

BOROUGH of KENNETT SQUARE

Chester County, Pennsylvania

ORDINANCE NO. 926

**AN ORDINANCE AMENDING THE KENNETT SQUARE BOROUGH
CODE, CHAPTER 23 ZONING:**

- **AMENDING ARTICLE II *DEFINITIONS*, SECTION 23-7**
- **AMENDING ARTICLE III *ZONING DISTRICTS AND USE REGULATIONS*, SECTIONS 23-12, 23-13, 23-14, 23-15, 23-16, 23-18, 23-19, AND 23-29**
- **AMENDING ARTICLE IV *GENERAL REGULATIONS*, SECTION 23-45**
- **AMENDING ARTICLE VI *SIGNS*, SECTIONS 23-64.4 AND 23-64.5**
- **REPEALING ARTICLE IX *PRESERVATION OF HISTORIC RESOURCES***

WHEREAS, the Borough Council for the Borough of Kennett Square has the authority, pursuant to section 601 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10601, section 3301.1(a) of The Borough Code, 8 P.S. § 3301.1(a), and section 23-75 of the Kennett Square Borough Code, to repeal and amend ordinances as the Borough shall deem beneficial to the Borough and to promote the health, safety, and general welfare; and

WHEREAS, on May 26, 2015 Borough Council enacted Ordinance No. 917, the Historic District Ordinance, which regulates new construction, demolition, and alteration of structures on properties located within the Kennett Square Borough Historic District; and

WHEREAS, the Historic District Ordinance was certified by the Pennsylvania Historical and Museum Commission on September 9, 2015; and

WHEREAS, the Borough Council deems it appropriate to amend and repeal certain sections of the Kennett Square Borough Code containing zoning regulations which are in conflict with the recently enacted Historic District Ordinance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Kennett Square, as follows:

Section 1. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article II, *Definitions*, section 23-7, is amended by deleting the definitions of “Architectural Review Board”, “Historic resources map”, and “Historic commission”.

Section 2. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-12 R-1 Residential district, is amended as follows:

(b) Uses Permitted by Right. Each of the following principal uses and their accessory uses are permitted by right in the R-1 Residential District, provided that the use type, dimensional, and all other applicable requirements of this Chapter are satisfied. Conversion of a structure located in the Historic District to a different use, occupancy or purpose must follow conditional use procedures specified in 23-29(b)(2)(B) of this Chapter and must meet the requirements of Chapter 25 Historic District.

Section 3. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-13 R-2 Residential district, is amended as follows:

(b) Uses Permitted by Right. Each of the following principal uses and their accessory uses are permitted by right in the R-2 Residential District, provided that the use type, dimensional, and all other applicable requirements of this Chapter are satisfied. Conversion of a structure located in the Historic District to a different use, occupancy or purpose must follow conditional use procedures specified in 23-29(b)(2)(B) of this Chapter and must meet the requirements of Chapter 25 Historic District.

Section 4. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-14(a)(2) Cluster development option, is amended as follows:

(A) Historic preservation density bonus of ten percent may be approved for the preservation and rehabilitation of any historic structure located in the Historic District in accordance with Chapter 25 Historic District of the Kennett Square Borough Code.

(i) Applicant guarantees in a form acceptable to the borough solicitor that applicant shall rehabilitate, preserve, and reconstruct historic structures in a manner satisfactory to the borough council and in accordance with Chapter 25 Historic District of the Kennett Square Borough Code.

- (ii) The number of lots approved up to the maximum permitted ten percent shall be based on the applicant's demonstration of cost to implement subsection (a) above versus the value of additional lots to offset such cost.
- (iii) Approval of this option is at the sole discretion of the borough council in accordance with Chapter 25 Historic District of the Kennett Square Borough Code.

Section 5. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-15 R-3 Residential district, is amended as follows:

- (b) Uses Permitted by Right. Each of the following principal uses and their accessory uses are permitted by right in the R-3 Residential District, provided that the use type, dimensional, and all other applicable requirements of this Chapter are satisfied. Conversion of a structure located in the Historic District to a different use, occupancy or purpose must follow conditional use procedures specified in 23-29(b)(2)(B) of this Chapter and must meet the requirements of Chapter 25 Historic District.

Section 6. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-16 R-3/PAO Residential/professional office district, is amended as follows:

- (b) Uses Permitted by Right. Each of the following principal uses and their accessory uses are permitted by right in the R-3/PAO Residential/Professional Office District, provided that the use type, dimensional, and all other applicable requirements of this Chapter are satisfied. Conversion of a structure located in the Historic District to a different use, occupancy or purpose must follow conditional use procedures specified in 23-29(b)(2)(B) of this Chapter and must meet the requirements of Chapter 25 Historic District.

Section 7. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-18 C-1 Primary retail district, is amended as follows:

- (b) Uses Permitted by Right. Each of the following principal uses and their accessory uses are permitted by right in the C-1 Primary Retail District, provided that the use type, dimensional, and all other applicable requirements of this Chapter are satisfied. Conversion of a structure located in the Historic District to a different use, occupancy or purpose must follow conditional use procedures specified in 23-29(b)(2)(B) of this Chapter and must meet the requirements of Chapter 25 Historic District.

Section 8. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-19 C-2 Secondary commercial district, is amended as follows:

(b) Uses Permitted by Right. Each of the following principal uses and their accessory uses are permitted by right in the C-2 Secondary Commercial District, provided that the use type, dimensional, and all other applicable requirements of this Chapter are satisfied. Conversion of a structure located in the Historic District to a different use, occupancy or purpose must follow conditional use procedures specified in 23-29(b)(2)(B) of this Chapter and must meet the requirements of Chapter 25 Historic District.

Section 9. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article III, *Zoning Districts and Use Regulations*, section 23-29(c)(11) Additional regulations for certain permitted by right uses, special exception uses, and conditional uses, is amended as follows:

(F) Conversion of historic structures to a different use, occupancy, or purpose must follow conditional use procedures specified in 23-29(b)(2)(B) of this Chapter and must meet the requirements of Chapter 25 Historic District.

Section 10. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article IV, *General Regulations*, section 23-45 Historic buildings, is deleted in its entirety, and replaced with the following:

23-45 Historic structures.

Historic structures are regulated in accordance with Chapter 25 Historic District of the Kennett Square Borough Code.

Section 11. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article VI, *Signs*, section 23-64.4 Sign regulations for properties in the main street development overlay and retail use overlay area (RUA), is amended to delete all references to the “main street development overlay” and to delete subsections (d) and (e) in their entirety.

Section 12. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article VI, *Signs*, section 23-64.5 Moving or illuminated signs, is amended to delete all references to the “main street development overlay area”.

Section 13. The Kennett Square Borough Code, Chapter 23, *Zoning*, Article IX, *Preservation of Historic Resources*, is deleted in its entirety.

Section 14. All other sections, parts, and provisions of Chapter 23, *Zoning*, shall remain in full force and effect as previously enacted and amended.

Section 15. The terms hereof supersede the terms of all other ordinances or resolutions of the Borough inconsistent herewith.

Section 16. The provisions of this ordinance are severable. If any provision, section, sentence, clause, or part shall be held to be invalid, illegal, or unconstitutional by any court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, or parts of the ordinance. It is hereby declared to be the intent that this ordinance would have been adopted as if such illegal, invalid, or unconstitutional provision, section, sentence, clause, or part had not been included herein.

Section 17. This amendatory ordinance shall take effect and be in force from and after its enactment. The enactment date of this amendatory ordinance is the date when the Mayor shall approve it, or the date of passage by the Borough Council over the veto of the Mayor. If the amendatory ordinance is not returned by the Mayor at the regular meeting of Borough Council, occurring at least ten days after the meeting at which the amendatory ordinance was passed by the Borough Council, the date of enactment shall be the date of the succeeding regular meeting of Borough Council.

DULY ORDAINED AND ENACTED this 1st day of February, 2016, by the Borough Council of the Borough of Kennett Square, Chester County, Pennsylvania, in lawful session duly assembled.

BOROUGH of KENNETT SQUARE
Chester County, Pennsylvania

By: _____
Danilo P. Maffei
Borough Council President

Attest: _____
Karen L. Scherer
Borough Secretary

[BOROUGH SEAL]

Approved this _____ day of February, 2016

Matthew W. Fetick, Mayor
Borough of Kennett Square