

Chapter 24A. Historic Resources Preservation. [Note]

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Sec. 24A-1. Purpose.

It is the purpose of this chapter to provide for the identification, designation and regulation, for purposes of protection, preservation and continued use and enhancement, of those sites, structures with their appurtenances and environmental settings, and districts of historical, archeological, architectural or cultural value in that portion of the county which is within the Maryland-Washington Regional District. Its further purpose is to preserve and enhance the quality of life in the county, safeguard the historical and cultural heritage of the county, strengthen the local economy, stabilize and improve property values in and around such historical areas, foster civic beauty and to preserve continued utilization and pleasure of the citizens of the county, the state, and the United States of America. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Sec. 24A-2. Definitions.

For the purposes of this Chapter, the following words and phrases have the following meanings:

Appurtenances and environmental setting: The entire parcel, as of the date on which the historic resource is designated on the master plan, and structures thereon, on which is located an historic resource, unless reduced by the District Council or the commission, and to which it relates physically and/or visually. Appurtenances and environmental settings shall include, but not be limited to, walkways and driveways (whether paved or not), vegetation (including trees, gardens, lawns), rocks, pasture, cropland and waterways.

Board: The County Board of Appeals of Montgomery County.

Commission: The historic preservation commission of Montgomery County as described hereinafter.

Demolition by neglect: The failure to provide ordinary and necessary maintenance and repair to an historic site or an historic resource within an historic district, whether by negligence or willful neglect, purpose or design, by the owner or any party in possession of such a site, which results in any of the following conditions:

(a) The deterioration of exterior features so as to create or permit a hazardous or unsafe condition to exist.

(b) The deterioration of exterior walls, roofs, chimneys, windows, the lack of adequate waterproofing or deterioration of interior features or foundations which will or could result in permanent damage, injury or loss of or to the exterior features.

Director: The Director of the Department of Permitting Services, or the Director's designee.

Exterior features: The architectural style, design and general arrangement of the exterior of an historic resource, including the color, nature and texture of building materials, and the type of style of all windows, doors, light fixtures, signs or other similar items found on or related to the exterior of an historic resource.

Historic district: A group of historic resources which are significant as a cohesive unit and contribute to the historical, architectural, archeological or cultural values within the Maryland-Washington Regional District and which has been so designated in the master plan for historic preservation.

Historic resource: A district, site, building, structure or object, including its appurtenances and environmental setting, which is significant in national, state or local history, architecture, archeology or culture. This includes, but is not limited to, all properties on the "Locational Atlas and Index of Historic Sites in Montgomery County."

Historic site: Any individual historic resource that is significant and contributes to the historical, architectural, archeological or cultural values within the Maryland-Washington

Regional District and which has been so designated in the master plan for historic preservation.

Permit: An historic area work permit issued by the Director authorizing work on an historic site or an historic resource located within an historic district.

Planning Board; The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission.

Preservation easement means an easement held by the County to protect, maintain, or otherwise conserve an historic resource. (Ord. No. 9-4, § 1; 1989 L.M.C., ch. 4, § 1; Ord. No. 11-59; Ord. No. 13-37, § 1; Ord. No. 13-114, § 1; Ord. No. 14-38, § 1; 14-51, § 1.) Sec. 24A-3. Master plan for historic preservation; criteria for designation of historic sites or districts.

(a) As part of the general plan for the physical development of that portion of the county within the Maryland-Washington Regional District, there shall be prepared, adopted and approved a master plan for historic preservation which shall constitute an amendment to the general plan for the Maryland-Washington Regional District. Such plan shall designate historic sites and historic districts and describe their boundaries; it shall propose means for the integration of historic preservation into the planning process; and it shall suggest other measures to advance the goals of historic preservation.

(b) In considering historic resources for designation as historic sites or historic districts, the planning board shall apply the following criteria:

(1) Historical and cultural significance. The historic resource:

- a. Has character, interest or value as part of the development, heritage or cultural characteristics of the county, state or nation;
- b. Is the site of a significant historic event;
- c. Is identified with a person or a group of persons who influenced society; or
- d. Exemplifies the cultural economic, social, political or historic heritage of the county and its communities.

(2) Architectural and design significance. The historic resource:

- a. Embodies the distinctive characteristics of a type, period or method of construction;
- b. Represents the work of a master;
- c. Possesses high artistic values;

d. Represents a significant and distinguishable entity whose components may lack individual distinction; or

e. Represents an established and familiar visual feature of the neighborhood, community or county due to its singular physical characteristic or landscape. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Sec. 24A-4. Historic preservation commission.

(a) Created. There is hereby created a commission to be known as the "historic preservation commission of Montgomery County, Maryland."

(b) Membership. The commission shall consist of 9 members appointed by the county executive with the confirmation of the county council. Each member must be a resident of the county. The 4 fields of history, architecture, preservation and urban design shall be represented by a minimum of 1 member qualified by special interest, knowledge or training. The remaining members of the commission shall, to the extent possible, be selected to represent the geographical, social, economic and cultural concerns of the residents of the county.

(c) Officers. The county executive shall appoint the chairman and vice-chairman of the commission, who shall serve at his pleasure, but such appointments occurring after the commission's first year of operation shall be made after due consideration has been given to the recommendation of the commission.

(d) Term. The terms of the members of the commission shall be for a three-year period and members shall continue to serve until their successors are appointed and qualified.

(e) Vacancy. Any vacancy in the membership of the commission caused by the expiration of a term, by resignation or death, by a superseding incapacity to discharge duties, by a removal for cause, or by any other cause creating such vacancy, shall be filled for a new term, or for the remainder of the term for which there is a vacancy as the case may be, in the same manner as provided herein for the nomination and appointment of the initial members of the commission.

(f) Removal for cause. A member may be removed for cause from the commission by the county executive.

(g) Compensation. The members of the commission serve without compensation.

(h) Regulations. The commission must adopt, under method (2) of Section 2A-15 of this Code, rules, guidelines and regulations that are necessary for the proper transaction of the business of the commission. This includes provisions governing contested cases before the commission.

(1) Meetings. The commission shall hold such regular meetings which, in its discretion, are necessary to discharge its duties. Such meetings shall be open to the public.

(2) Staff. There may be appointed and assigned to the commission such employees, and the chief administrative officer shall make available to the commission such services and facilities of the county, as are necessary or appropriate for the proper performance of its duties, and the county attorney shall serve as counsel to the commission. (Ord. No. 9-4, § 1; 1984 L.M.C., ch. 24, § 26; Ord. No. 11-59; FY 1991 L.M.C., ch. 9, § 1.)

Cross reference-Boards and commissions generally, § 2-141 et seq.
Sec. 24A-5. Same-Powers and duties.

The commission has the following powers and duties:

(a) To research historic resources and to recommend to the planning board that certain of them be designated as historic sites or historic districts on the master plan for historic preservation and, hence, be subject to the provisions of this chapter.

(b) To recommend to the planning board, as needed, any update to the inventory of historic resources which is contained in the "Locational Atlas and Index of Historic Sites in Montgomery County."

(c) To act upon applications for historic area work permits and other matters referred to it for action pursuant to the provisions of this chapter.

(d) To appoint members to local advisory panels to assist and advise the commission on the performance of its functions.

(e) To recommend programs and legislation to the council and the planning board to encourage historic preservation in the Maryland-Washington Regional District.

(f) To review any legislation and proposals affecting historic preservation, including preparation of master plans, and to make recommendations on such legislation and proposals to appropriate authorities.

(g) To serve as a clearinghouse for information on historic preservation for county government, individuals, citizens' associations, historic societies and local advisory committees; to provide information and educational materials for the public; and to undertake activities to advance the goals of historic preservation in the county.

(h) To employ or hire consultants or other temporary personnel, consistent with county contract provisions, as deemed necessary to assist the commission in the

accomplishment of its functions; such consultants or other personnel shall be compensated as may be provided for in the county budget.

(i) To administer an historic preservation easement program and any revolving funds or grant programs to assist in historic preservation.

(j) To advise the planning board, in the event of subdivision of land containing an historic resource, on the appurtenances and environmental setting necessary to preserve it.

(k) To delineate the extent of appurtenances and environmental setting associated with an historic site or resource. (Ord. No. 9-4, § 1; 1989 L.M.C., ch. 4, § 1; Ord. No. 11-59.)

Sec. 24A-6. Historic area work permits-Generally.

(a) Required. An historic area work permit for work on public or private property containing an historic resource must be issued pursuant to the provisions of this chapter before:

(1) Constructing, reconstructing, moving, relocating, demolishing or in any manner modifying, changing or altering the exterior features of any historic site or any historic resource located within any historic district.

(2) Performing any grading, excavating, construction or substantially modifying, changing or altering the environmental setting of an historic site or an historic resource located within an historic district;

(3) Erecting or causing to be erected any sign or advertisement (with the exception of those signs which temporarily advertise for sale an historic site or an historic resource located within an historic district, or which for a temporary period advertise a political viewpoint) on the exterior or on the environmental setting of any historic site or any historic resource located within any historic district.

(b) Exceptions. Nothing in this section shall be construed to require the issuance of an historic area work permit for any ordinary maintenance, repair of exterior features, any customary farming operations or any landscaping, which will have no material effect on historic resource located within an historic district, of which such features are a part. For the purposes of clarification of this section, the commission shall develop and publish guidelines regarding what activities constitute ordinary maintenance and shall send a copy of these guidelines by registered mail to all owners of historic resources designated on the master plan.

(c) Disclosure requirements.

(1) Applicants for permits to demolish or substantially alter the exterior features of any historic site or historic resource located within an historic district are required to disclose its identification as such in writing on any application therefor.

(2) Any person who shall undertake any work as stated in subsection (a) of this section without first obtaining an historic area work permit shall be subject to the penalties established in section 24A-11.

(d) Advice of commission prior to application. The commission shall adopt procedures to encourage owners of historic resources to seek the advice of the commission prior to filing an application for an historic area work permit, on the appurtenances and environmental setting appropriate to the resource, construction methods and materials, financial information concerning historic preservation or any other matter under this chapter affecting the issuance of a permit. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Sec. 24A-7. Historic area work permits-Application procedures; appeals.

(a) Applications. An applicant for an historic area work permit must file an application with the Director. The application must contain all information the Commission requires to evaluate the application under this Chapter.

(b) Referral of application. Within 3 days after the application is complete, the Director must forward the application to the Commission for review.

(c) Public meeting. When the Commission receives the application, the Commission must schedule a public meeting to consider the application.

(d) Notice. The Commission must notify the Director and any citizen or organization that the Commission reasonably determines has an interest in the application of the time and place of the public meeting.

(e) Conduct of Commission meeting. The public meeting on the application must be informal and formal rules of evidence do not apply. The Commission must encourage interested parties to comment and must keep minutes of the proceedings on the application.

(f) Action by the Commission.

(1) The Commission must make a public decision on the application under paragraph (2) not later than 45 days after the applicant files the application or 15 days after the Commission closes the record on the application, whichever is earlier.

(2) The Commission must instruct the Director to issue or deny the permit. The Commission may require the Director to issue the permit with reasonable conditions

necessary to assure that work under the permit does not harm the historical, architectural, archeological or cultural value of the historic resource.

(3) If the Commission instructs the Director to deny the permit, the Commission must notify the applicant in writing why the Commission denied the application.

(4) The commission must instruct the Director to issue the permit if the Commission finds that:

(A) denial of the permit would prevent the reasonable use of the property or impose undue hardship on the owner; and

(B) within 120 days after the finding in subparagraph (A), no person seeking preservation has submitted an economically feasible plan for preserving the structure.

(5) If the Commission does not act on an application within the time periods provided in this subsection, the application is approved, unless the applicant agrees to extend the deadline for Commission action.

(g) Miscellaneous provisions.

(1) The applicant for a permit has the burden of production and persuasion on all issues the Commission determines. If another historic preservation organization holds a deed of easement for the property in the application, the applicant must submit proof to the Commission that the organization conducted an exterior architectural review and approved the action for which the applicant is seeking a permit.

(2) (A) The Commission may, by regulations issued under method (2), delegate authority to a County employee qualified in historic preservation and assigned to staff the Commission to review and approve an application for work that commonly has no more than an insignificant effect on an historic resource.

(B) The regulations:

(i) must describe the types of work that staff can review and approve, and require the Commission to review any application that is not clearly subject to staff approval; and

(ii) may waive the public meeting and notice requirements of subsections (c) and (d) for applications clearly subject to staff approval.

(C) If the staff denies or does not act on an application within 5 days after the Commission received the application from the Director, the Commission must review the application de novo.

(D) Staff must report monthly to the Commission and each appropriate Local Advisory Panel about any application reviewed by the staff in the previous month, including the disposition of the application.

(3) A permit may impose conditions that require waiver of a provision of the building code if the waiver is allowed under the "historic structures" provision of the building code adopted under Section 8-14 and the code inspector determines that waiver is appropriate for the specific work covered by the permit.

(4) The Director must enforce this Chapter.

(h) Appeal.

(1) Within 30 days after the Commission makes a public decision on an application, an aggrieved party may appeal the Commission's decision to the Board of Appeals, which must review the decision de novo. The Board of Appeals may affirm, modify, or reverse any order or decision of the Commission.

(2) A party may appeal a decision of the Board of Appeals under Section 2-114. (Ord. No. 9-4, § 1; Ord. No. 11-59; Ord. No. 13-111, § 1.) Sec. 24A-8. Same-Criteria for issuance.

(a) The commission shall instruct the director to deny a permit if it finds, based on the evidence and information presented to or before the commission that the alteration for which the permit is sought would be inappropriate, inconsistent with or detrimental to the preservation, enhancement or ultimate protection of the historic site or historic resource within an historic district, and to the purposes of this chapter.

(b) The commission shall instruct the director to issue a permit, or issue a permit subject to such conditions as are found to be necessary to insure conformity with the purposes and requirements of this chapter, if it finds that:

(1) The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or

(2) The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site or the historic district in which an historic resource is located and would not be detrimental thereto or to the achievement of the purposes of this chapter; or

(3) The proposal would enhance or aid in the protection, preservation and public or private utilization of the historic site or historic resource located within an historic district in a manner compatible with the historical, archeological, architectural or cultural value of the historic site or historic district in which an historic resource is located; or

(4) The proposal is necessary in order that unsafe conditions or health hazards be remedied; or

(5) The proposal is necessary in order that the owner of the subject property not be deprived of reasonable use of the property or suffer undue hardship; or

(6) In balancing the interests of the public in preserving the historic site or historic resource located within an historic district, with the interests of the public from the use and benefit of the alternative proposal, the general public welfare is better served by granting the permit.

(c) It is not the intent of this chapter to limit new construction, alteration or repairs to any 1 period or architectural style.

(d) In the case of an application for work on an historic resource located within an historic district, the commission shall be lenient in its judgment of plans for structures of little historical or design significance or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of surrounding historic resources or would impair the character of the historic district. (Ord. No. 9-4, § 1; Ord. No. 11-59.)
Sec. 24A-9. Demolition by neglect.

In the event of a case of demolition by neglect of an historic resource on public or private property, the following provisions shall apply:

(a) If the historic resource has been designated on the master plan as an historic site or an historic resource within an historic district, the director shall issue a written notice to all persons of record with any right, title or interest in the subject property, or the person occupying such premises, of the conditions of deterioration and shall specify the minimum items of repair or maintenance necessary to correct or prevent further deterioration. The notice shall provide that corrective action shall commence within 30 days of the receipt of such notice and be completed within a reasonable time thereafter. The notice shall state that the owner of record of the subject property, or any person of record with any right, title or interest therein, may, within 10 days after the receipt of the notice, request a hearing on the necessity of the items and conditions contained in such notice. In the event a public hearing is requested, it shall be held by the commission upon 30 days' written notice mailed to all persons of record with any right, title or interest in the subject property and to all citizens and organizations which the director feels may have an interest in the proceedings.

(1) After a public hearing on the issue of necessity of improvements to prevent demolition by neglect, if the commission finds that such improvements are necessary, it shall instruct the director to issue a final notice to be mailed to the record owners and all parties of record with any right, title or interest in the subject property advising of the items of repair and maintenance necessary to correct or prevent further deterioration. The

owners shall institute corrective action to comply with the final notice within 30 days of receipt of the revised notice.

(2) In the event the corrective action specified in the final notice is not instituted within the time allotted, the director may institute, perform and complete the necessary remedial work to prevent deterioration by neglect and the expenses incurred by the director for such work, labor and materials shall be a lien against the property, and draw interest at the highest legal rate, the amount to be amortized over a period of 10 years subject to a public sale if there is a default in payment.

(3) Failure to comply with the original or final notice shall constitute a violation of this chapter for each day that such violation continues and shall be punishable as set forth in section 24A-11.

(4) In the event that the commission finds that, notwithstanding the necessity for such improvements, action provided in paragraphs (1) and (2) of this subsection would impose a substantial hardship on any or all persons with any right, title or interest in the subject property, then the commission shall seek alternative methods to preserve the historic site or historic resource located within an historic district. If none are confirmed within a reasonable time, the director shall not proceed in accordance with paragraphs (1) and (2).

(b) If the historic resource is listed in the "Locational Atlas and Index of Historic Sites in Montgomery County, Maryland," or the microfilmed addenda to such atlas, published by the Maryland-National Capital Park and Planning Commission, the director shall advise the planning board which, after receiving the recommendation of the commission, shall conduct a public hearing to determine whether the historic resource will be designated as an historic site or historic district in the master plan for historic preservation.

(1) Where the planning board determines that the historic resource will not be included in the master plan for historic preservation, no further action will be taken.

(2) Where the planning board determines that the historic resource in all likelihood will be included in the master plan for historic preservation, the planning board shall initiate an amendment to the master plan for historic preservation pursuant to the provisions of article 28 of the Annotated Code of Maryland.

a. In the event that such amendment is adopted and the historic resource is placed on the master plan for historic preservation as an historic site or an historic resource within an historic district, the director shall give written notice to all persons with any right, title, or interest in the subject property of the conditions of deterioration and shall specify the items of repair or maintenance necessary to stabilize the condition of the historic resource and prevent further deterioration.

b. Such notice shall provide that such stabilization work shall commence within 30 days of receipt of the notice and shall be completed within a reasonable time thereafter.

c. In the event that stabilization action is not instituted within the time allotted, or not completed within a reasonable time thereafter, the director may institute, perform and complete the necessary stabilization work and the expenses incurred by the director for such work, labor or materials shall be a lien against the property, and draw interest at the highest legal rate, the amount to be amortized over a period of 10 years subject to a public sale if there is a default in payment. (Ord. No. 9-4, § 1; Ord. No. 11-59.)

Sec. 24A-10. Moratorium on alteration or demolition.

(a) Application for permits for historic resources on locational atlas. Any applicant for a permit to demolish or substantially alter the exterior features of any historic resource which is listed in the "Locational Atlas and Index of Historic Sites in Montgomery County, Maryland," or the microfilmed addenda to that atlas, published by the Maryland-National Capital Park and Planning Commission, but which is not designated as an historic site or historic district on the master plan for historic preservation, must disclose that fact on the application. If the historic resource is located in an area under review for designation as an historic district and is not under review for designation as an historic site, the application must be reviewed under the procedure in Section 24A-7 if the applicant seeks review under that Section.

(b) Referral to the planning board. If the applicant does not seek review under Section 24A-7, the Director must promptly forward the permit application to the Planning Board to make a finding, after a public hearing, as to the significance of the historic resource and to determine whether, after considering the recommendations of the Commission, the property will be designated as an historic site or an historic resource within an historic district, listed in the master plan for historic preservation. The Planning Board's public hearing on an application to demolish or substantially alter any historic resource listed in the locational atlas satisfies the requirements of section 33A-6 for a public hearing on a preliminary draft amendment to the historic preservation master plan if all notice requirements of that section are met.

(c) Determination by the planning board.

(1) Where the planning board determines that the historic resource will not be included in the master plan for historic preservation, the director shall forthwith issue the permit.

(2) Where the planning board determines that the historic resource in all likelihood will be included in the master plan for historic preservation, the director shall withhold issuance of the permit once for a maximum period of 195 days from the date the application for demolition is filed. If, as a result of the master plan process, the property

is designated an historic site or an historic resource within an historic district, the application shall be governed by the procedures established in section 24A-7.

If, after a public appearance as provided for in section 24A-7, the commission determines that failure to grant the permit applied for will have the effect of denying the property owner of all reasonable use of his property or causing him to suffer undue hardship, then the commission must instruct the director to issue the permit subject to such conditions, if any, as are found to be necessary to insure conformity with the purposes and requirements of this chapter.

(d) Time limits for planning board action.

(1) Within 60 days after the filing of an application, or within 15 days after the closing of the record following a public hearing, whichever occurs later, the planning board shall render its findings and determinations with respect to an application.

(2) Failure to adhere to the limits specified in section 24A-10 shall cause the permit to issue by operation of law, except in the event of a finding and further proceedings as provided in subsection (c)(2) of this section. (Ord. No. 9-4, § 1; Ord. No. 11-59; Ord No. 13-99, §1.)

Editor's note-Section 2 of Ord. No. 13-99 states: "Effective date and applicability. This ordinance takes effect on the date of Council adoption and applies to any permit application under Section 24A-10(a) of the Code that was not decided before the date this ordinance takes effect."

Sec. 24A-11. Violations and penalties.

Any person who violates a provision of this chapter, or fails to comply with any of the requirements thereof, or disobeys or disregards a decision of the commission, or fails to abide by the conditions of a permit, shall be subject to punishment for a class A violation as set forth in section 1-19 of chapter 1 of the County Code. Each day a violation continues to exist shall constitute a separate offense. (Ord. No. 9-4, § 1; 1983 L.M.C., ch. 22, § 28; Ord. No. 11-59.)

Sec. 24A-12. Severability.

The provisions of this chapter are severable and if any provisions, clause, sentence, section, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts of the chapter or their applications to other persons or circumstances. It is hereby declared to be the legislative intent that this chapter would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, section, word or part had not been included therein, and if the person or circumstance to which the chapter or part thereof is inapplicable had been specifically exempted therefrom. (Ord. No. 9-4, § 1; Ord. 1159.)

Sec. 24A-13. Historic preservation easement program.

(a) There is a county easement program to preserve historic resources in Montgomery County. The commission must administer the program in accordance with this section.

(b) (1) An owner of an historic resource may offer the county a preservation easement to protect or conserve interior or exterior features of the historic resource and its environmental setting or appurtenances by making application to the commission.

(2) Upon receipt of an application, the commission must immediately forward the application for review and comment to:

(A) the planning board if the historic resource is located within the Maryland-Washington Regional District; and

(B) the appropriate agency of a municipality if the historic resource is located within a municipality.

Review and comment under this paragraph must be made within 45 days and should include an evaluation of the proposal using the criteria specified in this section as well as identification of competing or supporting land use priorities or other relevant factors or issues. Recommendations may include proposed easement terms and conditions.

(3) The commission must review the application to determine if acceptance of the preservation easement would further the county's historic preservation goals. In making its determination, the commission should consider, among other relevant factors:

(A) the relative significance of the historic resource;

(B) the structural condition;

(C) the owner's planned or completed preservation efforts;

(D) the existing zoning and nature of the surrounding neighborhood; and

(E) whether an easement will promote long-term survival of the historic resource.

(c) If the historic resource is designated as an historic site in the county master plan for historic preservation, either as an individual site or located within an historic district, the county may acquire an easement upon positive recommendation of the commission and approval of the county executive. If the historic resource is not designated as an historic site in the master plan, the additional approval of the county council is required prior to any acceptance by the county. The commission must forward any comments

received under subsection (b)(2) to the county executive and the county council, as appropriate.

(d) A preservation easement under this section should be granted in perpetuity and include appropriate terms and conditions that:

- (1) restrict changes and alterations;
- (2) require maintenance, repairs, and administration;
- (3) authorize public access;
- (4) provide a right of governmental inspection;

(5) provide for a right of assignment to the Maryland Historical Trust or other appropriate agency or entity; and

- (6) establish enforcement remedies.

(e) The county may hold a preservation easement jointly with the Maryland Historical Trust.

(f) A preservation easement must be recorded by the grantor among the land records of the county at the grantor's cost. The grantor must notify the supervisor of assessments and the Office of the Public Tax Advocate of the recordation of the preservation easement.

(g) Reserved.*

*Editor's note-As originally enacted, 1989 L.M.C., ch. 4, contained no subsection (g).

(h) A preservation easement may be extinguished by judicial proceeding if an unexpected change in the conditions applicable to the property, such as casualty, make it impossible or impractical to continue to use it for preservation purposes. The terms of an easement related to extinguishment should identify appropriate changes in condition, provide that the county share in any proceeds from a subsequent sale or exchange of the property after the easement is extinguished, and be in accordance with any applicable executive regulations. The sharing in proceeds may include the recapture of property taxes saved by the grantor or its successor in interest, either in part or in full, as a result of the easement.

(i) The commission may enter into a cooperative agreement with the Maryland Historical Trust or other appropriate agencies or entities for technical assistance in administering the historic easement program. This may include assistance in property evaluation, negotiation, and inspection.

(j) (1) The easement program authorized under this section is in addition to, and does not supersede or otherwise affect, any other county or municipal program or policy requiring the donation of a preservation easement as a condition of financial assistance. It must operate in conjunction with other county or municipal easement programs.

(2) The grant of an easement under this section does not eliminate or otherwise alter any county or municipal regulatory requirement applicable to the historic resource, including any requirement to obtain an historic area work permit.

(k) The county executive, with the advice of the commission, may adopt regulations under method (2) to administer the historic preservation easement. (1989 L.M.C., ch. 4, § 1; Ord. No. 11-59.)

Editor's note-Section 24A-13, relating to the applicability of this chapter within incorporated municipalities, derived from Ord. No. 9-4, § 1, was repealed by § 15 of 1985 L.M.C., ch. 31. See § 2-96. Subsequently, § 1, of 1989 L.M.C., ch. 4. added a new § 24A-13. Section 2 of that act reads as follows:

Sec. 2. To assist the County in its administration of the historic preservation easement program, the supervisor of assessments is requested to maintain records of both the assessment of the property as restricted under this program by easement and the assessment that would apply if the property was not subject to an easement.

Endnotes

[Note] *Cross reference-Historic preservation tax credit, § 52-41 et seq.