty-five (45) days after the last public hearing. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon. Conclusions based on any provision of this Chapter or any other applicable rule or regulation shall contain a reference to the provision relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found.
 5. General Standards and Criteria for Approval. In deciding all applications for Conditional Uses, the Borough Council shall be guided by the following standards and criteria:
 1. The proposed Use conforms to the applicable regulations of the zoning district.
 2. The recommendation of the North East Borough Planning Commission.
 3. Anticipated levels of traffic congestion, noise, Glare, and pollution created by the proposed Use will be similar to the levels created by the Uses permitted in that zoning district.
 4. Any visual or functional conflicts between the proposed Use and surrounding existing Uses shall be kept to a minimum. Increased Setbacks, planted buffers, wooden fences or other measures may be required by the Borough to minimize potential conflicts, or to reduce anticipated levels of noise. Visual and functional conflicts include, but are not limited to, loading docks, parking lots,

service driveways, or large nonresidential Buildings adjacent to residential neighborhoods or open space areas, without adequate buffering.

5. In granting a Conditional Use, the Borough Council may attach whatever reasonable conditions and safeguards it deems necessary in order to ensure that the proposed development is consistent with the purposes of this Chapter.

These general conditions shall be considered in addition to any other specific conditions related to the Conditional Use that may be set forth elsewhere in the Zoning Ordinance.

6. Conditional Use approval shall expire automatically without written notice to the applicant, if no application for a Building Permit or an occupancy Permit to undertake the construction or authorize the occupancy described in the application for Conditional Use approval is submitted within twelve (12) months of said approval, unless the Borough Council, in its sole discretion, extends Conditional Use approval upon written request of the applicant received prior to its expiration. The maximum extension permitted shall be one (1) 12-month extension.
7. All appeals from all decisions rendered pursuant to this Section shall be taken to the Court of Common Pleas of Erie County and shall be filed within thirty (30) days after entry of the decision as provided in 42 Pa.C.S. § 5572 (relating to time of entry of order) or, in the case of a deemed decision, within thirty (30) days after the date upon which notice of said deemed decision is given as set forth in Section 908(9)2 of the MPC.

Section 4. The Zoning Ordinance, as adopted by Ordinance 903 and based upon any subsequent amendments, is amended to include the following Section 516, Demolition Delay, as follows:

Section 516. Demolition Delay.

- A. Purpose. This section encourages the preservation of architecturally and historically significant buildings by delay of demolition to:
 1. Preserve and protect significant buildings and structures within the Borough which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the Borough; and
 2. To limit the detrimental effect on community character and heritage that may result from the demolition of such buildings and structures.
- B. Applicability. Any building or structure within the municipal boundaries which, in whole or part, is known or presumed to be at least fifty (50) years old or which has been determined by the Borough Council or other designated authority to be significant to the community based on one (1) or more of the following criteria:

1. The building or structure is listed on the State or National Register of Historic Places, or is partially or completely within the boundaries of an area so listed; or
 2. The building or structure has been determined by the State Historic Preservation Office and/or the National Park Service to be eligible for listing on the State or National Register of Historic Places; or
 3. The building or structure has documented associations with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Borough, the state or the nation; or
 4. The building or structure has documented historical or architectural importance in terms of period, style, method of construction, specific use, or association with a recognized builder or architect, either by itself or in the context of a group of buildings; or
 5. The building or structure is enumerated as having potential for local designation in the Borough's comprehensive historic resource survey. This inventory may be amended to include additional historic properties.
- C. Definitions. In addition to the definitions provided in Section 201, the following terms shall have the following meanings for the purposes of this Section:
- DEMOLITION or DEMOLISH — The razing, destruction, covering or dismantling of fifty percent (50%) or more of the perimeter walls of a structure. "Demolition" includes the removal of a building from its site or the removal, stripping, concealing or destruction of the facade or roof line or any significant exterior architectural features which are integral to the historic or architectural or cultural character of the building and facing the public street, for whatever purpose, including but not limited to new construction or reconstruction.
- DEMOLITION BY NEGLECT — The absence of routine maintenance and repair, which leads to structural weakness, decay and deterioration in a building or structure to a point that causes a need for major repair or may cause a need for demolition.
- MAINTENANCE and REPAIR — Work that does not alter the appearance or harm the stability of exterior features of a building.
- STREETSCAPE — The overall appearance of a block along a public street,
- D. Compliance. A change to any qualifying building or structure shall occur only when in compliance with the terms of this section and other applicable regulations.
- E. Demolition of buildings on historic properties.

1. General requirements. A qualifying building or structure shall not be demolished, removed or otherwise relocated unless a conditional use approval has been granted.
2. Application procedures. An applicant to demolish a qualifying building or structure shall submit the required application fee and the required number of copies of the application to the Zoning Officer, who shall forward a copy of the application to the Planning Commission for its review and comment. In addition to other application requirements set forth in this Chapter, the application shall include the following:
 - a. The name, address and daytime telephone number of the owner of record and the applicant for the demolition.
 - b. Classification of the building or structure for which the permit is being sought.
 - c. Recent exterior photographs of the building proposed for demolition. If the applicant is alleging that the building cannot be reused or rehabilitated, then interior photos and floor plans shall be provided as needed to support the applicant's claim.
 - d. A site plan, drawn to scale, showing existing buildings and the proposed demolition.
 - e. A written statement of the reasons for the demolition.
 - f. The proposed use of the site, and a proposed timeline for development of that proposed use.
 - g. A report from a structural engineer describing the structural condition of the building proposed to be demolished, removed or relocated.
 - h. A report from the Code Enforcement Officer indicating the building's compliance with the Property Maintenance Code.
 - i. Proposed disposition of salvageable material.
 - j. Assessed value of the land and improvements thereon.
3. The applicant shall provide evidence that:
 - a. There is no feasibility 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 proposed to be

demolished, removed or relocated from the property.

- c. Adaptive use opportunities do not exist due to constraints related to the building proposed to be demolished, removed or relocated or the lot on which it is located.
 - d. 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.
 - e. The applicant has not contributed to the existing conditions, either through neglect or prior renovation, conversion, alteration or similar physical action.
4. A permit for the proposed demolition, removal or relocation of any qualifying building or structure 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. Emergency demolition. If, after a thorough inspection, the Building Official finds that a building or structure subject to this Section poses an immediate threat to public health or safety due to its deteriorated condition and that there are no reasonable alternatives to the immediate demolition of the building or structure, then the Building Official may issue an emergency demolition permit to the owner of the building or structure. The Building Official shall then submit a written report to the Zoning Officer and Borough Council detailing the condition of the building or structure and the basis for the Building Official's decision.
6. Exceptions. Demolition approval shall not be needed for the following:
- a. Demolition of accessory structures that are not an integral part of the principal building.
 - b. Interior renovations or removal of features (such as a rear porch) that do not harm the structural stability of the building and that are not visible from a public street (not including an alley).
 - c. Removal of features that were added after 1945, such as a modern porch or aluminum siding or carport.
 - d. Relocation of a building within the Borough, provided that the relocation does not result in a partial or complete demolition that is regulated by this Section.

7. Demolition by neglect.

- a. Every property owner of a building regulated by this Section shall repair and maintain the building to avoid demolition by neglect. The Zoning Officer or Construction Official/Building Inspector [or Code Enforcement Officer] may require that any unoccupied building shall be properly sealed and secured to prevent decay from the elements and vandalism.
- b. Every property owner of a building regulated by this Section shall properly repair and maintain the building to maintain the structural integrity of the building and to protect the building and attached features from damage from the elements. The attached features that shall be protected, repaired and maintained include the roof, chimney, cornice, soffit, fascia, spouting, columns, beams, posts, windowsills, door sills and lintels.
- c. If a property owner fails to comply with an order from the Construction Official/ Building Inspector [or Code Enforcement Officer] to repair a building regulated by this Section to correct a Code violation that threatens the structural integrity of a building, such matter shall be considered a violation of this chapter.

F. Planning Commission & Borough Council Review.

1. Procedure. Completed applications for demolition of qualifying buildings or structures shall be processed and reviewed in accordance with Conditional Use procedures set forth in this Chapter.
2. Criteria for deliberation - demolition. The Planning Commission and the Borough Council shall use the application requirements which appear in this Section. These requirements must be addressed by the applicant in a written report submitted to the Planning Commission.
3. The Borough Council may vote to authorize the permit, deny the permit, or delay authorization for a period not to exceed 180 days from the date of initial application for a demolition permit, during which period the Borough and applicant will explore alternatives to demolition.

- G. Enforcement. No qualifying building or structure shall be demolished in the absence of approval of Borough Council in accordance with the provisions of this Section. Any violation of this Section shall be subject to the penalties provided in this chapter and, in addition, shall permit the Borough to apply for injunctive relief to enjoin the violation or further violation of this section or to restore the condition of a building improperly demolished.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person(s) or circumstances is for any reason held to be invalid or

unconstitutional by any court, such holding(s) shall not be construed to affect the validity of any of the remaining provisions of the Ordinance. It is hereby declared the legislative intent that this Ordinance would have been adopted had such invalid or unconstitutional provision or its application not be included herein.

Section 6. Repealer. Any other Ordinance or parts thereof inconsistent with this Ordinance shall be and are hereby expressly repealed.

Section 7. Effective Date. This ordinance shall become effective immediately.

ENACTED INTO AN ORDINANCE THIS ____ DAY OF AUGUST 2026.

BOROUGH OF NORTH EAST

Amber Belson
President of Borough Council

ATTEST:

PATRICK J. GEHRLEIN
Borough Manager

APPROVED THIS ____ DAY OF AUGUST 2026

Bobbi Jo Morey
Mayor