

11/11/2008

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTIONS 118-26, 118-64, 118-129, 118-130 AND 118-169 OF CHAPTER 118, HISTORICAL PRESERVATION, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO CONFORM THOSE SECTIONS TO CORRESPONDING PROVISIONS IN THE LOCAL HISTORIC DISTRICTS ACT, MCL 399.201 ET SEQ., TO REPEAL CONFLICTING ORDINANCES, AND TO PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Section 118-26 of Chapter 118 of the Code of Ordinances shall be amended, as follows:

Sec. 118-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration means any excavation, new construction, reconstruction, exterior modification, removal, or addition of any exterior feature, including a change of an exposed surface material, or other work that changes the detail of a resource but does not change its basic size or shape.

Certificate of appropriateness means the written approval of a permit application for work that is appropriate and that does not adversely affect a resource.

Commission means the city historic districts commission.

Demolition means the razing or destruction, whether entirely or in part, of a resource, including but not limited to demolition by neglect.

Demolition by neglect means neglect in maintaining, repairing, or securing a resource that results in deterioration of an exterior feature of the resource or the loss of structural integrity of the resource.

Denial means the written rejection of a permit application for work that is inappropriate and that adversely affects a resource.

~~*Historic* relates to the age of a resource. There is, however, no age limit implied by the use of the term "historic." Rather, the term shall apply to any resource that is significant to the overall appearance of the historic district and which plays a role in the evolutionary growth of the historic district's streetscape.~~

Historic district means an area or group of areas, not necessarily having contiguous boundaries, that contains one resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.

Historic preservation means the identification, protection, conservation, rehabilitation, restoration, evaluation, reconstruction, or establishment of resources that are significant in history, architecture, archaeology, engineering, or culture.

Historic resource means a publicly or privately owned building, structure, ~~or site~~, object, feature, or open space that is significant in the history, architecture, archaeology, engineering, or culture of the city, the state, or the United States.

Noncontiguous historic district means an historic district created by the city for purposes of this article which is not included in the Stony Creek and Winkler Mill Pond Districts as described in section 118-99 or 118-100 of this article.

Notice to proceed means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource pursuant to a finding under subsection 118-164(d).

Open space means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or buffer between other resources.

Ordinary maintenance means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for the purposes of this article.

Proposed historic district means an area or group of areas not necessarily having contiguous boundaries that has delineated boundaries and that is under review by the study committee in accordance with the procedure set forth in division 4 of this article for the purpose of making a recommendation as to whether it should be established as a historic district or added to an established historic district.

Repair means to restore a decayed or damaged resource to a good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for purposes of this article.

Resource means one or more publicly or privately owned historic or nonhistoric buildings, structures, or site, object, features—feature, or open space located within a historic district.

Site feature means a driveway, walkway, lighting, bench, fountain, well, terrace, canal system, plant or tree, berm, drainage or irrigation course or other object, improvement, or archaeological feature that is important in defining the history of the site and its overall historic character.

Structure means any abovegrade feature including any building, construction, edifice, or piece of work artificially built up or composed of parts joined together by humans in some definite manner, including sheds, fences, walls, barns, carriage houses, outbuildings, signs, porches, decks, railings, and bridges. The term "structure" shall be construed as if followed by the phrase "or part thereof."

Study committee means the city historic districts study committee.

Work means any construction, addition, alteration, repair, moving, excavation, or demolition.

Section 2. Section 118-64 of Chapter 118 of the Code of Ordinances shall be amended, as follows:

Sec. 118-64. Proceedings.

(a) *Quorum.* A simple majority of the current membership of the historic districts commission shall constitute a quorum for the transaction of its business.

(b) *Rules of procedure.* The historic districts commission shall adopt bylaws for the transaction of its business which shall provide for the time and place of its regular meetings.

(c) *Meetings.* Meetings shall be conducted in accordance with the following:

(1) *Open meetings.* All meetings of the historic districts commission shall be open to the public and held in compliance with the open meetings act, Public Act No. 267 of 1976 (MCL 15.261 et seq., ~~MSA 4.1800(11) et seq.~~). Any person or his duly constituted representative shall be entitled to appear and be heard on any matter applicable to the business at hand before the historic districts commission makes its decision.

(2) *Special meetings.* The historic districts commission shall provide for the calling of special meetings by the chairperson or by at least three members of the historic districts commission. All members of the historic districts commission shall receive written notification in advance of such special meetings.

(3) *Notice of meetings.* Notices of all meetings, including an agenda of matters to be considered, shall be transmitted to the mayor, the city council, the city planning commission, and any existing historical societies in the city.

(d) *Votes.* The affirmative vote of a majority of the historic districts commission members present at a meeting where a quorum exists shall be required for the transaction of business, adoption of resolutions or motions, or any other action by the historic districts commission.

(e) *Records.* The historic districts commission shall make and file with the city clerk a record, which shall be open to public examination, in compliance with the Freedom of Information Act, MCL 15.231 et seq., of its resolutions, proceedings, and actions.

(f) *Annual report.* The historic districts commission shall submit an annual report of its activities to the mayor, city council, and city planning commission, and shall submit such special reports as requested by the city council.

(g) *Information and recommendations.* The city council, mayor, or other city boards, commissions, or departments may request reports, studies, documentation, and/or recommendations from the historic districts commission, which shall attempt to provide the

requested material. In addition, the historic districts commission may submit any materials to such persons or entities on its own initiative. The commission may also, through the mayor, request city officials and employees to provide information and records to or to meet with the ~~commissioner~~ commission or any committee of the commission.

Section 3. Sections 118-129 and 118-130 of Chapter 118 of the Code of Ordinances shall be amended, as follows:

Sec. 118-129. Initial determination and investigation.

Upon receipt of a request ~~to the study committee from any person owning property in the city~~ to establish, modify or eliminate a historic district, the ~~study committee~~ City Council, after making a determination that there are reasonable grounds for such a request, ~~shall make~~ may refer the request to the Study Committee to conduct an investigation in accordance with this section.

Sec. 118-130. Duties of study committee.

The study committee shall do the following:

- (1) *Photographic inventory.* Conduct a photographic inventory of resources within each proposed historic district following procedures established or approved by the bureau of history of the department of state.
- (2) *Basic research.* Conduct basic research of each proposed historic district and the historic resources located within that district.
- (3) *Determine number of resources.* Determine the total number of historic and nonhistoric resources within a proposed historic district and the percentage of historic resources of that total. In evaluating the significance of historic resources, the study committee shall be guided by the selection criteria for evaluation issued by the U.S. secretary of the interior for inclusion of resources in the National Register of Historic Places, as set forth in 36 CFR 60, and criteria established or approved by the ~~bureau of history of the department of state~~ Michigan department of history, arts and libraries, if any.
- (4) *Preliminary report.* Prepare a preliminary historic districts study committee report that addresses at a minimum all of the following:
 - a. The charge of the committee.
 - b. The composition of the committee membership.
 - c. The historic districts studied.
 - d. The boundaries for each proposed historic district in writing and on maps.
 - e. The history of each proposed historic district.
 - f. The significance of each district as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.

g. The study committee's recommendation as to the establishment, modification or elimination of the historic districts.

(5) *Transmittal of preliminary report.* Transmit copies of the preliminary report for review and recommendations to the city planning commission, to the ~~bureau of history of the department of state, Michigan department of history, arts, and libraries,~~ to the ~~state historic commission, Michigan historical commission,~~ and to the state historic preservation review board.

(6) *Availability to public.* Make copies of the preliminary report available to the public.

Section 4. Section 118-169 of Chapter 118 of the Code of Ordinances shall be amended, as follows:

Sec. 118-169. Demolition of hazardous structures.

(a) *Commencement.* If any structure within a historic district has deteriorated to the extent the building department believes the structure should be demolished, repaired, or secured under article V of chapter 18 pertaining to dangerous buildings, proceedings under such article may be commenced.

(b) *Petition for permission.* After a hearing and determination by the hearing officer that the structure should be demolished, but before ordering it demolished, the building department shall petition the historic districts commission for permission to demolish the structure.

(c) *Written notice of hearing and petition.* The property owner shall be given written notice of the petition to demolish and the hearing of the historic districts commission on the petition.

(d) *Issuance of notice to proceed.* The historic districts commission shall issue a notice to proceed with demolition of the structure if it determines that the conditions prevailing satisfy the standards contained in subsection 118-164(d).

~~(e) *City council decision.* If the historic districts commission denies the building department's petition for permission to demolish, but further proceedings under chapter 18 result in the hearing officer's issuance of an order to demolish the structure, the city council shall review the commission's and hearing officer's decisions and determine whether demolition should be ordered. The decision of the historic districts commission shall not preclude the city council from exercising its authority to demolish or not to demolish under article V of chapter 18, pertaining to dangerous buildings.~~

Section 5. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 6. Penalty. All violations of this ordinance shall be municipal civil infractions and upon a determination of responsibility therefor shall be punishable by a civil fine of not more than \$500.

Section 7. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on _____, following its publication in the *Rochester Eccentric* on _____.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on Wednesday, _____.

Bryan K. Barnett, Mayor
City of Rochester Hills

CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ADOPTED BY THE CITY COUNCIL OF THE CITY OF ROCHESTER HILLS AT A MEETING THEREOF ON WEDNESDAY, _____.

Jane Leslie, Clerk
City of Rochester Hills