

ORDINANCE NO. O-10-16

AN ORDINANCE TO AMEND CHAPTER 24 (CITY ZONING ORDINANCE), ARTICLE XII, § 24-224, ENTITLED "DEFINITIONS"; § 24-225.1 ENTITLED "POWERS AND DUTIES OF HISTORIC DISTRICT COMMISSION"; § 24-226 ENTITLED "DESIGNATION OF HISTORIC DISTRICTS AND HISTORIC SITES; CRITERIA"; AND § 24-231, ENTITLED "MORATORIUM ON ALTERATION OR DEMOLITION"; AND TO ADD § 24-233.1, ENTITLED "UNDUE ECONOMIC HARDSHIP"

Text Amendment CTAM-7359-2016

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance) Article XII is amended to read as follows:

Chapter 24

ZONING

ARTICLE XII. PRESERVATION OF HISTORIC RESOURCES

Sec. 24-224 – Definitions

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Designated historic resource or site. Any designated historic resource outside the boundaries of a historic district of historic, archaeological, architectural, or cultural significance and which has been so designated by resolution of the mayor and city council.

Historic district. A significant concentration, linkage or continuity of sites, structures or objects which contributes to the historical, architectural, archaeological or cultural values within the city, and which have been so designated by the historic district commission.

~~*Designated historic resource or site.* Any designated historic resource outside the boundaries of a historic district of historic, archaeological, architectural, or cultural significance and which has been so designated by resolution of the mayor and city council.~~

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Sec. 24-225.1. - Powers and duties of historic district commission.

The historic district commission shall have those powers, duties and authority assigned to it by Title 8 of the Md. Land Use Code Ann., §8-101 et seq, as amended from time to time Article 66B, MD. CODE ANN, the zoning ordinance of the City of Gaithersburg, and those acts or enactments of the city council of the City of Gaithersburg. The commission shall adopt such rules and regulations as may be necessary for the proper transaction of its business.

Sec. 24-226. - Designation and designation removal of historic districts and historic sites; criteria.

(a) The mayor and city council, on its own motion or by petition of either the property owners of record, the historic district commission, or the planning commission, may, after prescribed notice and public hearing, designate by ~~ordinance or resolution~~ historic districts, historic resources, and historic sites in the city which are deemed to be of historic, archaeological or architectural significance following the procedure applicable to classifications in zoning or may remove such designation by the same manner. These resources shall thereafter be subject to the provisions of this article and any rules and regulations promulgated by the commission. The procedures are substantially similar to those applicable to local map amendments, as provided in Article VIII of Chapter 24 of this Code.

(b) In considering historic resources for designation as historic districts and historic sites, the historic district commission shall apply the following criteria:

- (1) Historical and cultural significance. The historic resource:
 - (i) ~~a.~~ Has character, interest or value as part of the development, heritage or cultural characteristics of the city, county, state or nation;
 - (ii) ~~b.~~ Is the site of a significant historic event;
 - (iii) ~~c.~~ Is identified with a person or a group of persons who influenced society; or
 - (iv) ~~d.~~ Exemplifies the cultural, economic, social, political or historic heritage of the city and its communities.
- (2) Architectural and design significance. The historic resource:
 - (i) ~~a.~~ Embodies the distinctive characteristics of a type, period or method of construction;
 - (ii) ~~b.~~ Represents the work of a master;
 - (iii) ~~c.~~ Possesses high artistic values;
 - (iv) ~~d.~~ Represents a significant and distinguishable entity whose components may lack individual distinction;

- (v) e. Represents an established and familiar visual feature of the neighborhood, community or city due to its singular physical characteristic or landscape; or
- (vi) f. Embodies design, setting, materials, workmanship and ambience to the city's sense of time, place and historic development.

~~(c) Prior to the conduct of a public hearing by the mayor and city council on the designation of a historic district or historic site, the historic district commission shall investigate, research, and submit findings and recommendations to the mayor and city council on each request. Prior to the closing of the public hearing record:~~

- ~~(1) The city planning department shall submit its findings and recommendations to the mayor and city council on the proposed designation; and~~
- ~~(2) The city planning commission and historic district commission, after public hearing on the designation, shall make its their recommendations, as set forth in Section 24-240 and consistent with the city master plan, to the mayor and city council prior to the close of the mayor and city council's record. In formulating such recommendations, the planning commission and historic district commission may consider public hearing testimony before the historic district commission, the recommendation of the historic district commission, recommendations from the city planning department, including the staff report, and any other relevant and material matters.~~

~~(d) Historic districts, resources, and sites shall remain designated as historically, archaeologically or architecturally significant unless such designation is removed by subsequent resolution of the mayor and city council.~~

- ~~(1) The designation may be removed from a historic resource only if information not available at the time of designation shows that the subject resource no longer meets the applicable criteria for designation.~~
- ~~(2) Applications for removal of historic or archaeological designation may be made by the property owner or the city, and shall be filed with the city. The removal process shall terminate if the applicant withdraws the request for removal at any time prior to the mayor and city council adopting the resolution removing the designation. Review of applications for removal of designation shall include:~~
 - ~~(i) Analysis of the application by the city planning department regarding criteria listed in Section 24-226(b).~~
 - ~~(ii) Review of the application and analysis by the planning commission and historic district commission, which shall conduct a public hearing to review the proposed designation removal. The planning commission and historic district commission's recommendations shall be forwarded to the mayor and city council.~~
 - ~~(iii) The mayor and city council shall review the application to remove designation, the written staff analysis, and the recommendations of the planning commission and historic district commission. After a~~

public hearing, the mayor and city council shall approve or deny the removal of designation by resolution.

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Sec. 24-231 – ~~Moratorium on alteration or demolition~~ Demolition procedures for non-designated buildings and structures

(a) Applications for issuance of a demolition permit for non-designated buildings and structures shall be filed with the city manager, or designee. 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) Prior to issuance of each demolition permit, the historic district commission shall review each structure or building more than 50 years old for potential historic or architectural significance under the criteria specified in Sec. 24-226 of the City Code. The historic district commission shall schedule and conduct a public meeting on the application, giving notice pursuant to subsection (c) below.

(c) 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) days prior to the meeting at which the matter is to be heard, and to those citizens or organizations the city manager or designee determines may have an interest in the proceedings. In addition, notice shall be accomplished by posting an appropriate sign on the site and publication at least once, not less than seven (7) days prior to the meeting.

(d) The historic district commission may instruct the city manager or designee to:

(1) Issue the demolition permit.

(2) ~~(a)~~ Where the historic district commission determines that any site, group of sites, structure or object is undergoing active consideration as a historic district, historic site or historic resource, or has the reasonable probability of being so designated or has been so designated, it may direct the city manager to withhold issuance of any permit to demolish, grade or substantially alter the exterior features of any such site, structure or object. The city manager shall withhold such permit for a maximum of six (6) months from the date of the directive of the commission.

(i) ~~(b)~~ The commission may withdraw its directive to the city manager if it determines that failure to grant the permit applied for will have the effect of denying the property owner all reasonable use of his the property or would cause the property owner to suffer undue economic hardship.

Sec. 24-231.1. – Undue economic hardship for designated buildings and structures

(a) In the case of a proposed demolition of a historic resource or property within a historic district, the historic district commission may consider an application for demolition if:

- (1) The site or structure is a deterrent to a major improvement program that will be of substantial benefit to the city, or
- (2) The retention of the site or structure would:
 - (i) Cause undue financial hardship to the owner, or
 - (ii) Not be in the best interests of a majority of persons in the community.

(b) The historic district commission may not grant any such application unless the commission makes specific findings demonstrating that the standards have been met. In addition, as detailed under subsections (c) and (d) below, the commission may not approve an application for demolition based in whole or part on undue economic hardship unless the commission makes specific findings that:

- (1) An undue economic hardship exists, and
- (2) The historic resource cannot feasibly be relocated, restored, repaired or rehabilitated in a manner that would allow any reasonable use of the property by the applicant or anyone else, which is not caused by the applicant's own neglect.

(c) The historic district commission must not approve demolition of a historic resource or property within a historic district unless the property owner provides verifiable evidence and data which shows that:

- (1) Undue economic hardship exists, based on the totality of the evidence, including but not limited to the documents and data specified in subsection (d) below, and
- (2) The historic resource cannot feasibly be relocated, restored, repaired or rehabilitated in any manner that would allow any reasonable use of the property by the applicant or anyone else, which is not caused by the applicant's own neglect.

(d) An owner who seeks to demolish a historic resource must provide adequate information to demonstrate the presence of an undue economic hardship, including but not limited to the following:

(1) For all property:

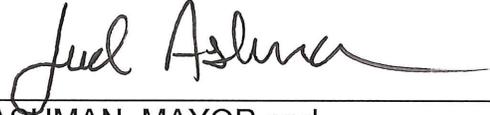
- (i) Form of ownership of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture or other method;
- (ii) The amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased;
- (iii) Remaining balance on any mortgage or other financing secured by the property;
- (iv) Estimated market value of the property, both in its current condition, and after completion of demolition and reuse of the existing structure, to be presented by an appraisal by a qualified professional expert;
- (v) A report from a licensed engineer or architect with experience in historic architecture as to the structural soundness of the structure and its suitability for reuse;
- (vi) An estimate from a professional experienced as to the economic feasibility for reuse of the existing structure;
- (vii) An estimate from a demolition professional as to the cost of tearing down the existing structure and removal of the debris;
- (viii) The assessed value of the land and improvements most recent assessments;
- (ix) Real estate taxes for the previous two (2) years;
- (x) Annual debt service, if any, for the previous two (2) years;
- (xi) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with his purchase, financing, or ownership of the property;
- (xii) All listing of the property for sale or rent, price asked and offers received, if any; and
- (xiii) Any consideration by the owner as to profitable adaptive uses for the property.

(2) Additionally, for income-producing property:

- (i) Annual gross income from the property for the previous two (2) years;
- (ii) Itemized operating and maintenance expenses from the previous two (2) years;
- (iii) Annual cash flow, if any, for the previous two (2) years.

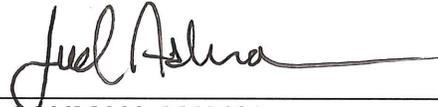
(e) The City may hire an outside consultant for additional reports on the property and economic hardship, including to verify or further consider any information provided by the applicant.

ADOPTED by the City Council this 17th day of October, 2016.



JUD ASHMAN, MAYOR and
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg this 17th day of October, 2016. APPROVED by the Mayor of the City of Gaithersburg this 17th day of October, 2016.



JUD ASHMAN, MAYOR

THIS IS TO CERTIFY, that the foregoing Ordinance was adopted by the City Council of the City of Gaithersburg, in public meeting assembled on the 17th day of October, 2016; and that the same was APPROVED by the Mayor of the City of Gaithersburg on the 17th day of October, 2016. This Ordinance will become effective on the 7th day of November, 2017.



Tony Tomasello, City Manager