

**TOWN OF GEORGETOWN, COLORADO
BOARD OF SELECTMEN**

ORDINANCE NO. 1 (Series 2016)

**AN ORDINANCE AMENDING THE GEORGETOWN MUNICIPAL
CODE REGARDING HISTORIC STRUCTURES**

WHEREAS, the Town of Georgetown, Colorado is a Colorado territorial municipality operating under a charter approved by the Colorado Territorial Legislature in 1868; and

WHEREAS, the Board of Selectmen of the Town is authorized to enact ordinances for the protection of public health, safety and welfare, the zoning and use of real property, and the construction and use of buildings pursuant to the Territorial Charter and C.R.S. 31-15-401 et seq.; and CRS 31-23-101 et. seq. and

WHEREAS, in the exercise of this authority the Board of Selectmen has previously adopted Chapter 17.09 of Title 17 of the Georgetown Municipal Code (the Code), concerning the Design Review Commission; and

WHEREAS, the Board of Selectmen finds and concludes that the maintenance of structures within the Town which are historic buildings or which have been found to be contributing structures to the Georgetown-Silver Plume National Historic District are valuable and irreplaceable assets which contribute to the historic and economic integrity of the Town; and

WHEREAS, the Board of Selectmen intends that preservation of these important values must be balanced with the rights of private property owners; and

WHEREAS, the Board of Selectmen wishes to achieve this balance by amending Sections 17.04.050 and 17.08.030 of the Code and enacting a new Chapter 17.09 of Title 17 of the Code.

NOW, THEREFORE, BE IT ORDAINED by the Board of Selectmen of the Town of Georgetown, Colorado:

Section 1. The Georgetown Municipal Code is amended by the addition of a new Chapter 17.09 of Title 17 to read as follows:

Chapter 17.09 Maintenance of Historic Structures

17.09.010 Purpose, scope and authority.

This chapter governs the maintenance of historic buildings throughout the Town. Authority to enforce this chapter is vested in the Town Administrator or his or her designee.

17.09.020. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Abate shall mean to bring into compliance, halt, eliminate or remedy.

Agent means and includes any person acting on behalf of or in place of a property owner, including tenant, manager or lessee.

Demolition by neglect means imminent total or partial destruction of or damage to a historic structure or any portion thereof, due to the failure of the owner(s) to adequately maintain or repair the structure, excepting acts of God or natural or manmade disasters. Exposure to the elements and seasonal weather shall not be considered an act of God or natural disaster.

Historic structure means all structures in the Town which were constructed between the years 1859 and 1907, inclusive, as well as all structures eligible for listing on the National Register of Historic Buildings.

Owner means and includes:

(1) Any owner or holder of any legal or equitable estate in real property, including a dominant or servient tenement, except a future or reversionary interest and except the interest of a public trustee, lienholder, mortgagee, or beneficiary of a deed of trust.

(2) The owner of record, as reflected by the records of the office of the county assessor.

Person includes a natural person, association, corporation, partnership, limited liability company and any other legal entity capable of owning, using, or occupying real property.

Town Administrator is that official of the town, or his or her designee, who is empowered to administer and enforce the provisions of this chapter.

17.09.030 Failure to maintain; demolition by neglect

No property owner shall fail to maintain any historic structure within the Town so as to render such structure susceptible to demolition by neglect.

17.09.040 Enforcement alternatives

When a violation of this chapter exists, the Town Administrator may initiate one or more of the following enforcement alternatives:

- (1) Voluntary abatement and compliance, as provided by subsection 17.09.040(a);
- (2) Town abatement, as provided by subsection 17.09.040(b);
- (3) Emergency abatement, as provided by subsection 17.09.040(c).

In addition, and not in limitation of the foregoing, the Town Administrator may also, singly or in combination with the foregoing enforcement actions, revoke, refuse to issue, or cease processing any application for any permit, administrative approval or land use application relating to the real property which is the subject of the alleged violation of this chapter until the violation has been abated.

(a) Voluntary abatement and compliance; discretionary authority of the Town Administrator.

In furtherance of the Town's policy of encouraging voluntary compliance, any person deemed or alleged to be in violation of or not in compliance with any of the provisions of this chapter shall, to the extent possible or practical and at the direction of the Town Administrator, be notified of such alleged violation or lack of compliance prior to the initiation either of abatement or enforcement proceedings, and shall be offered an opportunity to bring the property into compliance. The Town Administrator is authorized to exercise discretion in investigation and enforcement of violations of this chapter in furtherance of this policy.

(b) Town Abatement.

(1) *Notice to abate.* The Design Review Commission on its own motion or upon a request from the Town Administrator, may find that a violation of this chapter exists and may direct the Town Administrator to notify the owner of the affected historic structure in writing, requesting the owner to voluntarily abate the described violation. In the event the violation is not voluntarily abated, service of a notice of violation by the Town Administrator shall be considered service of a notice to abate and the Town may begin the abatement process. For any violation which does not threaten imminent danger of damage or injury to a historic structure and for which a notice to abate has been issued, the reasonable time for abatement shall not exceed thirty (30) days unless it appears from the facts and circumstances that compliance could not reasonably be made within that time and that a good faith attempt at compliance is being made.

(2) *Service of notice.* If written notice to abate is given, it shall be served by:

- Personally delivering a copy of the notice to an owner described in the notice; or
- Mailing a copy of the notice by first class or certified mail, return receipt requested, to the last known address of the owner as reflected in the county real estate records; or

- Posting a copy of the notice in a conspicuous place on the property.

(3) *Abatement order:* Upon the expiration of the period of notice, or at any time thereafter, if the violation has not been abated on the property described in such notice, the Town Administrator may apply to the municipal court for an abatement order, as follows:

- The application shall be accompanied by an affidavit affirming that the Town has complied with the notice requirements of subsection (2) and that the owner has failed to abate the identified violation.
- The town shall give notice to the owner of its application for the abatement order in the same manner as provided above for service of the original notice to abate. The Town's notice to the last known address of the owner as reflected in the records of the Clear Creek County Clerk and Recorder shall be considered adequate notwithstanding any error in the county's records. The Town Administrator may reasonably rely upon current county records to obtain an accurate address.
- The notice of application for an abatement order shall include a copy of the Town's application and its affidavit in support thereof, as well as the time, date, and place at which the Town will appear before the municipal court to request entry of the abatement order.
- At the stated time, date, and place, the municipal court judge shall review the application for administrative abatement order, the affidavit, any statement of the Town in support thereof, as well as any statement and evidence presented by the owner, if present.
- Thereafter, the municipal court is authorized to enter an order permitting the Town to enter upon such property, abate the same and recover its costs as provided by Section 17.09.060.

(4) .At any hearing conducted pursuant to subsection (3) of this section, the municipal court judge may consider evidence of actual notice received by an owner in determining whether adequate notice of a violation or of a citation has been provided. The judge may find that notice is adequate despite a lack of technical compliance with subsection (2) hereof upon evidence that an owner received actual notice of a written notice to abate a reasonable amount of time prior to the expiration of the abatement period.

(c) Emergency abatement.

If in the judgment of the Town Administrator a violation of this chapter is a cause of imminent danger to the integrity of an historic structure, any such violation may be summarily abated by the Town, and costs of abatement shall be charged and recovered as

provided by Section 17.09.060. In all such cases, the owner shall be given notice of a post-abatement hearing before the municipal court and an opportunity at that time to contest the validity of the abatement.

17.09.050 Violations and penalty.

(a) Any person violating any provision of this chapter shall be subject to the penalties set forth in Chapter 1.24 of this Code, provided however, that nothing contained in this section or Chapter 1.24 shall impair the ability of the Town to enforce the other remedial provisions provided in this chapter.

(b) As a portion of any judgment, fine or assessment levied upon conviction of a violation of this article the court shall order that the violation be abated within a time established by the court, but in no event to exceed thirty (30) days from the date of conviction. Failure to abate within the time so ordered may constitute contempt of court, and shall be punishable as such. The order shall also provide that, in the event the defendant has not abated the violation within thirty (30) days after the court order, the town or its agents are authorized to do so.

(c) In addition to any fines levied hereunder, the court shall impose, as a portion of the costs assessed against the defendant, any costs incurred by the Town in prosecuting, enforcing and abating the violation.

(d) Each day during which any person commits, or allows to remain unabated, any of the actions specified as unlawful in this chapter shall constitute a separate offense. Multiple violations of this chapter may be included on a single notice to abate or a single summons and complaint.

17.09.060. Moratorium Authorized

(a) Upon conviction pursuant to Section 17.09.050 of an owner for demolition by neglect of an Historic Structure, the Board of Selectmen shall be authorized, acting by resolution, to impose a moratorium of up to ten (10) years duration, upon issuance of building permits or certificates of occupancy for the property which was the subject of the conviction; such moratorium to extend to applications for building permits or certificates of occupancy from the owner so convicted and any closely-related owner, but not to apply to any purchaser in good faith of the property.

(b) The moratorium authorized by this Section may be imposed only after a public hearing preceded by ten (10) days prior written notice, posted on the subject property and mailed, certified, return receipt requested, addressed to the owner at the address of the subject property and to the owner's last known address, if different.

17.09.070 Recovery of expense of abatement.

(a) The actual costs of abatement, including attorney fees and costs, plus fifteen (15) percent of such abatement costs for inspection, a minimum fee assessment of

one hundred dollars (\$100.00) and other incidental costs of abatement, shall be assessed upon the lot, lots or tracts of land upon which such violation is abated.

(b) Such costs shall be paid to the Town within thirty (30) days after the Town has mailed notice of the assessment by certified mail to the owner of the property. Service shall be complete upon depositing the notice within the United States Postal Service, postage prepaid for certified mail or the equivalent for international delivery. Every such assessment shall be a lien in the several amounts assessed against such lot, lots or tract of land until paid.

Failure to pay such assessment within such period of thirty (30) days shall cause such assessment to become a lien against such lot, block or parcel of land and shall have priority over all liens, except general taxes and prior special assessments. The same may be certified at any time after such failure to so pay the same, by the town pursuant to CRS 31-20-105 to the county treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with fifteen (15) percent penalty to defray the cost of collection.

Section 2. Section 17.04.050(1) of the Code is amended to read as follows:

17.04.050 Permits and/or certificates required.

No person shall engage in any development or use of land without first obtaining a permit and/or certificate required herein:

(1) Certificate of appropriateness

a. A certificate of appropriateness shall be required for the erection, moving, demolition, alteration or addition to, or the external restoration or external reconstruction of, any building or structure, inclusive of driveways, parking areas, patios, sidewalks and walkways, and fences and walls, but excluding and excepting live vegetation (trees, shrubs and flora) utilized in landscaping, man-made landscaping structures less than fifteen (15) inches in height above grade, yard art, and signs for which no permit is required under the Town's sign regulations. The Building Inspector/Official shall not issue any building permit or certificate of occupancy for any building or structure in the absence of a duly obtained certificate of appropriateness required by this Section.

b. Nothing in this Section shall be construed to prevent the ordinary maintenance, painting or repair of any building or structure which does not require a building permit; to prevent the alteration or remodeling of the interior of a building where no exterior changes will occur.

(2) Special use permit. A special use permit shall be required for any development or use of land which is designated in Chapter 17.24 of this Title as a "special use." Such permit shall be required in addition to a certificate of appropriateness and any other permits required by this or any other title in this Code.

(3) Building permit. A building permit shall be required in accordance with the requirements of the building code. No building permit shall be issued until and unless all applicable regulations of this Title are met. (Ord. 320 Art. I(E), 1981; Ord. 2 §1, 2001)

Section 3. Section 17.08.030 of the Code is amended by the addition of a new subsection (3) to read as follows:

17.08.030 Restrictions.

Unless otherwise specifically provided in this Chapter, the following restrictions shall apply to all development within the Town::

(1) The erection, moving, demolition, alteration or addition to, or the external reconstruction or external restoration of any building or structure, inclusive of driveways, parking areas, patios, sidewalks and walkways, fences and walls, but excluding and excepting live vegetation (trees, shrubs and flora) utilized in landscaping and man-made landscaping structures less than fifteen (15) inches in height above grade, yard art, and signs for which no permit is required under the Town's sign regulations, shall be prohibited unless a certificate of appropriateness has been granted by the Design Review Commission.

(2) All structures and grounds shall be kept in good repair.

(3) NO CERTIFICATE OF APPROPRIATENESS SHALL BE AVAILABLE FOR, NOR ISSUED FOR THE DEMOLITION OF ANY STRUCTURE WHICH HAS BEEN DETERMINED BY THE TOWN TO BE SUBJECT TO CHAPTER 17.09 OF THIS TITLE (DEMOLITION BY NEGLIGENCE).

Section 4. Effective Date. This ordinance shall take effect upon adoption and posting as provided by Section 5.26 of the Territorial Charter.

INTRODUCED, READ, APPROVED AND POSTED IN FULL ON FIRST READING on the 26th day of January, 2016.

INTRODUCED ON SECOND READING, FINALLY ADOPTED AND ORDERED POSTED AFTER PUBLIC HEARING on the 9th day of February, 2016.

TOWN OF GEORGETOWN

By: Matthew D. Skeen
Matthew D. Skeen, Police Judge

ATTEST:

Jim Yabshi

Jennifer Yobski, Town Clerk

Posting



Posted up in full on the Town's website and at Town Hall and three (3) other designated posting locations within the limits of the Town after final adoption, in accordance with Section 5.26 of the Territorial Charter.