

ORDINANCE NO. _____
BOROUGH OF NARBERTH
MONTGOMERY COUNTY, PENNSYLVANIA

AN ORDINANCE OF NARBERTH BOROUGH AMENDING THE NARBERTH CODE TO CREATE A NEW CHAPTER ENTITLED “HISTORIC DISTRICTS” AND TO PROVIDE FOR THE BOROUGH’S HISTORIC DISTRICT’S CREATION, MAP, AND ABILITY TO DESIGNATE CONTRIBUTING AND NON-CONTRIBUTING RESOURCES THEREIN; LEGAL AUTHORIZATION; PURPOSE AND INTENT; DEFINITIONS; HISTORIC ARCHITECTURAL REVIEW BOARD CREATION, FUNCTIONS, AND DUTIES; REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS; REVIEW CRITERIA AND GUIDELINES FOR DEMOLITION AND ALTERATIONS; APPLICATION AND REVIEW PROCEDURES; EXCEPTIONS; APPEALS; ENFORCEMENT; AND PENALTIES

WHEREAS, the Pennsylvania Borough Code authorizes the Borough Council of the Borough of Narberth (“Borough Council”) to make, amend, and adopt ordinances that are consistent with the constitution and laws of the Commonwealth when necessary for the proper management, care and control of the Borough and the maintenance of peace, good government, health, safety, and welfare of the Borough of Narberth (“Borough”) and its citizens;

WHEREAS, Article 1, Section 27 of the Pennsylvania Constitution states: “The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.”;

WHEREAS, the Pennsylvania Historic District Act, 53 P.S. § 8001, et. seq., authorizes Pennsylvania boroughs to create historic districts and appoint Boards of Historical Architectural Review to protect the distinctive historical character of the historic districts and to regulate the erection, reconstruction, alteration, restoration, demolition or razing of buildings within the historic districts;

WHEREAS, to meet and fulfill such constitutional responsibilities, and the responsibilities under the Pennsylvania Borough Code, Borough Council desires to preserve and protect the cultural, historical, and architectural fabric of the Borough of Narberth, while balancing private property rights, through the creation of historic districts and the designation of a Historical Architectural Review Board;

WHEREAS, Borough Council further desires to create historic districts to protect the historic areas within the Borough that has a distinctive character recalling the rich architectural and historical heritage of Narberth Borough, and to make the historic districts a source of

inspiration to all people by awakening interest in the Borough's historic past, and to promote the general welfare, education, and culture of the Borough.

WHEREAS, after a duly advertised public hearing of Borough Council, and prior meetings, discussions, and recommendations from/with the Narberth Borough Planning Commission, Montgomery County Planning Commission, and representatives from the Pennsylvania Historical and Museum Commission, it has been determined that the health, safety, education, culture, and welfare of the present and future citizens of Narberth Borough and the proper management, preservation, care, protection, and control of the Borough are addressed by creating historic districts in the Borough pursuant to the provisions set forth below.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Narberth, Montgomery County, Pennsylvania, and it is hereby ordained and enacted, by the authority of the same as follows:

SECTION 1. CODE AMENDMENT. The Narberth Borough Code is hereby amended to provide for a new chapter entitled "Historic Districts" as follows:

§1. Legal authorization

This Chapter is enacted pursuant to the authority granted to the Borough of Narberth by the Historic District Act (53 P.S. § 8001, et. seq.) and the Pennsylvania Borough Code (8 Pa.C.S.A. §101, et. seq.).

§ 2. Purpose and intent

Article 1, Section 27 of the Pennsylvania Constitution states:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.

To help meet and fulfill these responsibilities, the Borough of Narberth enacts this Chapter with the purpose and intent to:

- A. Preserve and protect the cultural, historical and architectural fabric of the Borough of Narberth.
- B. Preserve the scale, streetscape, and overall character of the community.
- C. Encourage the reuse, repair, and refurbishment of materials to minimize both the use of energy and materials for new resources and the creation of waste and pollution.

- D. Assist and educate owners of historic properties about the significance of their property and provide information about historically-sensitive alterations.
- E. Promote alterations to historic resources that are historically sensitive and fit in with the character of existing neighborhoods.
- F. Preserve a diverse range of building sizes, ages, styles, and configurations.
- G. Promote the general welfare, education, and culture of the Borough of Narberth by promoting an interest in and awareness of our community's history and culture.
- H. Safeguard the heritage of the Borough of Narberth by preserving and regulating areas of our community which reflect its cultural, social, economic, political, and architectural history.
- I. Promote reuse rather than demolition of older and historic buildings.

§ 3 Definitions

As used in this Chapter, the following terms shall have the meanings indicated:

Accessory Building: A building subordinate in size and location to the principal building on a lot and used for purposes customarily incidental to those located in the principal building.

Alteration: The act or process of adding, moving, removing, replacing, or modifying the exterior features of a Building or structure, or the moving of a Building or structure from one location to another.

Building: Any structure having enclosed walls and roof, intended for support or sheltering a use or occupancy, and attached to the land.

Building Code Official: The person or company designated by Borough Council to administer and enforce this Chapter as set forth herein.

Certificate of Appropriateness: The approval statement, signed by Borough Council, that certifies to the historical appropriateness of a particular request for the erection, Alteration, Demolition, or razing of all or a part of any building or structure within a Historic District as required by this Chapter and that authorizes the issuance of permits and/or authorization to proceed for said request.

Contributing Resource: a building, site, structure, or object located within a Historic District that adds to the associations, architectural qualities, or values for which a District is significant because it relates to the documented significance of the District.

Demolition or Demolish: The act of dismantling, tearing down, moving, or removing any exterior load-bearing portion of a building or structure. Not included is the removal of exterior, non-structural architectural elements.

Demolition by Neglect: The willful or intentional failure to perform routine maintenance and/or failure to secure a Contributing Resource from pests or vandals, and/or failure to take reasonable measures to prevent ingress of water or wind through the roof, walls, or apertures, leading to deterioration and/or structural failures in the manner set forth in this Chapter.

Economic Hardship: The denial of all reasonable beneficial uses or reasonable financial return on a property as a result of the denial of a Certificate of Appropriateness.

Historic District or District: An area that possesses a sufficient concentration, linkage, or continuity of buildings, structures, sites, objects, or open spaces united historically by plan or physical development.

Non-Contributing Resource: A building, site, structure, or object within a Historic District that does not add to the associations, architectural qualities, or values for which a District is significant because it does not relate to the documented significance of the District or, due to alterations, disturbances, additions, or other changes, it no longer conveys the significance of the District.

Principal Building: The largest building on a lot that also houses the principal use(s).

Property Owner: Any person, association, entity, or estate that is the legal owner of record of the subject property or otherwise responsible for the property.

Public Way: Any street, alley, sidewalk or similar place essentially unobstructed from the ground to the sky to which the general public is typically allowed access, including private streets and alleys.

§ 4 Historic Districts Created

In accordance with the provisions of the Pennsylvania Historic District Act, and to fulfill the purpose and intent of this Chapter as set forth above, Historic Districts are hereby created in the Borough of Narberth and shall encompass the properties within the Borough on the maps as set forth below. All boundaries set forth in the following Historic District maps are hereby incorporated into this Chapter by reference as if fully set forth herein:

- A. **Narberth Historic District**, attached hereto and incorporated herein as Appendix "A".

§ 5 Historic Architectural Review Board

A. Appointment of Historic Architectural Review Board.

Following the designation of one or more Historic Districts, Borough Council shall appoint a Historic Architectural Review Board (hereinafter, "HARB"). The HARB shall have the functions, composition, and duties as described in this Chapter.

B. The HARB shall have the following functions and duties:

1. Serve as principal advisor to Borough Council and other municipal boards, commissions, and officials on historic preservation, architecture, history, culture, heritage, and related matters.
2. Advise Borough Council, municipal staff, and consultants on the issuance of Certificates of Appropriateness and permits for demolition, and/or construction, and actions relative to demolition by neglect of properties within any Historic District.
3. Advise owners of historic resources on historically appropriate ways to repair, restore, and alter their property while maintaining historic character.
4. Maintain a system for the survey and inventory of historic resources in the Borough of Narberth within designated or potential Historic Districts in accordance with the survey and documentation protocols established by the Pennsylvania Historical and Museum Commission.
5. Conduct research on historic resources and propose the nomination of such resources for inclusion on the National Register of Historic Places and other appropriate lists or programs.
6. Make recommendations to Borough Council concerning revisions to Historic District boundaries.
7. Make recommendations to Borough Council concerning revisions to the designations of properties within the district as Contributing or Non-Contributing.
8. Document, photograph, and regularly update information about ongoing changes to the Borough of Narberth's physical landscape, in particular the regulated Historic Districts.

9. Participate in continuing education and training activities related to historic preservation and administration of this Chapter.
10. Create, update, maintain, and distribute design guidelines for Alterations to historic resources.
11. Educate the Borough of Narberth's residents and others as to the importance of protecting the Borough of Narberth's heritage.
12. Educate the Borough of Narberth's citizens and particularly owners of properties within designated Historic Districts about this Chapter and the Chapter's processes, protections, and requirements.
13. Perform any other lawful activities that shall be deemed necessary to further the purposes of this Chapter.

C. Membership.

1. The Borough of Narberth's HARB shall be composed of no less than five (5) and no more than seven (7) members appointed by Borough Council.
2. The membership of HARB shall be as follows:
 - a) One (1) member shall be a registered architect;
 - b) One (1) member shall be a licensed real estate broker;
 - c) One (1) member shall be a building inspector;
 - d) One (1) member shall be a planning commission member;
 - e) Remaining member(s) shall be person(s) with demonstrated knowledge of and interest in the history, architecture, culture, or heritage of the community and the preservation of Historic Districts.
 - f) Residents of the Borough of Narberth are preferred for all positions, but in no case shall fewer than two (2) members be residents of the Borough of Narberth. The registered architect, real

estate broker, and/or building inspector may be non-residents if necessary to fill the positions.

g) Municipal staff, consultants, or contractors may serve as appointed members if necessary to meet the professional qualification requirements in 2 (a-c) of this section.

3. After initial staggered terms of one (1) member for one (1) year, two (2) members for two (2) years, and two (2) members for three (3) years, the HARB members shall serve for a term of three (3) years that shall be fixed that no more than two (2) terms shall expire each year. Members may be reappointed by Borough Council to consecutive terms. If Borough Council appoints a sixth HARB member, that member shall serve for one (1) year. If Council initially appoints a seventh HARB member, that member shall serve for two (2) years.
4. A majority of the HARB shall constitute a quorum and action taken at any meeting shall require the affirmative vote of a majority of the HARB.
5. The HARB shall notify Borough Council of any vacancies in the HARB. If vacancies cause the HARB to have fewer than five (5) members or to be without the required membership as described above, then Borough Council shall act within ninety (90) calendar days to fill those vacancies. Appointments to fill vacancies for unexpired terms shall be only for the unexpired portion of the term, subject to reappointment thereafter.
6. Any member of the HARB may be removed from office for any reason by a majority vote of Borough Council.
7. Members shall serve without compensation but may be reimbursed for any personal expenditure in the conduct of HARB business when preapproved by the Borough Manager. Municipal staff, consultants, or contractors may be compensated for appointed service as part of their normal job functions.

D. Organization and conduct of business.

1. The HARB shall annually elect from its own membership a Chair, Vice Chair, and such other officers as may be required for the conduct of its business.

2. The HARB shall develop bylaws and rules of procedure governing its organization and conduct and shall submit such documents and subsequent changes to Borough Council for approval. Such bylaws and rules shall be consistent with the ordinances of the Borough of Narberth and laws and regulations of the Commonwealth of Pennsylvania.
3. The HARB may develop and require submission of forms to facilitate the fulfillment of its responsibilities under this Chapter in consultation with Borough staff.
4. The HARB shall conduct business at regular public meetings or special meetings as needed and called by the Chair. The dates, times, and locations of all regular and special HARB meetings shall be posted and advertised to the public in advance in accordance with applicable Commonwealth laws related to public meetings and the conduct of official business.
5. The HARB shall provide an agenda of each public meeting which shall be available for public inspection prior to the meeting as required by applicable Commonwealth laws related to public meetings and the conduct of official business.
6. The HARB shall keep full public records of its business, including adopted minutes, and shall submit a monthly report of its activities to Borough Council.
7. The HARB shall prepare an annual report of its activities in the preceding calendar year and shall submit the report to Borough Council by March 1st of each year.

§6 Designation of Historic Districts, Contributing Resources and Non-Contributing Resources.

A. Historic District Designation criteria.

1. Borough Council may designate one or more areas of the Borough of Narberth as a Historic District if the area meets the definition of a Historic District and at least one of the following criteria:
 - a. Is representative of broad patterns of development, heritage, or culture of the Borough of Narberth, the Commonwealth, or the nation.

- b. Is associated with an event that is significant to the history of the Borough of Narberth, the Commonwealth, or the nation.
 - c. Is associated with persons or groups of people of significance to the history or culture of the Borough of Narberth, the Commonwealth, or the nation.
 - d. Embodies distinctive characteristics of style, type, period, or method of construction or architecture.
 - e. Contains the work of a notable architect, artist, craftsman, or builder.
 - f. Has yielded, or may be likely to yield, information important in prehistory or history.
2. A District may be comprised of both distinctive features and features that lack individual distinction, and may contain buildings, structures, sites, objects, or open spaces that do not necessarily contribute to the significance of the District.
3. Borough Council shall designate within each Historic District which properties and/or features upon those properties are Contributing or Non-Contributing to the criteria or nature of the Historic District.
- a. Buildings, sites, structures, objects, and open spaces within Historic Districts shall be categorized as either Contributing or Non-Contributing Resources, as defined above.
 - b. Determinations of Contributing and Non-Contributing status may be amended from time to time upon a recommendation from the HARB and the approval of Borough Council.
 - c. If the owner of a property wishes to contest the designation of the owner's property as Contributing or Non-Contributing, the owner may do so at a regularly scheduled public meeting of the HARB. The owner shall provide historical research and documentation to demonstrate that the designation of the property should be changed because the property does or does not, as the Property Owner so

contests, add to the associations, architectural qualities, or values significant to the District.

4. A District may include parcels that act as a visual buffer to protect the character and significance of the District.

B. Designation of Additional Historic Districts.

1. The HARB, acting of its own volition or at the request of the Narberth Planning Commission, Borough Council, or any Narberth resident, may consider whether an area of the Borough of Narberth meets the criteria for designation as a Historic District.
2. Individuals or entities other than the HARB, Planning Commission, or Borough Council seeking designation of an area as a Historic District shall prepare and submit a designation application in a form and manner specified by the HARB and shall pay an application fee in an amount established by Borough resolution. If the request for designation is initiated by the HARB, Planning Commission, or Borough Council, the necessary documentation will be prepared by the HARB or a consultant or contractor hired by the Borough of Narberth for such a purpose.
3. Applications for designation shall include:
 - a. the boundaries of the proposed Historic District;
 - b. historical research and documentation that the proposed District meets one or more of the designation criteria;
 - c. a description of the character-defining features and physical characteristics of the District and resources that relate to its significance;
 - d. a determination of whether each resource within the District is a Contributing or Non-Contributing Resource; and
 - e. any other information as may be specified by the HARB.
4. Within sixty (60) calendar days of determining that an application is technically complete, the HARB shall conduct one or more public meetings

to review the designation application and receive written and oral testimony from the public. All Property Owners within the proposed additional District shall be provided with notice of the initial meeting.

5. Within forty five (45) calendar days following the conclusion of the public meetings, the HARB shall consider the application at a regular public meeting and shall vote on whether the proposed District meets the designation criteria and should be designated as a Historic District. If the HARB determines that the proposed District does meet the definition and criteria for designation, the HARB shall transmit a report detailing its recommendations to both the Planning Commission and Borough Council. The report shall include:
 - a. the boundaries of proposed Historic District;
 - b. historical research and documentation that the proposed District meets one or more of the designation criteria;
 - c. a description of the character-defining features and physical characteristics of the District and resources that relate to the significance of the District; and
 - d. a determination of whether each property within the District is a Contributing or Non-Contributing Resource.
6. Upon receipt of the HARB's report proposing the designation of the District, the Narberth Planning Commission shall consider the application at a regular or special meeting. The Planning Commission shall consider whether the designation is consistent with the Borough of Narberth's most recently adopted Comprehensive Plan and other related plans and policies and transmit a report detailing its recommendations to Borough Council.
7. Upon receipt of the report from the Narberth Planning Commission regarding the proposed designation, Borough Council shall consider whether to designate the area as a Historic District. If Borough Council determines that the area should be designated a Historic District, Council shall adopt an ordinance specifying the boundaries and the applicable designation criteria and relevant supporting documentation. Following adoption of the ordinance, Borough Council shall submit the necessary

information to Pennsylvania Historical and Museum Commission for certification of the District's boundaries.

C. Amendments to Historic Districts

1. The boundaries of Historic Districts may be amended from time to time at the request of the HARB, the Planning Commission, Borough Council or any resident of the Borough of Narberth residing in the District.
2. Boundary changes that would result in previously undesignated properties being added to or removed from a Historic District shall follow the same procedures as the creation of an additional Historic District set forth above.
3. Boundary changes that would result in properties being removed from a Historic District may be considered if:
 - a. The properties to be removed from the District no longer convey the significance of the District; and
 - b. The boundary change will not create noncontiguous areas within the District.
4. Requests to reduce a Historic District's boundaries shall be submitted to the HARB along with documentation demonstrating that the properties to be removed no longer convey the significance of the District. Individuals or entities other than the HARB, Planning Commission, or Borough Council seeking a boundary change of a Historic District shall prepare and submit a boundary change application in a form and manner specified by the HARB and shall pay the application fee as established by Borough resolution.

§7 Certificates of Appropriateness

- A. A Property Owner must obtain a Certificate of Appropriateness if a Contributing Resource is proposed to be Demolished or if an Alteration listed below in Subsection D is proposed, and any such Alteration is visible from a Public Way and located within the first or second lot layer of the Property, as the first and second lot layer is defined in the Borough's Zoning Code. A Certificate of Appropriateness shall be required in addition to any other necessary permits, and regardless of whether building, zoning, or any other permits are required.

- B. If the Property Owner questions whether a Contributing Resource will be visible from a Public Way or an Alteration otherwise requires a Certificate of Appropriateness, the Building Code Official shall investigate and make a recommendation to the HARB, who shall then make the decision. In making such a determination, the HARB may consider information provided by the Property Owner as well as the public.
- C. No zoning, building, demolition or other required permits shall be issued for Alterations described in this Section unless and until a Certificate of Appropriateness is issued in accordance with this Chapter. Applications for building, zoning, demolition, or other applicable permits shall not be considered complete, and therefore shall not be accepted by the Borough, unless and until accompanied by a Certificate of Appropriateness.
- D. Alterations of the following historic features, when proposed for a Contributing Resource and when otherwise permitted by the applicable Narberth Borough Code, require a Certificate of Appropriateness:
1. Changing a building's footprint by the removal of building volume.
 2. Changing a building's height by the demolition of whole or partial stories.
 3. Changing a building's volume by the removal of towers, turrets, or spires.
 4. Changing the shape, slope, or configuration of a building's roof or roofline by the removal of dormers or the filling in of sleeping porches.
 5. Removing or concealing decorative roof or cornice treatments, including but not limited to brackets, corbels or cornices.
 6. Removing or enclosing porches, porticos, or stoops.
 7. Removing porch roofs.
 8. Removing or concealing porch columns, posts, or other vertical supports.
 9. Removing or concealing porch railings, balustrades, or walls.
 10. Removing permanently attached canopies.

11. Removing window openings or bay windows, or concealing windows or window openings.
 12. Removing exterior door openings or concealing exterior doors.
- E. If the Alteration involves the removal of a feature in subsection D.5 through D.10 above, the Alteration shall not require a Certificate of Appropriateness if the feature is replaced with a feature that is similar to and in character with the Contributing Resource and meets one of the following criteria:
1. The feature is replaced in kind, with the identical material and detailing; or
 2. In instances where materials and details from the period of historical significance are either unavailable or their use is economically infeasible, the feature may be replaced with a new material that matches the material being replaced in composition, design, texture and other qualities aesthetically consistent with, even if not completely duplicative of, the character of the historic feature.

§ 8 Review Criteria and Guidelines

A. Demolition.

1. A Certificate of Appropriateness for the Demolition of a Contributing Resource, or after a finding of Demolition of Neglect, may only be issued when one or more of the following conditions have first been met:
 - a. Denial of a Certificate of Appropriateness would result in Economic Hardship, as defined and determined in this Chapter;
 - b. The Contributing Resource poses an imminent threat to the health, safety, or welfare of its occupants, adjacent properties, or the public; or
 - c. Demolition of the Contributing Resource is necessary to advance a significant public interest or benefit.
2. It is expressly intended under this Chapter that if a finding of Demolition by Neglect has been made for the applicable Contributing Resource, the conditions that have led to such finding may not be used as a justification for Economic Hardship.

3. In the event that a Certificate of Appropriateness for Demolition is issued, the HARB may recommend, and Borough Council may require, the Property Owner to produce to the Borough, at its own expense and to the satisfaction of the HARB, written and/or photographic documentation of the Contributing Resource prior to the commencement of demolition activities sufficient to document the history of the Contributing Resource.

B. Alterations.

1. In considering whether to issue a Certificate of Appropriateness for Alterations to Contributing Resources when required under §7.D, the HARB and Borough Council shall consider:
 - a. The exterior architectural features which can be seen from a Public Way;
 - b. The general design, arrangement, texture, and material of the proposed Alteration;
 - c. The effect of the proposed Alterations on the character-defining features of the subject Contributing Resource;
 - d. The relationship of the proposed Alterations to similar features of buildings and structures in the District;
 - e. The effects of the proposed Alterations on the general historic and architectural nature of the District;
 - f. The effects of the proposed Alterations on the character-defining features of the District; and
 - g. The extent to which the proposed Alterations are consistent with the adopted design guidelines for the District.
2. In addition, the HARB and Borough Council shall consider the benefits of the effects of the proposed Alterations on the energy efficiency of the structure.

C. Guidelines for Alterations.

1. The HARB shall develop guidelines that use a combination of text, photographs, and illustrations to convey how Alterations can be made compatible with the historic and architectural nature of the District. The HARB shall submit the guidelines to Borough Council for approval.
 - a. Guidelines shall consider activities regulated through this Chapter to provide guidance to Property Owners and the HARB.
 - b. Guidelines may consider activities not regulated through this Chapter to provide advisory guidance to Property Owners
 - c. There may be separate and distinct guidelines for each designated District.
 - d. Guidelines shall take into account affordability and environmental sustainability.
 - e. There may be separate guidelines for specific types of Alterations, such as Alterations to improve the energy efficiency of buildings.
 - f. Guidelines shall not supersede the Borough of Narberth's Zoning Code, Subdivision and Land Development Ordinance, or any other Borough ordinance.
2. Prior to the development and adoption of specific guidelines for each Historic District, the HARB and Borough Council may adopt and refer to the Secretary of the Interior's Standards for Rehabilitation.
3. The adopted guidelines may be utilized by the HARB and Borough Council for the evaluation and approval or denial of Certificate of Appropriateness applications.

§ 9 Application and review procedures

- A. Applications for Certificates of Appropriateness shall be submitted to the Building Code Official designated to receive such applications and in a form and manner as specified by the Borough. The HARB, in consultation with the Building Code Official, shall develop and publish forms and requirements that specify the information and documentation that must be submitted along with Certificates of Appropriateness applications. The requirements may require different information for different types of projects.

- B. The Building Code Official shall verify that an application meets the submission requirements and shall forward all technically complete applications, together with all plans and other documentation submitted therewith, to the HARB within five (5) business days.
- C. The HARB shall discuss all technically complete applications at a regular or special meeting within sixty (60) calendar days of receiving the application from the Building Code Official unless an extension or deferral is agreed to by both the applicant and the HARB. The applicant shall be given ten (10) business days' notice of the time and place of the meeting and shall be given the opportunity to present the application to the HARB.
- D. In considering whether to recommend the issuance of a Certificate of Appropriateness, the HARB may consider comments from the public as well as persons and organizations with expertise and experience in matters relevant to the application.
- E. If the applicant is asserting an Economic Hardship exception, the applicant must submit by affidavit to the HARB information substantiating the Economic Hardship which may include, but is not limited to the following:
1. Date the property was acquired by its current Property Owner;
 2. Price paid for the property (if acquired by purchase) and the relationship (if any) between the buyer and the seller of the property;
 3. Mortgage history of the property, including current mortgage;
 4. Current market value of the property;
 5. Equity in the property;
 6. Past and current income and expense statements for a two (2) year period for commercial properties;
 7. Past capital expenditures during the ownership of current owner;
 8. Records of any past citations for violations of the Property Management Code;
 9. Appraisal of the property obtained within the previous two (2) years;
 10. Income and property tax factors affecting the property;
- F. In addition, the HARB may require that an applicant furnish additional information relevant to its determination of Economic Hardship and may receive and consider studies and economic analyses from other sources relevant to the property in question. Within ten (10) calendar days of the meeting, the HARB shall provide Borough Council and the applicant with a written report detailing the findings,

conclusions, and recommendations of the HARB. The HARB and applicant may mutually agree to continue consideration of the application to future meetings or to extension of the ten (10) day timeframe for issuance of a recommendation.

G. The report issued by the HARB shall include, but need not be limited to the following information:

1. The address of the proposed project;
2. The name of the applicant;
3. A description of the proposed project;
4. The findings and conclusions of the HARB as to whether the project meets the applicable criteria and guidelines for issuance of a Certificate of Appropriateness;
5. The findings and conclusions related to any claims of Economic Hardship and the information presented and considered in reaching such findings and conclusions which shall include:
 - a. The overall financial impact of the denial of the Certificate of Appropriateness on the property;
 - b. Whether the denial of the Certificate of Appropriateness will result in the Property Owner being denied any reasonable or beneficial use of the property;
 - c. Whether the denial of the Certificate of Appropriateness violates reasonable invested-backed expectations for the property, and
 - d. Whether the hardship has been self-imposed, including whether a Finding of Demolition by Neglect has been issued for the property.
 - e. A finding of Demolition by Neglect for the property shall not be considered evidence of Economic Hardship.
6. A recommendation, based on its findings and conclusions, as to whether Borough Council should issue or deny a Certificate of Appropriateness.

- G. If the HARB recommends denial, the report shall provide specific recommendations for changes to the proposed plans and specifications that the applicant could make to meet the applicable guidelines and be recommended for approval.
1. The applicant shall have ten (10) business days following the receipt of the HARB's report to decide whether or not to make the suggested changes in plans and specifications or to provide additional information or documentation.
 2. If the applicant determines that they will make the necessary changes, they shall advise the Building Code Official, who shall in turn advise the HARB and Borough Council. The applicant may submit revised plans for consideration by the HARB, after which the HARB shall have thirty (30) additional calendar days from the date of receipt to submit its recommendation to the Borough Council.
- H. Borough Council shall consider the HARB's recommendation, if any, at a regular or special meeting not less than thirty (30) nor more than sixty (60) calendar days following receipt of the report and shall determine whether to issue the Certificate of Appropriateness. If the HARB is unable to meet within sixty (60) calendar days of receiving the application from the Building Code Official without an extension of the meeting or a continuation of consideration agreed on by the applicant, and therefore cannot provide a timely recommendation to Borough Council, or otherwise cannot make a recommendation to Borough Council for any reason, Borough Council shall consider the application at its next regularly scheduled business meeting following the expiration of such sixty (60) day timeframe without a recommendation from the HARB. The applicant shall be given ten (10) business days' notice of the time and place of the meeting at which the application will be considered.
- I. In making its determination whether to issue the Certificate of Appropriateness, Borough Council shall consider, in addition to the HARB's recommendation, any evidence provided by the applicant, any relevant testimony or public comment, and any advice, assistance, or guidance provided by consultants or experts retained by the Borough of Narberth.
- J. The granting or denial of a Certificate of Appropriateness shall be in the form of a written resolution that shall include findings of fact related to the specific proposal and shall set forth the reasons for the granting, with or without conditions, or for

the denial, referring to such criteria set forth in this Chapter that were relevant to Borough Council's decision.

- K. If Borough Council denies the application, the resolution shall provide specific recommendations for changes to the proposed plans and specifications that the applicant could make to meet the applicable guidelines and be recommended for approval.
- L. A copy of each resolution granting or denying the Certificate of Appropriateness shall be provided to the applicant within ten (10) business days following the decision of Borough Council. A copy of each resolution of denial shall also be forwarded to Pennsylvania Historical and Museum Commission, as required by the Historic District Act.

§10 Advisory Review

- A. Prior to undertaking any of the activities or actions described below in Subsection C on Contributing Resources within a Historic District, a Property Owner shall have an Advisory Review Meeting with Borough staff or consultants designated by Borough Council if the Alteration is visible from a Public Way and located within the first or second lot layer as defined in the Borough Zoning Ordinance.
 - 1. The Advisory Review Meeting shall be required regardless of whether building or zoning permits are required.
 - 2. If the Property Owner questions whether a Contributing Resource will be visible from a Public Way or whether an Advisory Review Meeting is otherwise required, the Building Code Official shall investigate and make a recommendation to the HARB, who shall then make the decision. In making such a determination, the HARB may consider information provided by the Property Owner as well as the public.
- B. No zoning, building, grading, demolition, or other applicable permits shall be issued for Alteration activities described in this section unless and until an Advisory Review Meeting is held. Applications for such permits shall not be considered complete unless and until the Advisory Review Meeting is held.
- C. These activities, when proposed for a Contributing Resource, require an Advisory Review Meeting:
 - 1. Changing a building's footprint by the addition of building volume.

2. Changing a building's height by the addition of whole or partial stories.
3. Changing a building's volume by the addition of towers, turrets, or spires.
4. Changing the shape, slope, or configuration of a building's roofline by the addition of dormers, sleeping porches or similar features.
5. Adding porches, porticos, stoops, or roofs above porches and stoops
6. Adding exterior doors, windows or bay windows.
7. Changing the size, shape, or configuration of steps, stairs, or entryways.
8. Installing or altering ramps, lifts, or other accessibility features.
9. Changing the number, size, shape or placement of exterior door openings or window openings.
10. Changing the number, size, or placement of window openings

- D. Applications for an Advisory Review Meeting shall be submitted to the Building Code Official in a form and manner as specified by the Building Code Official along with an application fee as established by Borough Council resolution. The application requirements may require different information for different types of projects.
- E. The Building Code Official shall verify that an application for an Advisory Review Meeting meets the submission requirements and shall forward all technically complete applications, together with any plans and other documentation submitted therewith, to the staff or consultants designated by Borough Council to hold an Advisory Review Meeting within ten (10) business days. Such designated staff or consultants shall have expertise in architecture and historic preservation.
- F. The designated Borough staff member or consultant shall hold an Advisory Review Meeting with the applicant within forty (40) calendar days of receiving the application unless an extension or deferral is agreed to by both the applicant and the Borough.
- G. After the Advisory Review Meeting has taken place, the Building Code Official shall be notified within ten (10) business days by the Borough staff member or consultant conducting the Advisory Review Meeting.

- H. Once this notice has been received by the Building Code Official, any other permits required shall be processed as normal.
- I. The Borough staff member or consultant conducting the Advisory Review Meetings shall prepare a monthly report summarizing the issues discussed and provide it to the HARB.

§11 Administrative Review

- A. Borough Council may authorize Borough staff or designated consultants to administratively approve Certificates of Appropriateness for Alterations.
- B. Administrative approvals for Certificates of Appropriateness shall be in accordance with guidelines adopted by Borough Council that specify the Alterations that may be reviewed and approved administratively and the criteria necessary for approval. The guidelines shall be developed by the HARB and adopted by Borough Council by resolution.
- C. Following adoption of the guidelines, Borough staff or Borough designated consultants may issue administratively approved Certificates of Appropriateness for applications that meet the administrative review guidelines without further review by the HARB or Borough Council.
- D. Borough Staff may elect to refer an application to the HARB for consideration, even if staff is authorized to review the Alteration under the administrative approval guidelines. Such referrals may be made if:
 - 1. Staff determine that the application does not meet the administrative review guidelines and should otherwise be denied, or
 - 2. In staff's sole opinion, the application contains actions or proposals or involves Contributing Resources that are complex in nature, unique, or are beyond the scope and intent of the guidelines.
- E. If Borough staff declines to review a proposed Alteration, such staff member shall inform the applicant in writing, and the applicant shall proceed with the review process as described in this Chapter.
- F. Staff shall provide the HARB with a report of administratively approved Certificates of Appropriateness at each regular HARB meeting. Borough Council shall formally approve the issuance of the administratively approved Certificates of

Appropriateness at a Borough Council meeting. No Certificate of Appropriateness administratively approved by staff shall be retroactively denied or rescinded unless the applicant has misrepresented the scope or type of the Alteration.

§12 Emergencies and Imminent Threats

- A. In the event that a Contributing Resource is determined to pose an imminent and immediate threat to its occupants, adjoining properties, or the public as a result of structural instability, a Certificate of Appropriateness for full or partial Demolition may be issued by the Building Code Official.
- B. The determination of structural instability shall be made by the Building Code Official after consultation with the Borough Engineer.
- C. Within twenty four (24) hours following Demolition, the Property Owner shall take all necessary and appropriate actions to secure the Contributing Resource from the elements, trespass, vandalism, and further deterioration and comply with all other applicable code requirements.
- D. The permitted Demolition shall be limited to those actions necessary to adequately abate the imminent threat posed by the Contributing Resource. In the event of a partial Demolition, further Demolition of the Contributing Resource shall require a Certificate of Appropriateness.

§13 Demolition by Neglect

- A. Contributing Resources shall be maintained in good repair, structurally sound, and reasonably protected against decay, deterioration, and vandalism so as to prevent Demolition by Neglect. No Property Owner shall permit a Contributing Resource to fall or continue to fall into a state of disrepair so as to result in the deterioration of any exterior architectural feature which would produce a detrimental effect upon the character of the Historic District as a whole, neighboring properties, or the life and character of the property itself.
- B. Demolition by Neglect is the failure to perform routine maintenance and/or failure to secure a property from pests or vandals, and/or failure to take reasonable measures to prevent ingress of water or wind through the roof, walls, or apertures, leading to deterioration and/or structural failure. Demolition by Neglect may be characterized by any or all of the following conditions, singularly or in combination with each other, over a period of time:

1. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.
 2. Deterioration of flooring, floor support, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling.
 3. Deterioration of exterior chimneys that causes leaning, sagging, splitting, listing, or buckling.
 4. Deterioration or crumbling of exterior stucco, plaster, or mortar.
 5. Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors.
 6. Defective protection or lack of weather protection for exterior wall and roof coverings, including holes and openings, or weathering due to lack of paint or other protective coating.
 7. Deterioration of any features resulting in a hazardous condition.
- C. The Building Code Official may issue a Finding of Demolition by Neglect in the following manner:
1. Any person, entity, or organization may submit information to the Building Code Official regarding the potential Demolition by Neglect of a Contributing Resource. The Building Code Official may also acquire such information through other means, including personal observation.
 2. Upon receiving information, the Building Code Official may visit the property and document the observed exterior conditions from the public right of way or access the property with the permission of the Property Owner.
 3. If the Building Code Official believes that demolition by neglect is occurring or is likely to occur, they shall notify the Property Owner, in writing, of the observed conditions within ten (10) business days of the initial inspection. The Property Owner may provide the Building Code Official with information related to the property's maintenance and or repair within thirty (30) calendar days of receiving notice from the Building Code Official.

4. The Building Code Official may make subsequent inspections of the property, noting any changes to previously documented conditions, newly formed conditions, and any repairs or abatement actions taken.
 5. If the Property Owner does not address the documented conditions or take substantial steps to address the documented conditions within thirty (30) days of receiving notice from the Building Code Official, the Building Code Official shall issue a Finding of Demolition by Neglect if, in their estimation, the property has or will soon be damaged beyond repair or will pose a threat to the health and safety of the occupants, adjacent properties, or the public. In determining whether and when to issue such a finding, the Building Code Official shall act in a timeframe that avoids the development of dangerous or irreparable conditions to the greatest extent possible.
 6. The Building Code Official shall send a copy of the Finding of Demolition by Neglect to the Property Owner within ten (10) business days, and provide copies to the HARB and Borough Council.
 7. A Finding of Demolition of Neglect shall be considered by the HARB and Borough Council during any application for Demolition or a claim of Economic Hardship.
 8. Any condition observed by the Building Code Official may be subject to enforcement actions, procedures, and penalties as defined in the Property Maintenance Code and other applicable laws and ordinances. If the provisions of the Property Maintenance Code conflict with the provisions of this Chapter, the provisions of the Property Maintenance Code shall control.
- D. Unoccupied buildings and structures shall be properly sealed, fenced off, and utilities turned off for safety, at the Property Owner's expense.
- E. Enforcement notices filed by the Building Code Official for violations of the Property Maintenance Code for properties identified as a Contributing Resource for the Demolition by Neglect conditions set forth in Subsection B above shall automatically constitute a Finding of Demolition by Neglect if the enforcement notice is not timely addressed to the satisfaction of the Building Code Official or appealed by the landowner.

§14 Appeals

Any applicant whose application for a Certificate of Appropriateness is denied by Borough Council may appeal that denial to the Montgomery County Court of Common Pleas within thirty (30) calendar days of receipt of the resolution of denial or take any other action authorized by law.

§ 15 Enforcement and Penalties

- A. The Building Code Official shall be responsible for enforcing the requirements and decisions of Borough Council made pursuant to this Chapter and pursuing all penalties and remedies in equity and law as may be appropriate. Violations shall be considered criminal in nature.

- B. Failure to obtain a Certificate of Appropriateness as required under this Chapter shall constitute a violation. Any applicant or Property Owner who has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable thereof in a civil enforcement proceeding commenced by the Borough, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Borough as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the magisterial district judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation or other entity violating this Chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorney fees collected for the violation of this chapter shall be paid over to the Borough.

- C. In case any violation of this Chapter, in addition to other remedies provided by law, any appropriate action or proceeding by authorized legal process may be instituted or taken to prevent a violation or to restrain, correct or abate a violation, or to prevent any illegal act, conduct, business or use of property.

- D. The Building Code Official may issue stop work orders for activities proceeding without Certificates of Appropriateness. Such order may remain in effect until such

time as the Property Owner has properly obtained a Certificate of Appropriateness. During the period of the stop work order is in effect, any and all other permits and approvals issued for the property shall also be suspended until a Certificate of Appropriateness is obtained. If a Certificate of Appropriateness is subsequently denied, the Property Owner shall be responsible for restoring the property to its previous condition.

- E. Property Owners shall adhere to the requirements and specifications contained in the Certificate of Appropriateness. Deviations from the approved plans shall be considered a violation.
- F. Failure to obtain a Certificate of Appropriateness for Demolition of a Contributing Resource shall be a violation. In addition to all other penalties, no zoning, grading, or building permits shall be issued for the property for one (1) year following the date of an unauthorized demolition.

SECTION 2. REPEALER. All Ordinances or parts of Ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent said inconsistencies or conflicts cannot be reconciled, are hereby repealed. Further, it is understood and intended that all other sections, parts, provisions, and ordinances that are not otherwise specifically in conflict or inconsistent with this Ordinance, shall remain in full force and effect, the same being reaffirmed hereby.

SECTION 3. REVISIONS. The Borough Council of the Borough of Narberth does hereby reserve the right, from time to time, to adopt modifications of, supplements to, or amendments of its Ordinance, including this provision.

SECTION 4. SEVERABILITY. In the event that any section, sentence, clause, phrase or word of this Ordinance shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose enforcement of any of the remaining portions of this Ordinance.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its legal enactment. This Ordinance shall not take effect until the Pennsylvania Historical and Museum Commission has been notified, in writing, of the Ordinance and has certified, by resolution, to the historical significance of the historic districts within this Ordinance.

SECTION 6. FAILURE TO ENFORCE NOT A WAIVER. The failure of the Borough of Narberth to enforce any provision of this Ordinance shall not constitute a waiver by the Borough of its rights of future enforcement hereunder.

ORDAINED AND ENACTED by the Borough Council of the Borough of Narberth, Montgomery County, Pennsylvania, this ____ day of _____, 2021.

Attest:

BOROUGH OF NARBERTH:

Samantha Bryant, Borough Secretary

By: _____
Aaron Muderick, Council President

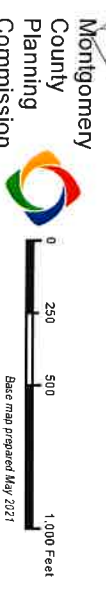
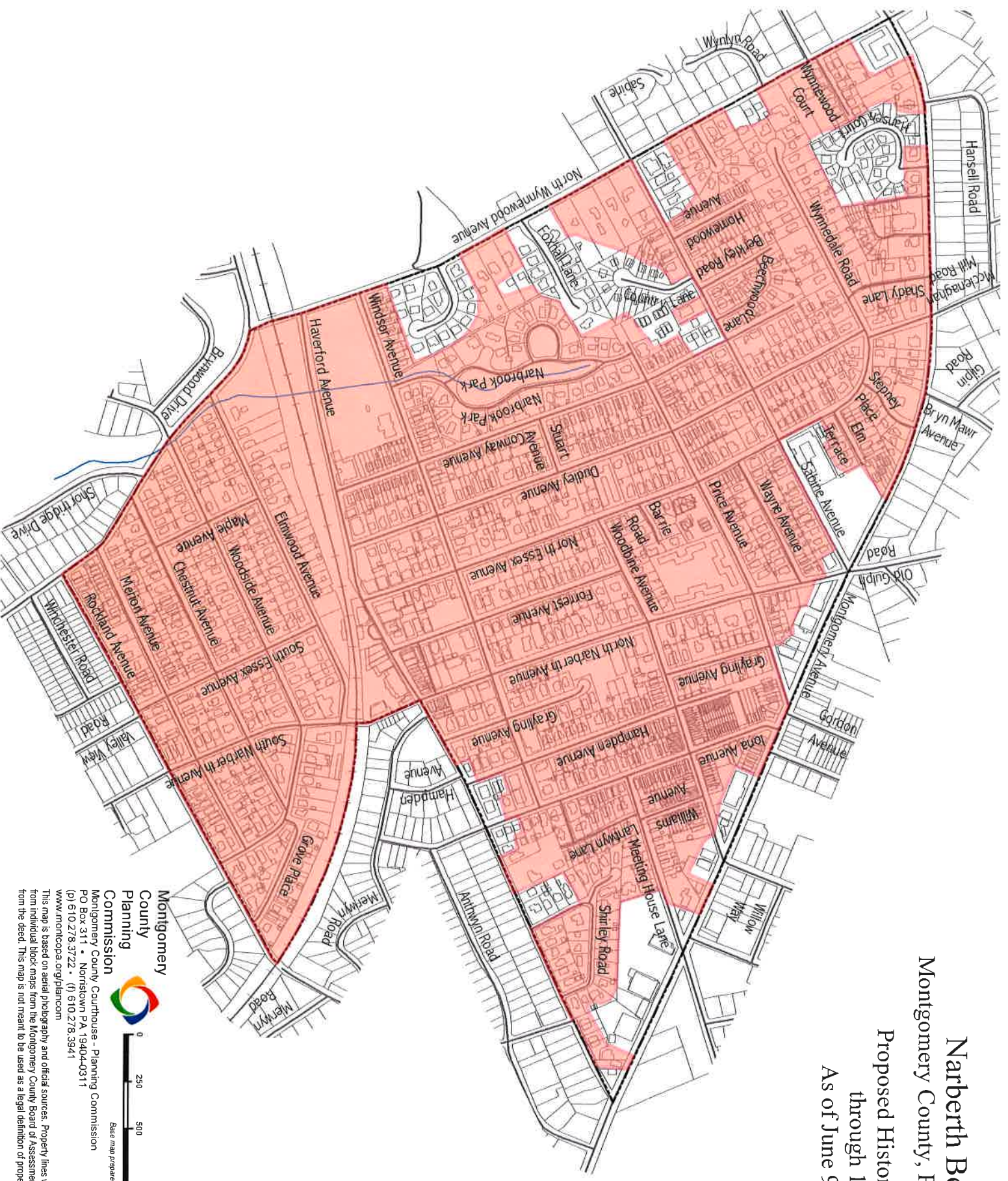
Examined and approved as an Ordinance, this ____ day of _____, 2021.

Andrea Deutsch, Mayor

APPENDIX "A"
Narberth Historic District Map

Narberth Borough Montgomery County, Pennsylvania

Proposed Historic District
through 1945
As of June 9, 2021



Montgomery County Planning Commission
 Montgomery County Courthouse - Planning Commission
 PO Box 311 - Norristown PA 19404-0311
 (p) 610.278.3722 • (f) 610.278.3941
 www.montcopa.org/plancom

This map is based on aerial photography and official sources. Property lines were compiled from individual block maps from the Montgomery County Board of Assessment Appeals, with no verification from the deed. This map is not meant to be used as a legal definition of properties or for engineering purposes.