

City Clerk File No. Ord. 18-036

Agenda No. 3.C 1st Reading

Agenda No. 4.C 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE
offered and moved adoption of the following ordinance:

CITY ORDINANCE 18-036

TITLE:

ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 105 (BUILDING DEMOLITION) IMPLEMENTING NEW REGULATIONS FOR BUILDING DEMOLITION UNDER THE JERSEY CITY MUNICIPAL CODE AND RESCINDING THE VERSION OF CHAPTER 105 ADOPTED BY ORDINANCE 18-032

THE MUNICIPAL COUNCIL OF THE CITY OF JERSEY DOES ORDAIN:

WHEREAS, at its meeting on April 25, 2018, the Jersey City Municipal Council adopted Ordinance 18-032, which amended and supplemented Chapter 105 of the Municipal Code and created new regulations for building demolitions; and

WHEREAS, in its effort to clarify the role of the Zoning Officer in the approval process for demolition permits, the Council wishes to adopt a new version of Chapter 105 which will mandate that applications for full building demolitions shall be reviewed by the Historic Preservation Officer and applications for partial building demolitions shall be reviewed by the Zoning Officer; and

WHEREAS, the City Council also believes that current references to the State Administrative Code and various State Statutes need not be included in this Chapter verbatim, but rather, cross-references to those provisions shall be sufficient.

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that:

A. Chapter 105 (Building Demolition), is hereby amended as follows:

CHAPTER 105 BUILDING DEMOLITION

§105-1. Through §105-14. Repealed in its entirety.

§105-1. Findings and purpose.

A. The Municipal Council finds that:

1. A significant percentage of the City's building stock is older than fifty years of age;
2. The architectural surveys of all of the City's Wards conducted by Dr. Joseph Brooks, (known as the Phase One Survey of the City of Jersey City) Mary B. Dierickx, and James W. Foss (known as the Phase Two Survey of the City of Jersey City) as well as the New Jersey Department of Environmental Protection - Historic Preservation Office: List of New Jersey and National Registers of Historic Places, reveal that there are many buildings and structures throughout

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the City that are culturally, historically, and architecturally significant and worthy of preservation;

3. The need to redevelop the City often requires demolition of older buildings and structures to make way for new construction, but over the years, countless buildings and structures which possess cultural, historical and/or architectural significance have been lost because they were demolished without holistic review of their cultural, historical or architectural value;
 4. It is in the City's best interest to balance the need to redevelop the City with the need to ensure that buildings and structures which possess cultural, historical and/or architectural significance are preserved for future generations to enjoy; and
 5. It is in the City's best interest to mandate that all applications for demolition permits be reviewed by its Historic Preservation Officer prior to issuance of a demolition permit to ensure that that buildings and structures which possess cultural, historical and/or architectural significance are preserved whenever possible.
- B. The purpose of this Chapter is to:
1. Ensure the safety and preservation of buildings and/or structures immediately adjacent to a building or structure proposed for demolition;
 2. Safeguard the cultural and historical heritage of the City of Jersey City by preserving buildings and structures that reflect elements of its cultural, architectural and/or historical heritage; and
 3. Encourage the continued use, and/or rehabilitation of culturally, historically, and architecturally significant historic buildings and structures and to prevent the unnecessary demolition of culturally, historically, and architecturally significant buildings and structures.

§105-2. Scope.

This Chapter shall apply to applications to demolish all buildings and/or structures under the Uniform Construction Code (N.J.A.C. 5:23-1.1 et seq.) and all applications for partial demolition of a building or structure under the Rehabilitation Subcode of the Uniform Construction Code, (N.J.A.C. 5:23-6) including any application to remove or substantially deconstruct of the front façade of a building and/or structure. "Substantial deconstruction of the front façade" is defined as any alteration to the fenestration, entranceway, porch or stoop, cornice, roofline or the material, historic or architectural components of façades which are visible from any public right-of-way.

§105-3. Permit procedures.

Applications seeking a permit to demolish any building and/or structure shall be reviewed by the Historic Preservation Officer for a Prior Approval. Applications seeking a permit to partially demolish any building and/or structure or to remove and/or substantially deconstruct the front façade of a building and/or structure and reconstruct same shall be reviewed by the Zoning Official who may refer the application to the Historic Preservation Officer for a Prior Approval.

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Upon receipt of the appropriate Prior Approval, an application for a permit may be submitted to the Office of the Construction Official.

§105-4. Formal opinion on a building or structure's eligibility for demolition available upon request.

Prior to, or in the absence of, an application for a demolition permit, any individual may apply to the Historic Preservation Officer for a formal opinion detailing whether or not the subject building or structure warrants preservation in accordance with §105-7.

Applications for a formal opinion, known as a Determination of Significance, shall include payment of all relevant fees, a completed application form, and submission of all documents required with the application. Determinations of Significance shall be provided within forty-five (45) days of application.

§105-5. Powers of Construction Code Official.

Consistent with N.J.S.A. 40:48-2.9, in order to effectuate the purposes of this Chapter, the Construction Code Official is authorized to:

1. Investigate the condition of a building or structure in order to determine if it is fit for human habitation or occupancy or use;
2. Enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
3. Appoint and fix the duties of such officers, agents and employees as the Construction Code Official deems necessary to carry out the purposes of this Chapter;
4. Delegate any functions and powers under this Chapter to such officers and agents as the Construction Code Official may designate.

§105-6. Contents of Demolition Permit Application, as submitted to the Historic Preservation Officer.

In addition to the information required on the standard permit application form prescribed by the Commissioner of the New Jersey Department of Community Affairs, an application for demolition shall include the following:

1. A map, site plan or survey showing the location of the structure on its property with reference to neighboring properties;
2. Photographs of all street façade elevations and significant features on that block's frontage;
3. The demolition Permit Application for Staff signature (obtained at the Building Department);
4. The demolition Permit Application Jacket for Staff signature (obtained at the Building Department);
5. Any and all other documents required by the Construction Code Official and as specified in the application.

A complete Demolition Permit Application shall include the payment of all relevant fees as set forth in Chapter 160, a completed application form, and all documents stated above. Within ten (10) business days of the submission, the Historic Preservation Officer shall certify that the application is complete and the applicant,

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Construction Code Official, and the Zoning Official shall be so notified in writing. If the application is found to be deficient, the Historic Preservation Officer shall provide written or verbal notice of the deficiency to the applicant. No utilities shall be disconnected or asbestos abatement conducted, until all Prior Approvals have been received.

§105-7. All permit applications to be reviewed by the City's Historic Preservation Officer and Zoning Officer.

Prior to the issuance of a permit to demolish any building and/or structure, the Historic Preservation Officer must review the permit application and certify to the Construction Code Official that the subject building or structure possesses no cultural, historical or architectural significance which would merit its preservation consistent with the standards set forth in 36 C.F.R. 60.4, entitled "Criteria for Evaluation" as promulgated by the U.S. Secretary of the Interior, and which is adopted and incorporated by reference herein. This shall also apply to any application to partially demolish any building or structure, or to remove or substantially deconstruct any façade of a building or structure which is visible from the public right-of-way that is referred to the Historic Preservation Officer by the Zoning Officer.

The Historic Preservation Officer shall present his or her certification in a written report within forty-five (45) days. The report shall include, but shall not be limited to:

1. A description of the age (noting if the building and/or structure was constructed more than 50 years ago), architectural style, historical associations and significance of the building or structure;
2. Certification that the building or structure is not included in Phase 1 or Phase 2 Surveys of the City of Jersey City produced by Dr. Joseph Brooks (Phase 1) and Mary B. Dierickx, Architectural Preservation Consultants (Wards A - E) and James W. Foss, Architectural Preservation Consultant (Ward F) (Phase 2) or New Jersey Department of Environmental Protection Environmental Protection - Historic Preservation Office: List of New Jersey and National Registers of Historic Places;
3. Certification that the building or structure is not associated with events that have made a significant contribution to the broad patterns of our local, state, and/or national history; or
4. Certification that the building or structure was not associated with the life of a person who made a significant contribution to local, state and/or national history;
5. Certification that the building or structure does not the embody the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possess high artistic value, or that represent a significant and distinguishable entity whose components may lack individual distinction; most especially if no other, or very few, buildings or structures with the same association has survived;
7. Certification that the building or structure has not yielded, or may not be reasonably likely to yield, information important in prehistory or history;
8. Certification that the building or structure no longer maintains integrity of:

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- i. Location: the place where the historic property was constructed or the place where the historic event occurred; and/or
- ii. Design: the combination of elements that create the form, plan, space, structure, and style of a property; and/or
- iii. Setting: the physical environment of a historic property; and/or
- iv. Materials: the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property; and/or
- v. Workmanship: the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory; and/or
- vi. Feeling: the property's expression of the historic sense of a particular period of time; and/or
- vii. Association: the property's direct link between an important historic event or person and a historic property.

If, after the consideration of the above, the Historic Preservation Officer concludes that the building or structure possesses no cultural, historical or architectural significance which would merit its preservation, or if the Historic Preservation Officer fails to file his or her findings within 45 days, the Construction Official may issue a demolition permit.

If, after the consideration of the above, the Historic Preservation Officer concludes that the subject building and/or structure does possess sufficient cultural, historical or architectural significance which merits its preservation, and the Historic Preservation Officer files his or her report containing his or her findings and recommendation for denial within the required 45-day period, then the Zoning Officer shall deny the permit application request.

The applicant may appeal the Historic Preservation Officer's decision to the Zoning Board of Adjustment, who may then refer the application to the Historic Preservation Commission for review. Should the Zoning Board and/or Commission uphold the Historic Preservation Officer's recommendation, the applicant may appeal to a court of competent jurisdiction as permitted by law.

It shall be unlawful for the applicant to intentionally remove, destroy or deface historic components of the building and/or structure, or to make such changes to the building so as to render it unfit prior to applying for a demolition permit, or while an application is pending, in order to render it historically insignificant and/or structurally unsound and therefore more suitable for demolition. Doing so shall constitute a violation of this Chapter and subject the applicant and/or owner of the property to the penalties, as enforced by the Zoning Officer, set forth in § 1-25 and/or § 345 of the Municipal Code.

§105-8. Unsafe Structures and Imminent Hazard.

Shall be in accordance with N.J.A.C. 5:23-2.32

§105-9. Service of Complaints and Orders.

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Shall be in accordance with N.J.A.C. 5:23-2.33.

§105-10. Order to repair or demolish unsafe buildings or structures.

Covered under N.J.A.C. 5:23-2.32 and if the structure is demolished the matter is referred to Public Works for Demolition and Public Works charges a Lien on the property.

§105-11. City empowered to repair or demolish unfit buildings or structures in lieu of owner.

Pursuant to N.J.S.A. 40:48-2.5a, the Construction Code Official may order the repair or demolition any building(s) or structure(s) or parts thereof, which have fallen into a state of disrepair.

§105-12. Emergency Demolition Fund created

Pursuant to N.J.S.A. 40:48-2.5b, the City may create an Emergency Demolition Fund to be used by the City solely to fund the demolition of unsafe buildings or structures. Should the Construction Code Official order an unsafe building or structure to be demolished but the owner fails to comply, the City is empowered to draw from the Emergency Demolition Fund and demolish the building or structure itself. The Construction Code Official has sole discretion in determining the time and manner of all expenditures necessary to carry out the purposes of this provision.

§105-13. Expenses related to the repair or demolition of unsafe buildings or structures; liens.

Pursuant to N.J.S.A. 40:48-2.5, if the Construction Code Official elects to repair or demolish a privately owned building or structure, the City is entitled to recoup the following expenses:

1. the cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges, incurred in the course of any proceeding taken under this act determined in favor of the City, and
2. the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition, if any, or the amount of the balance thereof remaining after deduction of the sum, if any, realized from the sale of materials derived from such building or from any contract for removal or demolition thereof, shall be a municipal lien against the real property upon which such cost was incurred.

§105-14. Use of City water for demolition.

If an applicant has been granted a demolition permit and wishes to use water from a fire hydrant during the demolition, the applicant must make a separate application to do so and must pay the fee for the use of City water, as provided in Chapter 160. After the demolition work is complete and the use of City water is no longer needed, the applicant shall close, recap and secure the fire hydrant in the same condition it was prior to said use. Failure to do so shall constitute a violation of this Chapter and subject the applicant to the penalties set forth in §1-25 of the Municipal Code.

- B. All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.
- C. This Ordinance shall be a part of the Jersey City Code as though codified and fully set

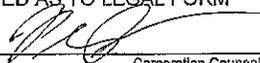
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forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Jersey City Code.

- D. This ordinance shall take effect at the time and in the manner as provided by law.
- E. The City Clerk and Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

NOTE: All material is new. Therefore, underlining has been omitted.

APPROVED AS TO LEGAL FORM



Corporation Counsel

APPROVED: _____

APPROVED: 

Business Administrator

Certification Required

Not Required

ORDINANCE FACT SHEET

This summary sheet is to be attached to the front of any Ordinance that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the Ordinance.

Full Title of Ordinance

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Initiator

Department/Division	Housing, Economic Development & Commerce	Office of the Director
Name/Title	Marcos D. Vigil	Director
Phone/email	201-547-5070	mvigil@jcnj.org

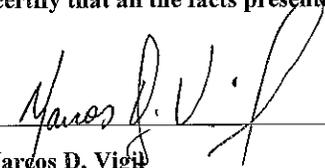
Note: Initiator must be available by phone during agenda meeting (Wednesday prior to council meeting @ 4:00 p.m.)

Ordinance Purpose

This Ordinance rescinds the version of Chapter 105 as amended by Ordinance 18-032 and adopts an entirely new version. This new version mandates that:

- (1) the Historic Preservation Officer shall receive all permit applications for demolition. The Historic Preservation Officer shall certify, within ten (10) business days, to the Construction Code Official, Zoning Officer, and the applicant that the application is complete. If the application is found to be deficient, the Historic Preservation Officer shall provide written or verbal notice of the deficiency to the applicant;
- (2) the Historic Preservation Officer shall review all permit applications for demolition, while the Zoning Officer shall review all permit applications for partial demolition and refer applications to the Historic Preservation Officer on a case-by-case basis at their discretion;
- (3) if the Historic Preservation Officer concludes that the building and/or structure possesses significant architectural and/or historical significance, the Zoning Officer shall deny the permit application request; and
- (4) this version eliminates all language copied directly from State statutes and the State's Administrative Code and instead refers to these provisions by their citation alone.

I certify that all the facts presented herein are accurate.



Marcos D. Vigil
Deputy Mayor & Director of Housing,
Economic Development & Commerce
Development & Commerce

April 19, 2018

Date

Ordinance of the City of Jersey City, N.J.



ORDINANCE NO. Ord. 18-036
 TITLE: 3.C APR 25 2018 4.C **MAY 09 2018**

Ordinance amending and supplementing Chapter 105 (Building Demolition) implementing new regulations for building demolition under the Jersey City Municipal Code and rescinding the version of Chapter 105 adopted by Ordinance 18-032.

RECORD OF COUNCIL VOTE ON INTRODUCTION APR 25 2018 2-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMAN	ABSENT		
BOGGIANO	✓			ROBINSON	✓			LAVARRO, PRES.	✓		

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING MAY 09 2018 9-0											
Councilperson <u>RIVERA</u> moved, seconded by Councilperson <u>BOGGIANO</u> to close P.H.											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMAN	✓		
BOGGIANO	✓			ROBINSON	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote N.V.--Not Voting (Abstain)

SPEAKERS:

DAN SICARDI
 MARIA SCARIATI
 CYNTHIA HADJIYANNIS
 YVONNE BALCER
 MICHAEL SHURIN
 MIKE KULOWSKI
 JASON BURG
 PAUL AMATUZZO
 KERN WEISSMAN

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
Councilperson _____ moved to amend* Ordinance, seconded by Councilperson _____ & adopted											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY				YUN				RIVERA			
PRINZ-AREY				SOLOMON				WATTERMAN			
BOGGIANO				ROBINSON				LAVARRO, PRES.			

RECORD OF FINAL COUNCIL VOTE MAY 09 2018 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
RIDLEY	✓			YUN	✓			RIVERA	✓		
PRINZ-AREY	✓			SOLOMON	✓			WATTERMAN	✓		
BOGGIANO	✓			ROBINSON	✓			LAVARRO, PRES.	✓		

✓ Indicates Vote N.V.--Not Voting (Abstain)

APR 25 2018

Adopted on first reading of the Council of Jersey City, N.J. on _____

MAY 09 2018

Adopted on second and final reading after hearing on _____

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on **MAY 09 2018**

Robert Byrne, City Clerk

APPROVED:

Rolando R. Lavarro, Jr., Council President

Date **MAY 09 2018**

APPROVED:

Steven M. Fulop, Mayor

Date **MAY 10 2018**

Date to Mayor **MAY 10 2018**

*Amendment(s):