



**City of Rockville
Historic District Commission Policy
Review Procedures for Demolition Requests**

For more information on demolition procedures, contact the Historic Preservation office at 240-314-8230 or e-mail History@rockvillemd.gov.

Proposed Demolition of Designated Historic Sites

The City of Rockville has incorporated Sections 8.01 through 8.17 of Article 66B of the Code of Maryland to regulate the historic preservation program, the Historic District Commission (HDC), and historic districts. Demolition is specifically addressed in Section 8.09 and 8.10, included below. General interpretation of the State Code and a list of information required by the HDC to consider a request for demolition is included after the Code.

Proposed Demolition of Undesignated but Potentially Eligible Sites

The Environmental Guidelines for the City of Rockville address demolition of non-designated but potentially eligible sites. Staff and/or the HDC must review the site for significance when development or redevelopment proposes removal or substantial alteration of historic structures or potentially historic sites. A site is considered eligible for historic review if it is 50 years old or older, or is listed in the 1987 Rockville Historic Buildings Catalog, or appears to possess archeological, architectural, cultural or historic qualities that render it significant to the City of Rockville. Eligibility for historic designation is determined through research and evaluation of significance by the Historic District Commission. If determined to be eligible for historic designation, it will be referred to the Mayor and Council for consideration of historic designation.

PROPOSED DEMOLITION OF CONTRIBUTING HISTORIC DISTRICT STRUCTURES

ARTICLE 66B of the Code of Maryland

Section 8.09.

(a) If an application is submitted for construction, reconstruction or alteration affecting a site or the exterior of a structure or for the moving or demolition of a structure, the preservation of which the commission considers to be of unusual importance to the county or municipal corporation or unusual importance to the entire State or nation, the commission shall attempt with the owner of the structure to formulate an economically feasible plan for the preservation of the site or structure. Unless in these circumstances the commission is satisfied that the proposed construction, alteration, or reconstruction will not materially impair the historic, archaeological, or architectural significance of the site or structure, the commission shall reject the application, filing a copy of its rejection with the building inspector by whatever name known of the county or municipal corporation.

(b) If an application is submitted for construction, reconstruction, or alteration, or for the moving or demolition of a site or structure that the commission considers to be of unusual importance and no economically feasible plan can be formulated, the commission shall have ninety days from the time it concludes that no economically feasible plan can be formulated to negotiate with the owner and other parties in an effort to find a means of preserving the site or structure.

Section 8.10.

In the case of a site or structure considered to be valuable for its historic, archaeological or architectural significance, the commission may approve the proposed construction, reconstruction, alteration, moving, or demolition despite the fact the changes come within the provisions of Section 8.09 of this subtitle if:

- (1) the site or structure is a deterrent to a major improvement program which will be of substantial benefit to the county or municipal corporation;
- (2) retention of the site or structure would cause undue financial hardship to the owner; or
- (3) the retention of the site or structure would not be to the best interests of a majority of persons in the community."

General Interpretation of Section 8.10

Item number 1, "a major improvement program which will be of substantial benefit to the county or municipal corporation" is generally interpreted to be public facilities such as roads, bridges, schools, and so forth. Financial proof of the ability to complete the replacement project should be required. A demolition permit for a structurally sound or repairable historically designated building shall not be issued until replacement plans are approved by the commission and other reviewing agencies.

Item number 2, "undue financial hardship" criteria were established by the United States Supreme Court decision in *Penn Central Transportation Co. v. New York*. This decision is still considered to be the legal standard when considering if retention of a building is, in effect, a "taking" by the local government. In general, it is proper for the HDC to consider whether a structure can be put to a reasonable beneficial use if an application for demolition is denied. It is also proper for the HDC to consider whether a reasonable return can be attained in the use of an income producing building if an application for demolition is denied. Failure to attain maximum potential profit or use is not considered to be either a "taking" or a "hardship."

Item number 3 – "retention would not be to the best interests of a majority of persons in the community." This standard is not precisely defined in the State Code, but is generally considered to be present if the structure poses an "imminent threat" to health or safety of the public. Other factors may apply on a case by case basis. Lack of maintenance that produces unsafe conditions, which can be remedied, are not considered an "imminent threat."

INFORMATION TO BE SUBMITTED WITH AN APPLICATION FOR DEMOLITION OF A CONTRIBUTING HISTORIC DISTRICT STRUCTURE

Consideration of a permit to demolish will be based on the following information, which must be submitted before the application is considered.

- (1) Form of ownership of the property.
- (2) A report from an engineer licensed in the State of Maryland as to the structural soundness of the structure and its adaptability for rehabilitation. Any dangerous conditions should be identified. Include the engineer's resume highlighting professional experience in historic property assessment/rehabilitation.

(3) Cost of the proposed demolition or removal and an estimate of any additional costs that would be incurred to comply with standard conditions of approval such as documentation.

(4) Fair market value of the property to be presented through an appraisal by a qualified professional expert. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property.

(5) An itemized breakdown from a professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.

(6) Amount paid for the property, the date of purchase, identification of the seller(s), a description of the relationship, if any, between the owner of record or applicant and the person(s) from whom the property was purchased, and any items of financing between the seller and buyer. Include the settlement sheet. Show remaining balance on any mortgage or other financing secured by property and annual debt service, if any, for the previous two years.

(7) If the property is income-producing, the annual gross income from the property for the previous two years; the itemized operating and maintenance expenses for the past two years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period.

(8) Price asked and offers received, if any, within the previous two years. Most recent assessed value of the property and real estate taxes.

(9) The commission may request other information specific to the project.

Should the applicant for demolition of a contributing structure satisfy the commission that substantial hardship would be suffered if a demolition permit is not granted and the demolition of the structure in question is without substantial detriment to the public welfare, a Certificate of Approval shall be issued. A condition of approval may be attached requiring the owner to document the building or site. Documentation may include measured drawings, interior plans, and photographs. If the applicant fails to demonstrate substantial hardship, the commission shall deny the application and set forth its reasons for doing so in writing.

In cases involving proposed new construction, the new design shall not be considered until a determination has been made by the commission regarding hardship. Unless conditions that imminently threaten health or safety exist in the structure, a Certificate of Approval for the demolition shall not be issued until replacement plans are approved by the commission and other reviewing agencies. Financial proof of the ability to complete the replacement project, including but not limited to a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution should be submitted. All plans for new construction will be evaluated for their compatibility with architectural style, general design, arrangement, texture, material and color of the exterior architectural features of other structures in the immediate neighborhood. Both concept and final plans should be submitted.

If the application for demolition is denied, the applicant may not submit the same or substantially the same application for a period of one year. Any appeal of a Historic District Commission decision is filed with the circuit court.

PROPOSED DEMOLITION OF STRUCTURES THAT MAY BE ELIGIBLE FOR HISTORIC DESIGNATION

ALL STRUCTURES 50 YEARS OLD OR OLDER MUST BE REVIEWED

The City's Adopted Environmental Guidelines state that, "As a general guide, any structure older than 50 years of age or possessing architectural significance, or a site associated with a person or event of importance to local, state, or national history or development, should be examined to determine significance."

The "Guidelines for Development" section states that any existing or potential historical, cultural or archaeological resources identified in a pre-submission meeting with staff shall be referred to the Historic District Commission (HDC) and the Maryland Historical Trust, if necessary, for a review and recommendation of the property's significance to the City. If the property is not found to possess significance to the City, the review process is completed and demolition may proceed with the proper City permits.

If the property is found to possess significance to the City, it is referred to the Mayor and Council, which holds a public hearing and makes the final determination.

If the property is not designated and not rezoned as a historic district at the conclusion of the process, demolition may proceed.

If the property is designated and rezoned by the Mayor and Council, it is subject to the Sections 8.09 and 8.10 of Article 66B of the Code of Maryland and the policies and procedures for contributing structures in a historic district.