

SUBSTITUTE ORDINANCE NO. BL2021-842

An Ordinance amending Chapter 16.28 and Section 17.40.430 of the Metropolitan Code to amend the regulations of the demolition of potentially historic structures and sites (Proposal No. 2021Z-015TX-001).

BE IT ENACTED BY THE METROPOLITAN COUNCIL OF NASHVILLE & DAVIDSON COUNTY:

Section 1. That Section 16.28.190 of the Metropolitan Code is hereby amended by deleting it in its entirety and replacing it with the following:

16.28.190 – Issuance.

If the application for a permit under this chapter and the drawings filed therewith describe work which does not conform to the requirements of this chapter or other pertinent laws or ordinances, the director of codes administration shall not issue a permit, but shall return the drawings to the applicant with his refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons therefore.

Section 2. That Chapter 16.28 of the Metropolitan Code is hereby amended by creating Section 16.28.195 as follows:

16.28.195 – Issuance of permits for the demolition of historic structures and sites.

A. ~~For the purposes of this section, the following definitions shall apply:~~

- ~~1. “Demolition” includes the act of either demolishing or removing the following:
 - a. Fifty percent (50%) or more of the roof area as measured across the horizontal plane of the outer perimeter of the roof area of the building or structure.
 - b. Fifty percent (50%) or more of the exterior walls of the building or structure.~~
- ~~2. “Qualified historic restoration consultant” is defined as a professionally licensed architect or general contractor with a specialty in historic buildings, i.e. one who has worked directly on the rehabilitation or restoration of historic buildings for a minimum of ten years and/or a minimum of 15 long-term (lasting six months or more) historic building projects. The consultant shall provide a list of qualifying historic properties, detailing their scope, budget, the consultant’s scope of involvements, specific historic issues/challenges, date of completion, and client contact information. The historical commission will determine whether the consultant meets these criteria.~~
- ~~3. “Qualified historic properties real estate appraiser” is defined as an individual who has a minimum of five years of professional experience working as a real estate appraiser, specifically including the valuation of historic property buildings, and their appurtenances. For these purposes, “historic” shall be defined as 100 years old and older. The appraiser shall provide a listing of historic properties evaluated, with accompanying date of service and client contact information. The historical commission will determine whether the consultant meets the established criteria.~~

~~B. When the department of codes administration receives an application for a demolition permit for a structure that, individually or as part of a group of structures, qualifies as a “preferably preserved structure or site,” as defined in subsection 16.28.195.C, or meets the criteria of T.C.A. § 7-51-1201 as determined by the Metro Historical Commission, but is not included in a historic overlay district, the director of Codes Administration shall not issue a~~

demolition permit for the structure or site until the executive director of the historical commission has notified the director of codes administration that all necessary requirements of this section of the ordinance have been met.

1. The executive director shall release the demo hold on structures initially identified as Pre-1865 upon approval of the demolition by the Metro Council by resolution and once the documentation standards of subsection 16.28.195.D have been met.
2. The executive director shall release the demo hold on structures initially identified as "preferably preserved" at the end of the 180 days if the documentation standards of subsection 16.28.195.F have been met.

C. Pre-1865 Buildings. Any building meeting the qualifications of T.C.A. § 7-51-1201 shall be considered a pre-1865 building.

D. Pre-1865 Buildings Review Process. The following requirements shall be satisfied prior to the issuance of a demolition permit for a residential structure that was originally constructed before 1865:

1. The property owner or the owner's agent applying for a demolition permit shall, with the application for the permit, present to the director of codes administration and the executive director of the historical commission a report, prepared by a qualified historic restoration consultant, stating the following:
 - a. The name and qualifications of the person making the report.
 - b. The condition of structural elements of the building proposed to be demolished. Such report should include an assessment of damage or decay, if any, to foundations, flooring, floor supports, walls and other vertical supports, ceilings, roofs and their support systems and other horizontal elements, fireplace, chimneys, exterior cladding and other exterior elements that may affect structural integrity, windows, window frames and doors and/or any fault, defect or condition that might affect the structural integrity or the water-tightness of the building.
 - c. An estimated cost of repair for those item(s) identified in the structural report as damaged or decayed and which affect structural integrity.
 - d. A valuation from a qualified historic properties real estate appraiser of the building(s), structures or features proposed to be demolished.
 - e. Evidence that there is no feasible alternative to demolition, including the use of tax credits, grants or loans for rehab, moving the structure, selling the property to a preservation minded buyer among other possible alternatives.
2. Upon receipt of the demolition permit application, the metropolitan historic zoning commission shall, at a scheduled public hearing, make the determination as to whether or not the structure meets the criteria of T.C.A. § 7-51-1201. If the historical commission determines that the structure at issue meets the criteria of T.C.A. § 7-51-1201, it shall initiate legislation to allow the metropolitan council the opportunity to approve or disapprove the demolition in accordance with T.C.A. § 7-51-1201 et seq.
3. The property owner or the owner's agent applying for a demolition permit shall place a sign in a visible location providing notice of the meetings and shall send mailed notices to the applicable neighborhood association, any local preservation non-profit organization, any statewide preservation non-profit organization and the Tennessee State Historical Commission at least 16 days prior to the first of the two meetings.
4. If council approves demolition of the property, the applicant shall provide the following, prior to the issuance of a demolition permit:
 - a. Documentation of the building to include, but not limited to, photographs and measured drawings meeting the documentation specifications of the National

~~Park Service's Historic American Buildings Survey (HABS), Historic American Engineering Record (HAER) or the Historic American Landscapes Survey (HALS) guidelines.~~

- ~~b. A salvage plan listing all features to be salvaged and whether those features will be sold, donated, or reused in new construction planned for the site.~~

~~E. Preferably Preserved Structure or Site. Any building meeting the following qualifications shall be considered a preferably preserved structure or site:~~

- ~~1. Listed in the National Register of Historic Places (NR)~~
- ~~2. Determined by the metro historical commission (MHC) to be eligible for listing in the National Register of Historic Places (NRE).~~
- ~~3. Determined by the metro historical commission (MHC) to be a significantly important Structure or Site that culturally or physically communicates Nashville's history.~~

~~F. Preferably Preserved Structure or Site Review Process.~~

- ~~1. The property owner or the owner's agent applying for a demolition permit shall present to the executive director of the historical commission a report, prepared by a qualified historic restoration consultant, stating the following:~~

- ~~a. The name and qualifications of the person making the report.~~
- ~~b. The condition of structural elements of the building proposed to be demolished. Such report should include an assessment of damage or decay, if any, to foundations, flooring, floor supports, walls and other vertical supports, ceilings, roofs and their support systems and other horizontal elements, fireplace, chimneys, exterior cladding and other exterior elements that may affect structural integrity, windows, window frames and doors and/or any fault, defect or condition that might affect the structural integrity or the water tightness of the building.~~
- ~~c. An estimated cost of repair for those item(s) identified in the structural report as damaged or decayed and which affect the structural integrity of the structure.~~
- ~~d. A valuation from a qualified historic properties real estate appraiser of the building(s) proposed to be demolished.~~

- ~~2. Upon receipt of the demolition permit application, the metropolitan historical commission staff shall have 15 days to complete the following:~~

- ~~a. Make the determination as to whether or not the documentation meets the specifications established by the metro historical commission.~~
- ~~b. Direct the applicant to post a sign on the property and to send mailed notices to the applicable neighborhood association, any local preservation non-profit organization, any statewide preservation non-profit organization and the Tennessee State Historical Commission as a means of notifying the public of pending demolition.~~
- ~~c. Direct the applicant to provide documentation of the building or site to include, but not limited to, photographs and measured drawings, meeting the documentation specifications of the National Park Service's Historic American Buildings Survey (HABS), Historic American Engineering Record (HAER) or the Historic American Landscapes Survey (HALS) guidelines.~~
- ~~d. Direct the applicant to submit a salvage plan listing all features to be salvaged and whether those features will be sold, donated, or reused in new construction planned for the site.~~

~~3. Following the completion of the requirements of Subsections 16.28.195.F.1 and 16.28.195.F.2, the MHC shall hold the demolition request for 180 days for the purpose of working with the applicant towards saving the building or structure or appropriate mitigation.~~

~~G. The owner shall be responsible for properly securing the structure to the satisfaction of Metro Property Standards during the applicable delay periods and/or if demolition of a pre-1865 building is denied.~~

A. When the department of codes administration receives an application for a demolition permit for a structure which, individually or as part of a group of structures, is listed or is eligible for listing on the National Register of Historic Places, or meets the criteria of T.C.A. § 7-51-1201 as determined by the historic zoning commission, but is not included in a historic overlay district, the director of codes administration shall not issue a demolition permit for the structure until the executive director of the historical commission approves the demolition permit. The executive director must take action on the demolition permit within 90 days of the permit application, unless a longer period is agreed upon by the applicant and the executive director. The department of codes administration shall provide notice by email to the district councilmember representing the district in which the historic structure is located within two business days after the application for the demolition permit has been filed.

B. Prior to the issuance of a demolition permit or a building permit where a portion of the structure is proposed to be removed for a structure which, individually or as part of a group of structures, is listed or is eligible for listing on the National Register of Historic Places, meets the criteria of T.C.A. § 7-51-1201 as determined by the historic zoning commission, and/or is included in a historic overlay district, the responsible contractor and any subcontractor shall submit signed affidavits that they have reviewed the permit to be approved including any related preservation permit and understand the limits of the demolition work to be done.

C. The following requirements shall be satisfied prior to the issuance of a demolition permit for a residential structure that was originally constructed before 1865:

1. The property owner or the owner's agent applying for a demolition permit for a residential structure that was originally constructed before 1865 shall, with the application for the permit, present to the director of codes administration and the executive director of the Metropolitan Historical Commission at least two reports, each prepared by a qualified historic restoration consultant, stating the following:

a. The name and qualifications of the person making the report.

b. The condition of structural elements of the building proposed to be demolished. Such report should include an assessment of damage or decay, if any, to foundations, flooring, floor supports, walls and other vertical supports, ceilings, roofs and their support systems and other horizontal elements, fireplace, chimneys, exterior cladding and other exterior elements that may affect structural integrity, windows, window frames and doors and/or any fault, defect or condition that might affect the structural integrity or the water-tightness of the building.

c. An estimated cost of repair for those item(s) identified in the structural report as damaged or decayed and which affect the structural integrity of the structure.

d. A valuation from a qualified historic properties real estate appraiser of the building(s) proposed to be demolished.

2. For purposes of subsection C.1., the following definitions shall apply:

- a. "Qualified historic restoration consultant" is defined as a professionally licensed architect or general contractor with a specialty in historic buildings, i.e., one who has worked directly on the rehabilitation or restoration of historic buildings for a minimum of ten years and/or a minimum of 15 long-term (lasting six months or more) historic building projects. The consultant shall provide a list of qualifying historic projects, detailing their scope, budget, the consultant's scope of involvement, specific historic issues/challenges, date of completion, and client contact information. The MHZC will determine whether the consultant meets these criteria.
- b. "Qualified historic properties real estate appraiser" is defined as an individual who has a minimum of five years of professional experience working as a real estate appraiser, specifically including the valuation of historic property, buildings, and their appurtenances. For these purposes, "historic" shall be defined as 100 years old and older. The appraiser shall provide a listing of historic properties evaluated, with accompanying date of service and client contact information. The MHZC will determine whether the consultant meets these established criteria.
3. Upon receipt of the demolition permit application, the metropolitan historic zoning commission shall, at a scheduled public hearing, make the determination as to whether or not the structure meets the criteria of T.C.A. § 7-51-1201. If the historic zoning commission determines that the structure at issue meets the criteria of T.C.A. § 7-51-1201, it shall initiate legislation to allow the metropolitan council the opportunity to approve or disapprove the demolition in accordance with T.C.A. § 7-51-1201 et seq.

Section 3. That Section 17.40.430 of the Metropolitan Code is hereby amended by deleting it in its entirety and replacing it with the following:

17.40.430 - Moratorium For proposed historic overlay districts.

There shall be a moratorium period on the granting of permits for demolition, relocation, new construction, exterior alterations, additions to structures or improvements on land recommended for designation as a historic overlay district. The moratorium period shall begin with the filing of an ordinance to designate an historic overlay district and end once the ordinance establishing the overlay district has been approved, rejected, withdrawn, deferred for a total amount ~~period~~ of time ~~greater than~~ equaling 90 days, or indefinitely deferred by the Metropolitan Council.

Section 4. That this Ordinance shall take effect five (5) days from and after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:

Tom Cash
Member of Council