



Legislation Text

File #: O-34-18, Version: 1

Demolition by Neglect - For the purpose of revising the definition of “demolition by neglect” set forth in Chapter 21.56; revising the procedures for investigating a property that may meet the definition of “demolition by neglect”; providing for a review process by the Historic Preservation Commission and a public hearing requirement; providing for an appeal process; and matters generally relating to demolition by neglect.

**CITY COUNCIL OF THE
City of Annapolis**

Ordinance 34-18

**Introduced by: Alderwoman Tierney, Alderwoman Pindell Charles
and Alderman Rodriguez**

Referred to

Planning Commission
Historic Preservation Commission
Rules and City Government

AN ORDINANCE concerning

Demolition by Neglect

FOR the purpose of revising the definition of “demolition by neglect” set forth in Chapter 21.56; revising the procedures for investigating a property that may meet the definition of “demolition by neglect”; providing for a review process by the Historic Preservation Commission and a public hearing requirement; providing for an appeal process; and matters generally relating to demolition by neglect.

BY repealing and re-enacting with amendments the following portions of the Code of the City of Annapolis,
2018 Edition
21.56.020
21.56.090

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall be amended to read as follows:

TITLE 21 - PLANNING AND ZONING

Chapter 21.56 - HISTORIC DISTRICT

Section 21.56.020 - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

"Alteration" shall mean any exterior changes that would affect the historic, cultural or architectural significance of a designated site or structure, any portion of which is visible or intended to be visible from a public way including, but not limited to, construction, reconstruction, moving or demolition.

"Appurtenances and environmental settings" shall mean all that space of grounds and structures thereon which surrounds a designated site or structure and to which it related physically and/or visually. Appurtenances and environmental settings shall include, but not be limited to, walkways and driveways (whether paved or not), trees, landscape elements, waterways, open space, setbacks, parks, public spaces, and rocks.

"Certificate of approval" shall mean a certificate issued by the Historic Preservation Commission indicating its approval of plans for construction, alteration, reconstruction, rehabilitation, restoration, moving, or demolition of an individually designated landmark, site, or structure or of a site or structure within a designated historic district.

"Cultural" shall mean that which relates to the artistic, historic, intellectual, educational, archaeological, or architectural aspects of the City of Annapolis.

"Demolition" shall mean any act which destroys, in whole or in part, an individually designated landmark, site, or structure, or a site or structure within a designated historic district not including appurtenances and environmental settings.

~~"Demolition by neglect" shall mean any willful neglect in the maintenance or repair of an individually designated landmark, site, or structure, or a site or structure within a designated historic district, not including any appurtenances and environmental settings, that does not result from an owner's financial inability to maintain and repair such landmark, site, or structure, and which results in any of the following conditions:~~

- ~~1. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or~~
- ~~2. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, the lack of adequate waterproofing, or the deterioration of interior features, which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors or windows.~~

"Demolition by neglect" shall mean any neglect of a designated landmark, site, or structure, or a site or structure within a designated historic district, not including any appurtenances and environmental settings, which results in deterioration of foundations, exterior walls, roofs, chimneys, doors, windows, or any other physical element regulated under Chapter 21.56 and which creates or permits to exist a hazardous or unsafe condition, or which will or could result in substantial or permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors or windows, or any other physical element regulated under Chapter 21.56. A determination of demolition by neglect shall not depend on or otherwise take into consideration an owner's financial ability or inability to maintain or repair such landmark, site, or structure.

"Historic district" shall mean a significant concentration, linkage, or continuity of sites or structures united

historically, architecturally, archaeologically, or culturally, by plan or physical development. An historic district shall include all property within its boundaries as defined and designated by the City Council.

"Exterior features" shall mean the architectural style, design, and general arrangement of the exterior of an historic structure, including the nature and texture of building material, and the type and style of all windows, doors, light fixtures, signs or similar items found on or related to the exterior of an historic structure.

"Landmark" shall mean any site or structure, designated by the City Council, that is of exceptional historic, cultural, archaeological, or architectural significance.

"Maintenance" shall mean work that does not alter the exterior fabric or features of a landmark, site or structure and has no material effect on the historical, archaeological, or architectural or cultural significance of the historical landmark, site or structure.

"New construction" shall mean construction which is characterized by the introduction of new elements, sites, buildings, or structures or additions to existing buildings and structures in historic districts.

"Preservation" shall mean actions taken to prevent or keep a structure from decay or degradation.

"Reconstruction" shall mean the process of reproducing, by new construction, the exact form and detail of a vanished structure, or part thereof, as it appeared at a specific period of time.

"Rehabilitation" shall mean the act or process of returning a property or building to usable condition through repair, alteration, and/or preservation of its features which are significant to its historical, architectural, and cultural values.

"Repair" shall mean the process of rehabilitation which warrants additional work beyond simple maintenance, repair, includes patching, piecing in, splicing, consolidating or otherwise, reinforcing materials according to recognized preservation methods.

"Restoration" shall mean the process of accurately recovering the form and details of a property as it appeared at a specific period of time by means of removal of later work and the replacement of work missing from that period.

"Site" shall mean the location of an event of historic significance or the location of a structure whether standing or ruined, which possesses historic, architectural, archaeological, or cultural significance.

"Structure" shall mean a combination of material to form a construction that is stable including, but not limited to, buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins, shelters, fences, and display signs visible or intended to be visible from a public way. The term "structure" shall be construed as if followed by the words, "or part thereof."

Section 21.56.090 - Maintenance, repair, and demolition by neglect.

For the purposes of this Section, "Director" means "the Director of Planning and Zoning, or his designee."

- A. Nothing in this ~~article~~section shall be ~~taken or construed so as~~ to prevent maintenance that does not alter the exterior fabric or features of a designated landmark, site, or structure, or landscape elements, and which will have no material effect on the historic, cultural, archaeological, or architectural significance of a designated landmark, site, structure, or district.
- B. In the event of demolition by neglect, the Commission may request that the Mayor's office notify, in writing, the property owner(s) of record, any person(s) having a right, title, or interest therein, and the occupant(s) or other person(s) responsible for the maintenance of the property, of the deterioration. The notice shall specify the minimum items of repair or maintenance necessary to correct the deterioration or prevent further deterioration.
- C. Prior to the issuance of a written notice, the Commission may request that the City establish a record of demolition by neglect. Such record may include dated materials such as photographs and written reports of the condition of the property so as to record or measure the deterioration.
- D. The notice shall provide that corrective action shall commence within thirty days of the receipt of said notice and be completed within a reasonable time thereafter. The notice shall state that the owner(s) of record of the property, or any person(s) of record with any right, title, or interest therein, may, within ten days after the receipt of the notice, request a hearing on the necessity of the items and conditions contained in the notice. In the event a public hearing is requested, it shall be held by the Commission upon thirty days' written notice being mailed to all persons of record with any right, title, or interest in the property and to all citizens and organizations which the Commission determines may have an interest in the proceedings.
- E. If, after the public hearing, the Commission determines that the corrective actions remain necessary, the Commission may request that the Mayor issue final notice to be mailed to the owner(s) of record and all parties of record with any right, title, or interest in the property, advising them of the items of repair and maintenance necessary to correct the deterioration or prevent further deterioration. The owner shall institute corrective action to comply with the final notice within thirty days of receipt of the final notice.
- F. Upon failure, neglect, or refusal of the property owner(s) or other responsible person(s), duly notified, to take the corrective action specified in the final notice within the time required, the Commission may request that the Mayor's office institute any of the remedies and penalties provided by law for such violations.
- B. If the Director becomes aware through any source that a designated landmark, site, or structure, or a site or structure within a designated historic district may meet the definition of demolition by neglect, the Director shall investigate the history of the site or structure and develop a record. The record shall include but not be limited to historical documentation of the site or structure and current photographs of the site and the interior, if reasonably necessary to complete the investigation, and exterior of the structure. The Director may consult with and retain consultants and experts in the field of historic preservation to construct the record and for other purposes related to the investigation.
- C. In connection with the commencement of the investigation, the Director shall give written notice to the owner or the owner's authorized agent that the site or structure is under investigation for possible demolition by neglect and the legal authority for the investigation, and shall also advise that entry onto the property and, if reasonably necessary to complete the investigation, into the structure shall be required and the date or dates of entry and the identity of the persons who will do so. If such dates are not known at the time of the notice, the Director shall send a separate written notice indicating such dates. The Director shall seek to obtain consent for entry from the owner or owner's authorized agent. In the event consent is not obtained, the Director may serve a municipal infraction citation on the owner or the owner's authorized agent, or seek an administrative warrant, or seek other relief as authorized by Section 1.20.070 of the City Code. Pursuant to such notices, the Director and retained consultants and

experts, and any other person who the Director deems necessary for investigatory purposes, shall be permitted onto the site and, if reasonably necessary to complete the investigation, into the structure for such purposes from time to time. Neither the owner nor the owner's authorized agent nor any other person shall require a waiver of liability or impose any other unreasonable condition upon those persons who require access onto the site and into the structure to perform and complete the investigation.

D. After completion of the investigation, the Director shall prepare a written report of the results of the investigation. The report shall, at a minimum, identify all materials used in the investigation, all consultants and experts who participated in the investigation, and contain the following:

1. a description of the existing condition of the exterior of the site or structure;
2. a description of the level of deterioration of the exterior of the site or structure exhibited by the existing condition;
3. whether the level of deterioration meets the definition of demolition by neglect and, if so, how; and
4. a list of all maintenance, repairs or replacement required to abate the demolition by neglect.

E. The Director shall provide a copy of the report to the owner or the owner's authorized agent. Whether or not the Director makes findings that there is demolition by neglect, the Director shall schedule a public hearing before the Historic Preservation Commission not earlier than 45 days after the submission of the report to the owner or the owner's authorized agent. The Director shall give notice of the hearing in accordance with Section 21.10.020 of this Title. Such notice shall be made at least 15 days before the date of the public hearing.

F. If the Commission determines as a result of a public hearing that the owner's property meets the definition of demolition by neglect, the Commission shall pass an order of abatement. The Commission's order shall set forth findings of fact which support the determination, the terms for abatement, and a deadline to complete the abatement. The Director of Planning and Zoning, in consultation with the Chief of Historic Preservation, shall thereafter enforce the Commission's order in accordance with his/her powers as authorized by this Zoning Code.

FG. Any person aggrieved by a decision of the Historic Preservation Commission may seek judicial relief in the Circuit Court for Anne Arundel County by filing a Petition for Judicial Review within 30 days of the decision and in accordance with the Maryland Rules of Procedure.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this ordinance shall take effect from the date of its passage.

EXPLANATION

Underlining indicates matter added to existing law.
~~Strikethrough~~ indicates matter stricken from existing law.
Double Underlining indicates amendments.