

**THE CITY OF FREDERICK
MAYOR AND BOARD OF ALDERMEN**

ORDINANCE NO: G-21-23

AN ORDINANCE concerning demolition, moving, and removal of structures

FOR the purpose of expressly providing for the withdrawal of a certain permit application; clarifying language; and otherwise relating to the demolition, moving, and removal of structures.

BY repealing and reenacting, with amendments,
Sec. 5-15
The Code of the City of Frederick, 1966 (as amended)

SECTION I. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That Section 5-15 of The Code of the City of Frederick, 1966 (as amended) is hereby repealed and reenacted, with amendments, as follows:

Sec. 5-15. Demolition, moving, and removal of structures.

- (a) **General.** ***
- (b) **Application process for structures not within an HPO.**
- (1) This subsection applies to any structure not located in a historic preservation overlay district at the time of application.
 - (2) Within [seven (7)] **7** days after the filing of a demolition permit application, the code official shall determine whether or not the structure requested to be demolished is an imminent danger in accordance with [section] **Section 5-18(a)** of this article. If the structure is an imminent danger, the code official shall proceed in accordance with subsection (e) of this [section.] **section, and the structure will not be subject to demolition review.** If the structure is not an imminent danger, the code official shall proceed in accordance with this subsection.
 - (3) If a certificate to demolish without delay has been issued for the structure in accordance with Section 423 of the Land Management Code (LMC) and all other applicable requirements have been met, the code official shall approve the permit.
 - (4) If a certificate to demolish without delay has not been issued for the structure, the code official shall transmit the demolition permit application to the zoning administrator. Within [fifteen (15)] **15** days after receipt of a demolition permit application from the code official, the zoning administrator shall determine whether or not the structure [qualifies for] **is subject to** demolition review under subsection (c) of this section and notify the code official of the determination.
 - (5) If the zoning administrator notifies the code official that the structure [does not qualify for] **is not subject to** demolition review and all other applicable requirements have been met, the code official shall approve the permit.

- (6) If the zoning administrator notifies the code official that the structure [qualifies for] **is subject to** demolition review, then the demolition permit application will be placed on hold pending further action in accordance with this subsection.
- (7) [Within fifteen (15) days after] **After** the zoning administrator notifies the code official that a structure qualifies for demolition review, the Historic Preservation Commission (**HPC**) shall hold a public hearing [to determine whether or not [to make an application for designation of the structure.] **in accordance with § 423(a)(7) of the LMC. The demolition review process will then continue in accordance with LMC §§ 423(a)(8) through 423(a)(10).**
- (8) **A property owner may withdraw a demolition permit application before the HPC holds its initial hearing in accordance with Sec. 423(a)(7) of the LMC.**
- (9) **The demolition review process is complete when:**
- A. The Planning Division issues a certificate to demolish without delay for the structure;**
- B. A map amendment ordinance designating the structure becomes effective; or**
- C. The demolition permit application is withdrawn in accordance with paragraph (8) of this subsection.**
- ~~(8) If the HPC votes not to make a designation application or fails to make a decision within fifteen (15) days, the Planning Department shall issue to the applicant a certificate to demolish without delay for the structure and shall promptly notify the code official. If all other applicable requirements have been met, the code official shall approve the permit.~~
- ~~(9) Within thirty (30) days of making a determination that it will make an application for the designation of the structure, the HPC shall hold a public hearing, following the notice provisions of Section 301 of the LMC, to determine whether or not the structure individually meets the criteria for designation established in Section 423(b) of the LMC and to determine whether or not to recommend designation of the structure.~~
- ~~(10) If the HPC determines that it will not recommend designation of the structure, the designation application shall be withdrawn and the Department shall issue to the applicant a certificate to demolish without delay for the structure and shall promptly notify the code official. If all other applicable requirements have been met, the code official shall approve the permit.~~
- ~~(11) If the HPC determines that it will recommend designation of the structure, within forty-five (45) days of the closing of the public hearing, unless such time is extended by the HPC for a specified reason, the HPC shall forward to the Planning Commission a resolution setting forth its findings of fact and recommending the designation of the structure. The designation process will then continue in accordance with Section 423(b) of the LMC.~~

~~(12) If the Board of Aldermen decides not to designate a structure in accordance with this subsection, the Planning Department shall issue to the applicant a certificate to demolish without delay for the structure, and]~~

(10) When the demolition review process is complete, the Planning Division shall promptly notify the code official.

(A) If the Planning Division issues the property owner a certificate to demolish without delay for the structure and [shall promptly notify the code official. If] all other applicable requirements have been met, the code official shall approve the permit.

~~[(13)]~~ **(B) If the Board of Aldermen [does designate] approves a map amendment designating** the structure, the [Planning Department promptly shall notify the code official. The] permit application then will be processed in accordance with subsection (d) of this section.

(c) Demolition review.

(1) The zoning administrator shall determine whether or not a structure [qualifies for] is subject to demolition review in accordance with this subsection.

(2) A structure [qualifies for] is subject to demolition review] if:

(A) The structure is at least [fifty (50)] 50 years old; and

(B) The demolition permits indicates:

(i) The demolition of an entire structure;

(ii) The removal of a roof for the purposes of raising the overall height of the roof, rebuilding the roof to a different pitch, or adding another story to a structure;

(iii) The removal of one or more exterior walls or partitions of a structure;

(iv) The removal of more than [twenty-five (25) percent] 25% of a structure's overall gross square footage; or

(v) The relocation or moving of a structure from its existing location.

(3) Notwithstanding the criteria of paragraph (2) of this subsection, a structure is not subject to the requirement for demolition review if the structure is:

(A) Shown to be demolished on a valid site plan, subdivision plat, master plan, or area plan conditionally or unconditionally approved prior to February 17, 2013; or

(B) Expressly approved for demolition under an annexation resolution effective prior to February 17, 2013.

- (4) If the age of a structure is unknown, for purposes of this section the structure will be assumed to be at least [fifty (50)] **50** years old.
- (d) **Application process for structures in the HPO. *****
- (e) **Post-approval procedures. *****
- (f) **Emergency demolitions.**
- (1) If the code official determines the structure is an imminent danger under subsection (b)(2) of this section, the code official shall determine whether or not the proposed demolition is required to abate the danger.
- (2) If the proposed demolition is required to abate an immediate danger, and all other applicable requirements have been met, the code official shall approve the application and notify the zoning administrator of the approval.
- (3) If the proposed demolition is not required to abate an immediate danger, the code official promptly shall forward the demolition permit application to the zoning administrator, and the application review process will continue in accordance with subsection (b) of this section.
- (g) **Violations.**
- (1) It is unlawful to fail to maintain or secure a structure from damage, deterioration or destruction during the time a demolition is on hold pending review under this section.
- (2) It is unlawful to willfully demolish a structure **without a permit, including but not limited to** during the time a demolition is on hold pending demolition review under this section.
- (A) Sections 5-19 and 5-22(a) of this article do not apply to a violation of this paragraph.
- (B) A violation of this paragraph is a misdemeanor punishable by a fine not to exceed [one thousand dollars (\$1,000.00),] **\$1,000**, imprisonment not to exceed [ninety (90) days,] **6 months**, or both in the discretion of the court.

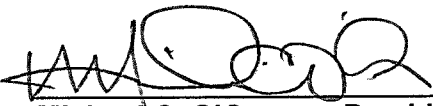
SECTION II. AND BE IT FURTHER ENACTED AND ORDAINED, That this ordinance shall take effect on October 31, 2021 and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

APPROVED: October 21, 2021



Michael C. O'Connor, Mayor

PASSED: October 21, 2021



**Michael C. O'Connor, President,
Board of Aldermen**

Approved for Legal Sufficiency:

Shaundra A. Nichols

City Attorney