

**BIRMINGHAM TOWNSHIP**  
**CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 122 OF THE BIRMINGHAM TOWNSHIP CODE, TITLED, “ZONING”, SECTION 122-6 TO DELETE DEFINITIONS OF “CLASS I HISTORIC RESOURCE”, “CLASS II HISTORIC RESOURCE”, “CLASS III HISTORIC RESOURCE” AND “HISTORICAL SIGNIFICANCE”; TO AMEND THE DEFINITION OF “HISTORIC RESOURCE” AND “INVENTORY OF HISTORIC RESOURCES” AND TO AMEND ARTICLE VIII<sup>A</sup> TITLED, “HISTORIC PRESERVATION”.**

**BE IT ENACTED AND ORDAINED**, and it is hereby enacted and ordained by the authority of the Board of Supervisors of Birmingham Township, Chester County, Pennsylvania that Chapter 122 of the Code of the Township of Birmingham titled “Zoning” is amended as follows:

**SECTION 1.** The definitions of “Class I Historic Resource”, “Class II Historic Resource”, “Class III Historic Resource” and “Historical Significance” in Section 122-6 shall be deleted.

**SECTION 2.** The definition of “Historic Resource” in Section 122-6 shall be amended to state as follows:

**“HISTORIC RESOURCE**– Buildings, structures, or sites that meet the following criteria:

Is of an era that provides important historical value typical of the historical significance of ~~the character~~ of Birmingham Township (such as but not limited to the Colonial Period and Revolutionary War Era); and meets at least one of the following criteria:

- (a) Is associated with events that have made a significant contribution to the broad patterns of our national, state or local history; or
- (b) Is associated with the lives of persons significant to the national, state or local history; or
- (c) Embodies the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master; or
- (d) Has yielded, or may be likely to yield, information in prehistory or history; or
- (e) Is on or eligible for listing on the National Register of Historic Places.”

**SECTION 3.** The definition of “Inventory of Historic Resources” in Section 122-6 shall be amended to state as follows:

**“INVENTORY OF HISTORIC RESOURCES-** An inventory of Historic Resources located in Birmingham Township adopted by the Board of Supervisors in order to further the goals and purposes of Article VIII A of this Ordinance.”

**SECTION 4.** The following definition of “Site” shall be added to Section 122-6:

**“SITE-** Any parcel of land or combination of contiguous lots or parcels of land.”

**SECTION 5.** Article VIII A shall be amended in whole and replaced with the following new Article VIII A titled, “Historic Preservation”:

### **“ARTICLE VIII A**

### **HISTORIC PRESERVATION**

#### **§ 122-36.1. Purpose; statutory authority.**

A. The purpose of this Article is to protect Historic Resources within Birmingham Township as authorized under the Pennsylvania Constitution, Article I, Section 27, and Sections 604 and 605 of the Pennsylvania Municipalities Planning Code, 53 P.S. §§ 10604 and 10605.

B. Birmingham Township is nationally significant as one of the primary locations of the Battle of the Brandywine, one of the most famous and significant battles of the Revolutionary War. The entire Township has been designated as a National Historic Landmark by the Commonwealth of Pennsylvania and the United States of America. In addition, the Township has a rich heritage of Quaker settlement and venerable historic buildings contained in the tiny Village of Dilworthtown and the farmsteads of its early settlers.

C. Early dwellings in Birmingham Township were constructed in plan form and with materials that were already familiar to the Colonial settlers in the 18th and early 19th centuries. Built of log, stone or brick, those comprised of masonry have survived far more than the wooden structures have. They all, however, share a consistent form of structural design and framework through the use of wood

beams for interior supports and lintels to span the openings above doors and windows. The roof structure consistently incorporates rafters to form gable roofs- the steeper, the better, to shed snow, ice and rain. Many examples of these early dwellings are scattered throughout the Township and all share these qualities that help unify the architectural landscape.

~~D.C.~~ Pursuant to the authority in the Pennsylvania Historic District Act, Act 167 of 1961, the Township created its first historic district in 1969 which contains the Village of Dilworthtown. The Historic District was expanded in 1978 to include portions of the Birmingham Road corridor. This Article is not intended to supersede or repeal any of the provisions in the Birmingham Township Code which govern the Historic District or the Historic Commercial District. The Historic District and Historic Commercial District remain in effect and have regulations particular to their own districts. The regulations contained herein shall be in addition to any of the existing provisions in the Code which govern property which is located within the existing Act 167 Historic District.

~~E.D.~~ It is hereby declared as a matter of public policy that the preservation and protection of Historic Resources in Birmingham Township is a public necessity and is in the interest of the health, prosperity and welfare of the citizens of Birmingham Township.

~~F.E.~~ The specific purposes of this Article are:

- (1) To promote the general welfare by protecting the integrity of Historic Resources of Birmingham Township;
- (2) To implement the goals of the Pennsylvania Constitution, Article I, Section 27, which establishes the Commonwealth's policy of encouraging the preservation of Historic Resources;
- (3) To establish a clear process by which the demolition of Historic Resources is reviewed by the Birmingham Township Historical Commission and the Board of Supervisors;
- (4) To establish a clear process by which certain proposed exterior alterations to Historic Resources are reviewed by the Board of Supervisors;



- (5) ~~To establish a clear process by which certain proposed interior alterations to Historic Resources are reviewed by the Board of Supervisors;~~
- (6) To mitigate the negative effects of demolition of Historic Resources, to encourage the continued use of Historic Resources and to facilitate the appropriate reuse of those Historic Resources in Birmingham Township worthy of preservation, ~~if possible and financially viable;~~
- (7) To encourage the preservation of the battlefield landscapes, such as Sandy Hollow and Birmingham Hill; and
- (8) To discourage the unnecessary demolition of Historic Resources.

**§122-36.2. Classification of Historic Resources; adoption of Historic Resource Inventory; changes to Inventory.**

A. Classification of Historic Resources. Buildings, structures, and sites in Birmingham Township are classified as Historic Resources based on the criteria set forth in the definition of a Historic Resource in § 122-6. All Historic Resources shall be included on the Birmingham Township Inventory of Historic Resources.

B. Adoption of Birmingham Township Inventory of Historic Resources. The Inventory of Historic Resources, which is attached hereto as an appendix, which may be amended and updated from time to time pursuant to the provisions in this section, is hereby adopted.

C. Procedure for addition or removal of Historic Resources from Inventory of Historic Resources; change of classification.

Any building, structure, or site, ~~or a complex of the same~~ may be proposed for addition to or removal from the Inventory of Historic Resources by:

- (1) The owner of such resource;
- (2) The Birmingham Township Historical Commission;
- (3) The Board of Supervisors; or
- (4) Notice from the designating organization (Pennsylvania Historical and Museum Commission or United States Department of Interior~~National Register~~) that the Historic

Resource meets the criteria for designation as a Historic Resource or no longer meets the criteria upon which its classification as a Historic Resource was originally based.

~~D.~~ All proposals for addition to or removal from the Inventory of Historic Resources shall be referred to the Historical Commission. Before the Historical Commission adds or removes any building, structure, or site from the Inventory of Historic Resources, the Historic Commission shall hold a public meeting. At least 30-days prior to the public meeting, the Historic Commission shall send written notice to the owner(s) of the building, structure, or site proposed to be added or removed from the Historic Inventory by regular and certified return receipt requested mail. The Historical Commission shall consider oral testimony and/or documentary evidence regarding the proposal at the public meeting, which may be continued from time to time. The Historical Commission shall present a written report to the Board of Supervisors following the public meeting on the proposal, which report shall state the Commission's recommendation regarding the subject proposal, together with the grounds therefor.

~~E.~~ After receiving the recommendation of the Historical Commission, the Board of Supervisors shall consider the proposal to add or remove a building, structure, or site from the Inventory of Historic Resources at a public meeting. At least 30-days prior to the public meeting, the Board shall send written notice to the owner(s) of the building, structure, or site proposed to be added or removed from the Historic Inventory by regular and certified return receipt requested mail. The Board shall consider oral testimony and/or documentary evidence regarding the proposal, as well as the recommendation from the Historical Commission at the public meeting, which may be continued from time to time. The Board shall notify the owner(s) of the building, structure, or site proposed to be added or removed from the Historic Inventory of the Board's decision which must be made by vote of a majority of the Board at a public meeting.

D.F. The Historical Commission shall periodically review the Inventory of Historic Resources to evaluate if the Inventory includes all buildings, structures, and sites that meet the criteria for a Historic Resource as defined herein.

**§ 122-36.3. Historical Commission.**

A. Establishment and membership. There shall be an Historical Commission which shall consist of not fewer than five members and not more than seven members who shall be appointed by the Board of Supervisors. The membership of the Commission shall include individuals who have professional experience or a demonstrated interest in history, architectural history, archeology, historical preservation, or related fields. The members of the Historical Commission shall be residents of the Township. Each Commission member shall serve for a term of five years which shall be so fixed that no more than two terms shall expire each year. The Commission shall notify the Board of Supervisors of any vacancies in the Commission, and the Board of Supervisors shall act within 90 days to fill those vacancies. Appointments to fill vacancies for unexpired terms shall be only for the unexpired portion of the term. Members shall serve without pay but shall be reimbursed for any personal expenditures in the conduct of Commission business when authorized by the Board of Supervisors.

B. Organization. The Commission shall annually elect, from its own membership, a Chairman who will direct the activities of the Commission and such other officers as may be required for the conduct of its business. The Commission may make, alter and rescind rules and forms for its procedures consistent with the ordinances of the Township and laws and regulations of the Commonwealth. The Commission shall conduct business at regular public meetings. An agenda of each public meeting shall be available for inspection a minimum of one business day prior to the meeting. The Commission shall keep minutes of its meetings and shall submit an annual report of its activities to the Board of Supervisors each year.

C. Quorum of Historical Commission. A majority of the sitting members of the Historical Commission shall constitute a quorum thereof.

D. Expenditures for services. Within the limits of funds appropriated by the Board of Supervisors, the Commission may employ staff or contract for clerical, consulting, or other technical services.

E. Functions and duties. In accordance with the purposes of this Article, the Historical Commission shall have the following functions and duties:

- (1) Maintain a system for the survey and inventory and photographic documentation of historic buildings, sites, structures, objects and established historic districts in the Township;
- (2) Conduct research on and nominate significant resources to the National Register of Historic Places and any other appropriate lists or programs;
- (3) Advise the Board of Supervisors on the issuance of demolition permits for Historic Resources, as set forth in this Article VIII A;
- (4) Make recommendations to the Board of Supervisors concerning revisions, updates or corrections to the Inventory of Historic Resources;
- (5) Maintain an updated Inventory of Historic Resources; as identified by the criteria established in the definition of Historic Resource in Section 122-6; and
- (6) Photograph ongoing changes to the physical landscape throughout the Township and maintain an electronic/digital photographic database of all pictures collected.

**§ 122-36.4. Demolition of Historic Resources.**

A. Compliance. Any demolition of a Historic Resource which is listed on the Inventory of Historic Resources shall occur only in full compliance with the terms of this Article and other applicable regulations.

B. Permit requirements. No Historic Resource which is listed on the Inventory of Historic Resources shall be permitted by the owner thereof to be demolished by neglect. Demolition by neglect includes, but is not limited to, leaving a building or structure open or vulnerable to vandalism or decay by the elements. Unoccupied structures should be tightly sealed and fenced off to standards set forth in the



Township Building Code and Property Maintenance Code. No Historic Resource shall be demolished in whole or in substantial part, including the indiscriminate removal or stripping of any significant interior or exterior architectural features, unless a demolition permit is obtained from the Building Code Official of Birmingham Township in accordance with the requirements of this section and other applicable standards and procedures of the Township Building Code.

C. Application for demolition permit. In addition to applicable requirements under the Township Building Code, an applicant seeking a permit to demolish a Historic Resource shall submit an application for a demolition permit on forms supplied by the Township. The application shall include the following information with regard to the Historic Resource which is proposed to be demolished:

- (1) Owner of record;
- (2) Location upon the Cultural Resources Map;
- (3) Site plan showing all buildings and structures on the property where the Historic Resource is located;
- (4) Recent photographs of the Historic Resource proposed for demolition;
- (5) Reasons for the demolition;
- (6) Discussion of potential alternative uses for the building or structure including beneficial reuse, relocation, and/or other potential options in lieu of demolition, as well as, potential reuse of the materials on site or in other historic type applications (i.e., dismantling a barn and reusing the wooden post and beams in another structure).
- (7) Method of demolition; and
- (8) Future uses of the site and of the materials recovered from the demolished resource; ~~;~~ and

D. Proposed demolition of Historic Resources. The Zoning Officer will review all applications for demolition permits and confirm that the application concerns a Historic Resource that is listed on the Township Inventory of Historic Resources. If the application proposes to demolish an Historic Resource listed on the Township Inventory of Historic Resources, the Zoning Officer will advise the



applicant that full compliance with the procedures and requirements set forth in this Article must be met prior to issuance of the demolition permit.

E. Notice requirements. At least 14 days prior ~~Prior~~ to the Historical Commission's public meeting at which the application for a demolition permit will be considered, the applicant shall provide a notice to all property owners who own property within a 200 foot radius of the Historic Resource by certified, return receipt United States mail. The notice shall state the tax parcel number on which the Historic Resource is located, the name of the Historic Resource if one exists, and the scheduled meeting date and time when the Historical Commission will review and accept public comment on the application. ~~post the property which is the subject of the application with a written notice provided by the Township. The notice shall include the street address and tax parcel number on which the Historic Resource is located, the name of the Historic Resource if one exists, and the scheduled meeting date and time when the Historical Commission will review and accept public comment on the application.~~ Additionally, the applicant shall post the ~~The property which is the subject of the application with a~~ copy of the written notice that was mailed to all property owners within a 200 foot radius of the Historic Resource. The notice shall be placed in a conspicuous location on the property where the Historic Resource is located at least 14~~seven~~ days prior to the Historical Commission meeting and shall remain on the property until after the Board of Supervisors acts on the application. The applicant shall provide to the Township proof of certification mailing and ~~of~~ posting and a photographs evidencing posting same ~~posting same~~ prior to the Historical Commission meeting where the matter will be discussed.

F. Review by the Birmingham Township Historical Commission. The Zoning Officer or Township Secretary shall notify the Historical Commission of the application for a demolition permit upon acceptance of a properly completed application (with the required documentation set forth in the above section), including the necessary filing fee. The Historical Commission shall consider the application for a demolition permit at a public meeting held after the applicant has provided proof of

~~compliance with the notice and posting requirements -the certification of posting and photograph of same~~ required by Section 122-36.4.E above. The applicant shall be notified of the meeting and encouraged to present written and photographic evidence or testimony pertaining to the proposed demolition. In reviewing the application for a demolition permit, the applicant shall present evidence with regard to, and the Historical Commission shall consider, the following criteria:

- (1) The effect of demolition on the historical significance and architectural integrity of neighboring Historic Resources;
- (2) The feasibility of adaptively reusing the Historic Resource proposed for demolition;
- (3) All practical alternatives to demolition, including relocation of the structure, beneficial reuse of the entire structure or the component parts of the structure;
- (4) Any qualified testimony, such as, but not limited to, an engineering report regarding the structural stability of the Historic Resource, documenting threats to public safety;
- (5) The archaeological potential of the site;
- (6) Public comment regarding the Historic Resource or surrounding Historic Resources which may be impacted by the proposed demolition, including, without limitation, information in response to that submitted by the applicant;
- (7) Economic feasibility of adaptive reuse of the Historic Resource proposed for demolition;
- (8) Whether the Historic Resource has been demolished by neglect or the owner thereof has otherwise created or contributed to the state of the Historic Resource and/or any financial hardship associated with the preservation, rehabilitation or retention thereof; and
- (9) Whether the required retention of the Historic Resource would represent an unreasonable economic hardship and/or whether the Historic Resource can be so preserved, rehabilitated and/or retained, as applicable, so as to allow a reasonable rate of return from the use of the Historic Resource and/or the property on which the same is located.

G. Initial recommendation by the Historical Commission.



- (1) The Commission may recommend immediate approval of the demolition permit and may so advise the Board of Supervisors in writing. Alternatively, the Commission may elect to take an additional 60 days from the date of the first meeting where the demolition application is discussed to provide adequate opportunity for documentation of the Historic Resource as set forth in Subsection J below, preparation of a financial analysis as described in Subsection K below, or dialogue with the applicant on alternatives to demolition.
- (2) Before the expiration of the time period provided above, the Historical Commission shall recommend to the Board of Supervisors either approval or denial of the demolition permit. The Historical Commission shall communicate its recommendation(s) to the Board of Supervisors in a written report which specifically addresses the items set forth in Subsection F above, either recommending approval of the application as submitted, recommending approval of the application with conditions, or recommending denial of the application. If the Commission recommends denial, clear and relevant information must support the decision as set forth in Subsection F above.

H. Board of Supervisors meeting. After receipt of the Historical Commission's recommendation, the Board of Supervisors shall schedule the matter to be considered at the next a regularly scheduled public meeting of the Board. The applicant shall be notified of the meeting prior to its date, at which time the applicant shall have the right to present evidence in support of the application. The Board of Supervisors shall consider any evidence, reports or testimony from interested parties including the Historical Commission's recommendation and shall render a final decision either to deny or approve the demolition permit. The Board of Supervisors may, at its election, deny the application or approve the same with conditions if the Board of Supervisors determines that the applicant shall have failed to present substantial evidence with regard to the criteria set forth at Subsection F of this section or that,



based on such criteria, demolition of the Historic Resource will be contrary to the purposes of this Article.

I. Issuance or denial of demolition permit. Where the Board of Supervisors acts to either approve or deny the demolition permit application, it shall authorize the Zoning Officer to either issue the permit or give written notice of denial, as applicable. Where the approval is authorized to be granted with conditions attached, the Zoning Officer shall be authorized to issue the permit upon his/her receipt from the applicant of written acceptance of those conditions; otherwise, the permit shall be denied.

J. Documentation. Prior to the issuance of a demolition permit, the Historical Commission may recommend to the Board of Supervisors or the Board itself may require the applicant to provide documentation of the Historic Resource proposed for demolition. Such documentation may include photographs, floor plans, measured drawings, and other comparable forms of documentation.

K. Financial analysis. In its review of an application to demolish an Historic Resource and so as to allow the Historical Commission to analyze the application's compliance with the criteria set forth at Subsection F of this section, the Historical Commission or the Board of Supervisors may, at the Historical Commission's and/or the Board of Supervisors' election, require the applicant to prepare a financial analysis which shall include an analysis of the cost to renovate, rehabilitate, restore or adaptively reuse the Historic Resource and the profitability of adaptive reuses of the Historic Resource.

L. Reimbursement of costs. Any reasonable costs incurred by the Historical Commission or Board of Supervisors to review plans and studies relating to the demolition of the Historic Resource, including fees for consultants specifically retained for this purpose, shall be reimbursed to the Township by the applicant prior to the issuance of the demolition permit. In the event the Historical Commission or Board of Supervisors elects to retain consultants to assist in the review of the demolition permit application, the applicant shall be required to execute a professional consultants' reimbursement agreement in the form provided by the Township.

**§ 122-36.5. Landscaping and screening.**

A. A landscape plan shall be required for subdivision or land development applications which involve a tract of land which is itself designated as an Historic Resource; a tract of land which contains an Historic Resource; or a tract of land whose property lines are adjacent to a tract of land which is itself designated or contains an Historic Resource. The landscape plan shall be prepared in accordance with the standards contained in § 122-102C of this chapter, in addition to other standards of this section. The landscape plan shall be reviewed and approved as part of the subdivision and land development process.

B. The applicant shall demonstrate preservation of sufficient landscaping or buffer area surrounding Historic Resources to retain the integrity of the historical landscape setting.

C. The landscape plan shall be prepared by a registered landscape architect and shall strive to minimize the impact of the proposed development on the Historic Resource through screening, buffering, building locations and orientations, and plant material selection. The plan shall strive to save existing mature trees and utilize native species. The landscape plan shall show all pertinent information, including the location, sizes, and species of all individual trees and shrubs to be removed, planted, or preserved.

D. Provisions of this section shall not be construed to conflict with or override any of the provisions of the Township Subdivision and Land Development Ordinance. When there is a conflict, the more restrictive of the provisions shall govern.

**§122-36.6. Minimum Building Setbacks.**

There shall be a minimum building setback for any new buildings or structures equal to two times the otherwise required setback if the lot upon which the new building or structure is proposed to be built is located adjacent to a lot with a Historic Resource. For example, if the required minimum side yard setback for the new building or structure would be 30 feet, the setback shall be increased to 60 feet for the side yard that abuts the lot with the existing Historic Resource. The minimum setback

requirements may be reduced at the discretion of the Board of Supervisors if it can be demonstrated to the satisfaction of the Board of Supervisors that the Historic Resource can be adequately protected through existing or proposed landscaping, topography, architectural controls, or other features.

**§ 122-36.7. Alterations to Historical Resources.**

A. Compliance. Except as provided herein, any additions to or alterations of a Historic Resource which is listed on the Inventory of Historic Resources shall occur only in full compliance with the terms of this section and other applicable regulations.

B. The provisions of this section shall not apply to: (i) ordinary maintenance or repair of a Historic Resource where such work does not require a building permit and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, a building or, structure, ~~or object~~ and to restore the same to its condition prior to the occurrence of such deterioration, decay or damage; or (ii) any exterior ~~or interior~~ alteration that does not involve a change in or addition to the ~~supporting or structural members exterior structure of a building of a building or structure such as the bearing walls, partitions, columns, beams, girders or means of egress.~~

C. Permit requirements. In addition to applicable requirements under the Township Building Code, an applicant seeking a permit to construct an addition or exterior ~~or interior~~ alteration of an Historic Resource shall submit an application for a building permit on forms supplied by the Township. The application shall include the following information:

- (1) Owner of record;
- (2) Location upon the Cultural Resources Map;
- (3) Site plan showing all buildings and structures on the property where the Historic Resource is located;
- (4) Recent photographs of the Historic Resource;
- (5) Reasons for the addition or alteration;
- (6) Method of construction;



D. Notice requirements. Prior to the Board of Supervisors' public meeting at which the application for a building permit will be considered, the applicant shall provide a notice to all property owners who own property within a 200 foot radius of the Historic Resource by certified, return receipt United States mail. The notice shall state the tax parcel number on which the Historic Resource is located, the name of the Historic Resource if one exists, and the scheduled meeting date and time when the Board of Supervisors will review and accept public comment on the application. Additionally, the applicant shall post the property which is the subject of the application with a copy of the written notice that was mailed to all property owners within a 200 foot radius of the historic structure. The notice shall be placed in a conspicuous location on the property where the Historic Resource is located at least 14 days prior to the Board of Supervisors meeting and shall remain on the property until after the Board of Supervisors acts on the application. The applicant shall provide to the Township proof of mailing and posting and a photograph of the posting prior to the Board of Supervisors meeting where the matter will be discussed.

~~post the property which is the subject of the application with a written notice provided by the Township. The notice shall include the street address and tax parcel number on which the Historic Resource is located, the name of the Historic Resource if one exists, and the scheduled meeting date and time when the Board of Supervisors will review and accept public comment on the application. The notice shall be placed in a conspicuous location on the property where the Historic Resource is located at least seven days prior to the Board meeting and shall remain on the property until after the Board of Supervisors acts on the application. The applicant shall provide to the Township the certification of posting and photographs evidencing same prior to the Board meeting where the matter will be discussed.~~

E. Review by the Birmingham Township Board of Supervisors. Upon receipt of a complete application, the Zoning Officer shall send a copy of the application seeking a building permit for an addition to or alteration of a Historic Resource to the Board. The Board shall have the right to forward

the application to the Historical Commission for its review and recommendations. The Board shall consider the application at a public meeting held after the applicant has provided proof of compliance with the notice and certification of posting requirements the property as required by in Section 122-36.7.D above. In reviewing the application, the Board of Supervisors shall consider, the following criteria:

(1) Whether the distinguishing original qualities or character of the Historic Resource are maintained.

(2) Whether distinctive stylistic features or craftsmanship which characterizes the Historic Resource are treated with sensitivity.

(3) Whether any additions are being planned such that if they were later to be removed they would impair the essential form and integrity of the original Historic Structure.

(14) The effect of the addition or alteration to the historical significance and architectural integrity of the Historical Resource and neighboring Historic Resources;

(25) Any testimony, such as a certified engineering report regarding the structural stability of the Historic Resource, documenting threats to public safety and the impact that the proposed addition would have on same;

(36) Public comment regarding the Historic Resource or surrounding Historic Resources which may be impacted by the proposed addition or alteration, including, without limitation, information in response to that submitted by the applicant;

(7) Any recommendation it sought from Historical Commission.

F. Issuance or denial of building permit. Where the Board of Supervisors acts to either approve or deny the permit application, it shall authorize the Zoning Officer to either issue the permit or give written notice of denial, as applicable. Where the approval is authorized to be granted with conditions

attached, the Zoning Officer shall be authorized to issue the permit upon his/her receipt from the applicant of written acceptance of those conditions; otherwise, the permit shall be denied.

G. Documentation. Prior to the issuance of a building permit, the Board of Supervisors may require the applicant to provide documentation of the Historic Resource. Such documentation may include photographs, floor plans, measured drawings, and other comparable forms of documentation.

H. Reimbursement of costs. Any reasonable costs incurred by the Board of Supervisors to review plans and studies relating to the addition or alteration of the Historic Resource, including fees for consultants specifically retained for this purpose, shall be reimbursed to the Township by the applicant prior to the issuance of the building permit. In the event the Board of Supervisors elects to retain consultants to assist in the review of the building permit application, the applicant shall be required to execute a professional consultants' reimbursement agreement in the form provided by the Township.

**§ 122-36.8. Violations and penalties; enforcement.**

Any person who violates the terms of this Article shall be subject to the enforcement procedures, fines and penalties provided for in § 122-141 as well as applicable enforcement procedures, fines and penalties provided for in Chapter 47 of the Birmingham Township Code governing building construction. In addition:

A. In the event any person demolishes an Historic Resource in violation of the provisions of this Article or in violation of any conditions or requirements specified in a permit issued under the terms of this Article or permits the same, the Board of Supervisors may institute any proceeding, at law or in equity, necessary to enforce the provisions of this Article, including, but not limited to, an action to compel the reconstruction and/or restoration of the Historic Resource to its condition and appearance as existed immediately prior to the violation. Such restoration shall be in addition to, and not in lieu of, any penalty or remedy available under this § 122-36.8 or any other applicable law.

B. In the event that the Board of Supervisors authorizes the commencement of an action pursuant to



Subsection A of this § 122-36.8, the Zoning Officer or Building Code Official shall not issue any building permit for the construction of any building or structure proposed to be located in any location on the property which would preclude reconstruction or restoration of the Historic Resource demolished in violation of this Article or intended to replace such Historic Resource, unless issued for the purpose of restoring the Historic Resource to its condition and appearance as existed immediately prior to the violation.

C. In addition to, and not in lieu of, the foregoing, the Zoning Officer or Building Code Official, as applicable, shall issue a stop-work order with regard to any demolition of an Historic Resource for which a permit has not been obtained pursuant to this Article.”

**SECTION 6. Severability.** The provisions of this Ordinance are severable, and if any article, section, subsection, clause, sentence, or part thereof shall be held or declared illegal, invalid or unconstitutional by any court of competent jurisdiction, the decision shall not affect or impair any of the remaining articles, sections, subsections, clauses, sentences or parts thereof of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid or unconstitutional article, section, subsection, clause, sentence or part thereof had not been included herein.

**SECTION 7. Repealer.** All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed insofar as the same affects this ordinance.

**SECTION 8. Effective Date.** This Ordinance shall become effective five days after enactment as by law provided.

ENACTED AND ORDAINED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

**ATTEST:**

**BIRMINGHAM TOWNSHIP  
BOARD OF SUPERVISORS**

\_\_\_\_\_  
Quina Nelling, Secretary

\_\_\_\_\_  
Scott C. Boorse, Chairman

\_\_\_\_\_  
Michael T. Shiring, Vice-Chairman

\_\_\_\_\_  
J. Dan Hill, Member