

ORDINANCE NO. 23-03

By: Jeffrey L. McClelland

An Ordinance to amend Sections 1223.01 and 1223.03 of the Planning and Zoning Code and Section 1480.02 of the Building and Housing Code further regulating the demolition or removal of buildings and structures in the Bexley Architectural Review District and the issuance of demolitions permits and to declare an emergency.

WHEREAS, this Council imposed a moratorium on the demolition of buildings in the City's residential zoning districts which is set to expire on May 1, 2003; and

WHEREAS, there has been considerable public concern expressed over the impact of the demolition of homes which are historically, architecturally or culturally significant or otherwise worthy of preservation; and

WHEREAS, this Council with the assistance of City officials and the Board Of Zoning Appeals and its staff have weighed the pros and cons of regulating further the demolition of existing residential buildings, reviewed the need for preservation and responsible redevelopment, and considered relevant legal and land use planning issues, as well as the policies and practices of other municipalities; and

WHEREAS, part of the uniqueness of Bexley lies in its physical assets which include high quality homes built primarily in the early and mid 20th century and reflecting the diverse architectural styles and sizes of that period, distinctive established neighborhoods, and plentiful mature trees and landscaping on both public and private property; and

WHEREAS, the demolition of existing residential structures may constitute an irreplaceable loss to the quality and character of a neighborhood and the City; and

WHEREAS, past and present trends of redevelopment and restoration in the City indicate that most homes in the City can be restored and remodeled in a manner which increases the value of the home and which is compatible with and maintains the quality and character of the neighborhood and the City; and

WHEREAS, in a community such as the City with an aging housing stock, there are cases in which the demolition and replacement of an existing residential structure is better for a neighborhood and the City, and the City's land use policy must be flexible and permit demolition and replacement when an existing building is not worthy of preservation or cannot be economically maintained or restored or when there are other compelling reasons to do so; and

WHEREAS, the Bexley Architectural Review District was intended to preserve and protect property values by both encouraging preservation of the existing quality and character of the City's neighborhoods and responsible renewal and redevelopment of residential properties within the City; and

WHEREAS, this Council has determined that further regulation of the demolition of existing residential restructures and changes in the process for issuing demolition permits are necessary or desirable to accomplish more effectively the intent of the Bexley Architectural Review District; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. That Section 1223.01 of the Planning and Zoning Code is hereby amended as follows:

1223.01 ESTABLISHMENT; PURPOSE.

The City is principally a residential community. The City is fully developed with little vacant land and covers a compact geographic area. Residential property values have been maintained, in significant part, due to the City's unique physical attributes such as high quality homes built primarily in the early and mid 20th century and reflecting the diverse architectural styles and sizes of that period, distinctive established neighborhoods, and plentiful mature trees and landscaping on both public and private property. The demolition of existing residential structures, which frequently also results in the destruction or removal of mature trees and significant landscape features, may constitute an irreplaceable loss to the quality and character of a neighborhood and the City. Recognizing the need to balance the benefits of preserving the City's existing quality and character against the benefits of responsible renewal and redevelopment of the City's aging housing stock, the Bexley Architectural Review District is hereby established to maintain the quality of residential neighborhoods in the City; to promote, preserve and enhance the existing character of various residential neighborhoods in the City by encouraging the retention of buildings which have historic, architectural or cultural value or which are otherwise worthy of preservation, maintaining lot size and building scale appropriate to each neighborhood, and minimizing or avoiding the adverse potential impacts of vacant lots within fully developed neighborhoods; to promote and improve the quality of neighborhoods by permitting the demolition and replacement of existing residential buildings when they are not worthy of preservation or cannot be economically maintained or restored or when there are other compelling reasons to do so; to protect and preserve property values and the City's tax base; and to promote the general welfare by regulating the demolition or removal of existing structures, the exterior characteristics of new structures and the modification of existing structures throughout the District.

Section 2. That Section 1223.01 as presently in effect is hereby repealed.

Section 3. That Section 1223.03(b) of the Planning and Zoning Code is hereby amended as follows:

1223.03 ARCHITECTURAL REVIEW BOARD.

(a) Board of Zoning Appeals as Board. The Board of Zoning Appeals shall sit as the Bexley Architectural Board of Review.

(b) Review.

(1) Demolition or removal of existing structures. No primary building or structure or significant accessory structure such as a carriage house within the District shall be demolished, partially demolished or removed until an application with respect to such demolition or removal has been submitted to and reviewed by the Board, and the Board has issued a certificate of appropriateness, except when demolition is determined by the Building Department to be required to abate a nuisance or eliminate an unsafe building as defined in Section 1476.01 of the Building and Housing Code. The application shall include the following: a statement from the applicant as to whether such structure is, or is not, historically, architecturally or otherwise worthy of preservation, together with relevant supporting information; the reasons for the

proposed demolition, including proof of substantial economic hardship or unusual and compelling circumstances in the case of a structure which is historically, architecturally or otherwise worthy of preservation; a definite plan for reuse of the site, including, when a replacement structure is proposed, the information required by subsection (2) and, when no replacement structure is proposed, a complete restoration and landscape plan, including a plan for the preservation (and replacement in the case of damage or destruction) of existing trees and other significant landscape features, together with the reasons for not building a replacement structure; a time schedule for the replacement project; and an assessment of the effect of the demolition and proposed replacement project on the subject property and the neighborhood. The Board, in deciding whether to issue a certificate of appropriateness approving the demolition or removal of an existing building or structure, shall determine that the structure to be demolished or removed is not historically or culturally significant or otherwise worthy of preservation or, if it is, that denial of a certificate of appropriateness would cause a substantial economic hardship or that demolition is justified by the existence of unusual and compelling circumstances. The Board may request and consider, among other evidence, a report concerning the proposed demolition and existing structure from a registered architect, historical conservator or other person with appropriate preservation experience. The Board shall also apply the foregoing criteria in determining whether it shall recommend, pursuant to Section 1264.21(a) of the Zoning Code, approval of a detailed development plan for a Planned Unit District which contemplates the demolition or removal of existing structures or approval of an amendment to a detailed development plan for a Planned Unit District which contemplates the demolition or removal of existing structures. The Board in the performance of these duties may from time to time adopt and publish additional standards or guidelines; provided, however, that any such standards or guidelines shall be subject to review and approval by Council.

Criteria to determine whether a structure is historically or culturally significant or otherwise worthy of preservation. The following criteria shall be used by the Board in determining whether a structure is historically or culturally significant or otherwise worthy of preservation:

- (i) The age and condition of the structure,
- (ii) The quality of the structure's architectural design, detail, use of materials or construction,
- (iii) The importance of the structure to the character and quality of the neighborhood,
- (iv) The identification of the structure as a work of an architect, artisan, engineer, landscape architect, builder or developer whose work is significant to the City, central Ohio, the state or nation,
- (v) The identification of the structure with a public or private figure who significantly contributed to the City, central Ohio, the state or nation, or
- (vi) The significance of the design or style of the structure to the historical, architectural or cultural development of the City, central Ohio, the state or nation.

Criteria to determine substantial economic hardship. The following criteria shall be used by the Board in determining whether denial of a certificate of appropriateness would cause a substantial economic hardship:

- (i) Denial of a certificate will result in a substantial reduction in the economic value of the property.
- (ii) Denial of a certificate will result in a substantial economic burden because the structure cannot be maintained in its current form at a reasonable cost.

(iii) Denial of a certificate will result in a substantial economic burden because the cost of preserving or restoring the structure will impose an unreasonable financial burden.

Criteria to determine unusual and compelling circumstances. The following criteria shall be used by the Board in determining whether the certificate is justified by the existence of unusual or compelling circumstances:

- (i) The preservation or restoration of the structure is not structurally feasible.
- (ii) The proposed replacement plan is superior to retention of the existing structure.
- (iii) The proposed replacement plan is more compatible than the existing structure with existing structures and uses within the portion of the District in which the subject property is located.
- (iv) Demolition is required to eliminate a condition which has a materially adverse affect on adjoining properties or the neighborhood and demolition is consistent with the purposes of this Chapter.

(2) Changes to existing structures not involving demolition. Subject to subsection (1) above, no new building or structure within the District, including detached garages and other accessory structures but excluding wall, fences and signs, shall be constructed, and no existing building or structure within the District shall be enlarged or its architectural style and detail, including, but not limited to, the enclosure of a front porch, shall be changed, unless and until the plans and specifications for such structure or modification have been submitted to and reviewed by the Board, and the Board has issued a certificate of appropriateness. In the case of a new building or structure or a change to an existing structure which contemplates the removal of, or may result in damage to, existing trees or other landscaping, a landscape plan shall also be submitted for review and approval, and the Board may, as a condition of the certificate of appropriateness for the project, require a plan for the preservation (and replacement in the case of damage or destruction) of existing trees and other significant landscape features. The Board, in deciding whether to issue a certificate of appropriateness, shall determine that the proposed structure, modification, use and lot would be compatible with existing structures, uses and lots within the portion of the District in which the subject property is located. In conducting its review, the Board shall examine and consider, but not necessarily be limited to, the following elements: the architectural design, including, in case of an enlargement, the design of the existing structure; the exterior materials, texture and color; exterior details and relationships; height and building mass; the arrangement of buildings and structures on the property and their relationship to adjoining structures and properties; existing grades; the relationship of the design to the visual perspective of a pedestrian and adjoining properties; the size of structures and the resulting lot in relationship to other residences and lots within the portion of the District in which the subject property is located; the preservation of existing trees and significant landscapes features and the impact of removing them on adjoining properties; and the use of landscape materials, when review of a landscape plan is required. The Board in the performance of these duties shall from time to time adopt and publish design guidelines; provided, however, that any such guidelines shall be subject to review and approval by Council.

(c) Delegation of Authority. The Board may delegate to a qualified employee or consultant to the City the authority to review and approve plans and issue a certificate of appropriateness with respect to changes to existing building or structures, without further review and approval by the Board, in cases involving compliance with design guidelines adopted by the Board pursuant to subsection (b) above or other routine matters, such as the approval of insignificant accessory structures. The design guidelines shall specify the provisions thereof

which may be reviewed and approved by the Staff pursuant to this delegation. The staff may, however, decline to review an application and submit it to the Board for its review. An applicant whose plans have been removed by the staff may, upon request, have such plans reviewed by the Board.

Section 4. That Section 1223.03 as presently in effect is hereby repealed.

Section 5. That Section 1480.02 is hereby amended as follows:

1480.02 GENERAL REQUIREMENTS.

(a) All demolition work shall be performed in a workmanlike manner in accordance with the terms and conditions of the demolition permit.

(b) A demolition permit shall not be transferable.

(c) The demolition of all commercial buildings shall comply with requirements of the Ohio Basic Building Code.

(d) No demolition permit shall be issued with respect to the demolition, partial demolition or removal of any building or structure unless all required permits, variances, zoning changes, certificates, reviews or other approvals have been granted or completed, except when demolition is determined by the Building Department to be required to abate a nuisance or eliminate an unsafe building as defined in Section 1476.01 of the Building and Housing Code. Without limiting the foregoing, such approvals shall include, in the case of (i) a structure located in the Bexley Environmental Review District, environmental approval under Section 1222.04 of the Planning Code, (ii) a structure located in the Main Street Redevelopment District, approval under Section 1224.04 of the Planning Code, (iii) a structure located in the Bexley Architectural Review District, approval under Section 1223.04 of the Planning Code, and (iv) a structure located in a Planned Unit District, approval by Council in accordance with the procedure for preliminary and final approval of a detailed development plan under Section 1264.21 of the Zoning Code.

(e) When demolition is required to abate a nuisance or eliminate an unsafe building in accordance without subsection (d) above, the owner shall promptly be required to restore the subject property, and the owner or the owner's agent shall submit a site restoration plan for approval by the Building Department within 10 days following the issuance of a demolition permit or waiver of the permit requirement pursuant to Section 1480.01. The owner shall also notify the City within 60 days following issuance or waiver of the demolition permit of the owner's plans for replacement of the demolished structure. If the owner does not intend to replace promptly the structure, the owner shall be required to landscape the property in a manner appropriate to the neighborhood and shall within 120 days following issuance or waiver of the demolition permit file an application for approval of a landscape plan pursuant to Sections 1222.04, 1223.04, 1224.04 or 1264.21, whichever is applicable.

(f) The site of every demolition, without regard to whether a demolition permit is required pursuant to this chapter, shall be restored in accordance with any required environmental approval, certificate of appropriateness or site restoration plan, or if none of the foregoing is required, in accordance with the minimum standards set forth in this subsection. Every restoration shall be performed in a manner which prevents erosion and shall include, at a minimum, prompt removal of debris, backfilling any excavation with granular material, grading, a six-inch overlay of topsoil, seeding with grass and preservation of existing trees and vegetation.

Restoration of the site shall be completed within 30 days after completion of demolition. Site restoration shall not be required if building permits for a replacement structure have been obtained and construction begins within 30 days of the completion of demolition; provided that such construction date may be extended by the Building Department on such terms and conditions as it may impose.

Section 6. That Section 1480.02 as presently in effect is hereby repealed.

Section 7. That this Ordinance is an emergency measure necessary for the immediate preservation of the public health, safety or welfare, said emergency being the need to prevent the unregulated demolition of buildings within the City's residential districts upon expiration of the current moratorium on such demolitions, and shall be effective upon its passage and approval by the Mayor.

Passed: _____, 2003

President of Council

Attest: _____
Clerk of Council

Approved: _____, 2003

David H. Madison, Mayor

3-25-03 First reading
4-08-03 Second reading