

Ordinance No. 742-2021

By Council Member Mooney

AN EMERGENCY ORDINANCE

To amend Section 161.05 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1121-18, passed December 3, 2018, relating to regulation of environmental changes by Landmarks Commission.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That Section 161.05 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1121-18, passed December 3, 2018, is amended to read as follows:

Section 161.05 Regulation of Environmental Changes; Certificate of Appropriateness

No person owning, renting or occupying property which has been designated a landmark or which is situated in a designated landmark district shall make any environmental change in such property unless a certificate of appropriateness has been previously issued by the Commission with respect to such environmental change. The following procedures shall apply to all alterations, demolitions, removals or constructions of such property in the City:

(a) Any application to the Department of Building and Housing for a building permit for an environmental change shall also be deemed an application for a certificate of appropriateness, and shall be forwarded to the Commission, together with copies of all detailed plans, designs, elevations, specifications and documents relating thereto, and, for any environmental change on one (1) or more acres of land, and for any environmental change to an apartment, townhome or condominium of four (4) or more units situated on any size parcel of land, a copy of a Tree Preservation Plan meeting the requirements set forth in Section 341.051, within seven (7) days after receipt of the application. An application for a certificate of appropriateness may be filed by the applicant directly with the Commission at the same time that an application for a building permit is filed or in lieu of filing for a building permit, if no building permit is required for the proposed environmental change. The Commissioner of Park Maintenance and Properties or a designee shall review any Tree Preservation Plan and shall notify the Director of Building and Housing of approval or disapproval as set forth in Section 341.051. The general requirements of tree preservation in Section 341.052 shall apply to any person seeking to make an environmental change on one (1) or more acres of land, and to any person seeking to make an environmental change to an apartment, townhome or condominium of four (4) or more units situated on any size parcel of land.

(b) The Commission shall evaluate applications to determine whether or not the environmental change proposed by the applicant will adversely affect any significant historical or aesthetic feature of the property and to determine whether or not the environmental change proposed by the applicant is consistent with the spirit and purposes of this chapter.

(1) In evaluating applications for alterations or construction of property, the Commission shall consider the following standards created by the U.S. Department of the Interior:

A. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment;

B. The historic character of a property shall be retained and preserved. The removal of historic materials or alternation of features and spaces that characterize a property shall be avoided;

C. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken;

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D. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved;

E. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved;

F. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence

G. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible;

H. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken;

I. New additions, exterior, alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment; and

J. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(2) In evaluating applications for demolition or removal of property, the Commission shall consider the following standards:

A. The architectural and historic significance of the subject building or structure;

B. The significance of the building or structure in contributing to the architectural or historic character of its environs;

C. In the case of a request to move a building or other structure, the relationship between the location of the subject building or structure and its overall significance;

D. The present and potential economic viability of the subject building or structure, given its physical condition and marketability;

E. If the demolition will remedy conditions imminently dangerous to life, health, or property, as determined in writing by the Department of Building and Housing, the Division of Fire or the Department of Public Health; and

F. The appropriateness of the proposed new structure or use and its impact on the surrounding community.

(c) If the Commission finds that the environmental change proposed by the applicant will not adversely affect any significant historical or aesthetic feature of the property and is appropriate and consistent with the spirit and purposes of this chapter, or will remedy conditions imminently dangerous to life, health or property, as determined in writing by the Department of Building and Housing or the Division of Fire or the Department of Public Health, then the Commission shall issue a certificate of appropriateness.

(d) If the Commission finds that the environmental change proposed by the applicant will adversely affect any significant historical or aesthetic feature of the property or is inappropriate or inconsistent with the spirit and purposes of this chapter, the Commission may either deny the application or delay action on the application. Any decision to delay action on the application shall be by mutual agreement of the Commission and the applicant and shall be for a period not to exceed six (6) months. During the delay period, the Commission shall conduct further investigation with regard to the proposed environmental change, conduct negotiations with the applicant and any other party in an effort to find a means of preserving the

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property, or explore alternatives to the proposed environmental change. The Commission may also investigate the feasibility of all available ways and means of preserving the improvement, including without limitation, inducing by contract or other consideration the creation of covenants restricting the use of property, leasing and subleasing the property for the purposes of preservation and acquiring by eminent domain or contract or conveyance all or any part of or interest in the property.

(e) At the end of the delay period, the Commission shall either approve or deny the application, or delay action. A decision to delay action, at the end of one (1) delay period, shall be by mutual agreement of the Commission and the applicant and shall be for a period not to exceed six (6) months. The Commission shall only agree to a second and final delay period if the Commission determines that this additional time period may be useful in securing an alternative to the proposed environmental change. At the end of the second and final delay period, the Commission shall either approve or deny the application for a certificate of appropriateness.

(f) Upon the issuance, denial or a delay in the issuance of a certificate of appropriateness, the Commission shall give written notices of the issuance, denial or delay in the issuance to the applicant and the Department of Building and Housing. The Commission shall provide written notice of the issuance, denial or delay in the issuance of a certificate of appropriateness to the applicant and the Department of Building and Housing within forty-five (45) days of the receipt by the Commission of an application from either the applicant or the Department of Building and Housing.

(g) If no action has been taken by the Commission on an application for a certificate of appropriateness to approve, deny or delay action within forty-five (45) days after such application has been received by the Commission, the certificate of appropriateness shall be deemed issued.

(h) A certificate of appropriateness is not required for the repair or replacement of clay slate or tile when the owner determines that such repair or replacement is cost prohibitive if done under the constraints of this section; in such case with a clay slate or tile roof, the owner may repair or replace the roof with architectural shingles.

Section 2. That existing Section 161.05 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1121-18, passed December 3, 2018, is repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

BM:rns
FOR Council Member Mooney
9-20-2021

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REPORT after Second Reading

By Council Member Mooney

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READ FIRST TIME on SEPTEMBER 20, 2021

REPORTS

and referred to City Planning Commission, Finance, Law;
COMMITTEES on Development Planning and Sustainability, Finance

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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COMMITTEE ON
DEVELOPMENT, PLANNING AND
SUSTAINABILITY

FILED WITH COMMITTEE

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FINANCE

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