

ORDINANCE NO. O-16-10

AN ORDINANCE TO REPEAL AND REENACT WITH AMENDMENTS
SECTION 228.1 OF CHAPTER 24 OF THE CITY CODE ENTITLED
“HISTORIC AREA WORK PERMIT; APPLICATION PROCEDURE”

Text Amendment T-396

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, in public meeting assembled, that Section 228.1 of Chapter 24 of the City Code, are hereby amended to read as follows:

Sec. 24-228.1. Historic area work permit; application procedure.

(a) *Generally.* Applications for issuance of a historic area work permit shall be filed with the city manager. The application shall be in a form and contain such information as may be required to provide information as shall be necessary for the historic district commission to evaluate and act upon such applications in accordance with the provisions of this article.

(b) *Referral.* Upon the filing of a completed application, within three (3) days the city manager shall forward the application and all attachments to the historic preservation advisory committee and the planning and code administration for their review. Notwithstanding any other provision contained in this article, the city manager may approve an application without referral or further approval for minor alterations or improvements which do not alter the design, historicity, archaeological or structural features of any historic building, structure or site.

(c) *Review and public meeting.* The historic preservation advisory committee shall schedule and conduct a public meeting on the application, giving notice pursuant to subsection (d) below. The committee shall maintain minutes of its proceedings and a public file of all relevant correspondence, documents and other materials on the request for the historic area work permit. The committee and the Planning and Code Administration of the City of Gaithersburg shall thereafter promptly forward their written recommendations to the historic district commission. The historic district commission may render its decision based upon these recommendations or public comment received before the committee, or in its discretion, hold a public hearing giving notice pursuant to subsection (d) below. Further, where the property owner and the historic preservation advisory committee agree to the approval of the application and any conditions of such approval, the historic district commission may, in its discretion, render its decision based on said agreement without the necessity of further public comment.

(d) *Notice.* After scheduling a public meeting, notice thereof shall be accomplished by city staff, by ordinary mail, being given to property owners within two hundred (200) feet of the property, not less than seven (7) working days prior to the meeting at which the matter is to be heard, and to those citizens or organizations which the city manager determines may have an interest in the proceedings. In addition, notice shall be accomplished by posting an appropriate sign on the site and publication ~~in one or more newspapers in general circulation in the city~~ at least once, not less than seven (7) days prior to the meeting.

(e) *Action by historic district commission.*

(1) The historic district commission may instruct the city manager to:

- a. Issue the permit.
- b. Issue the permit subject to such conditions as are necessary to ensure conformity with the provisions and purposes of this article; or
- c. Deny the permit subject to the requirements contained in section 24-228.1(c).

(2) In the event of a denial of a permit, the applicant shall receive a written notification of the reasons for such denial. An application which is identical to the denied application shall not be resubmitted within a period of one year after the denial or any appeal from such denial.

(3) Failure of the historic district commission to act on a completed application within forty-five (45) days from the date the completed application was accepted for filing, or in the event the record is held open by the commission, within fifteen (15) days after the close of the record, shall be deemed to constitute automatic approval of the proposed changes unless an extension of this forty-five (45) day period is agreed upon mutually by the applicant and the commission or the application is withdrawn. Action by the commission on a completed application as provided by this subsection shall mean: (i) actions provided for in subsection (e)(1) of this section 24-228.1; or (ii) a remand of the matter to the historic preservation advisory committee for further review and recommendation; provided, that the period of remand to the date of final decision by the commission shall not exceed ninety (90) days.

(f) If work on an approved project has not begun within six (6) months after the issuance by the historic district commission of a certificate of approval, or within time frames as stated in the approval, the certificate of approval shall expire. If the work has not been completed within one year of the date of its issuance, or within time frames stated in the approval, the certificate of approval shall expire. A time extension for one more year is permissible through written request for extension to the historic district commission. If the extension is not approved, the historic area work permit becomes null and void.

(g) *Miscellaneous provisions.*

- (1) Properties subject to covenants or easements held by other historic preservation organizations shall submit proof of approval of exterior architectural review by the organizations holding the easement.
- (2) The commission may acquire easements in connection with individual sites or structures, or sites or structures located in or adjacent to a designated historic district to protect such structures or sites from changes which would affect its historic, archaeological or architectural significance. The city planning commission may condition an approval of a subdivision or site development plan upon a determination by the historic district commission as to whether such easement should be acquired.
- (3) Any permit issued by the city manager may be subject to such conditions imposed by the historic district commission as are reasonably necessary to assure that work in accordance with the permit shall proceed and be performed in a manner not injurious to those characteristics and qualities of the historic resource which are of historical, architectural, archaeological or cultural value.
- (4) In the event that there is a conflict between the permit and the requirements of the building code, the permit will control; provided, that all health and safety requirements are met.
- (5) The city manager is responsible for the enforcement of this article.

ADOPTED by the City Council of Gaithersburg, Maryland, this 2nd day of August, 2010.

SIDNEY A. KATZ, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this 2nd day of August, 2010. APPROVED by the Mayor of the City of Gaithersburg, this 2nd day of August, 2010.

SIDNEY A. KATZ, MAYOR

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the 2nd day of August, 2010, and the same was approved by the Mayor of the City of Gaithersburg on the 2nd day of August, 2010. This Ordinance will become effective on the 23rd day of August, 2010.

Angel L. Jones, City Manager

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
Single strikethrough	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
Double boldface strikethrough	<i>Deleted from existing law or the bill by amendment.</i>