

**DEMOLITION REVIEW BYLAW**

**ARTICLE 32.** Mr. Taylor moves affirmative action on Article 32 to replace the existing Demolition Delay Bylaw with a new Demolition Review Bylaw as printed in the handout below with the following changes from the language that was published in the Warrant:

1. In section 2.7, insert a semi-colon and the word ‘or’ followed by a comma at the end of subsection 2.7 (1); insert a period at the end of subsection 2.7.(2) and delete subsection 2.7 (3) in its entirety.
2. In section 2.9, delete the phrase “the determination by the CHC that the building or structure is Preferably Preserved” insert the phrase “the submission of an application for demolition review” after the words “dating from”.
3. In section 3.3, insert the phrase “, and a preliminary review of possible Preferably Preserved status as defined in section 2.8 above” at the end of the first sentence; and, insert the phrase “or not Preferably Preserved,” after the words “Not Historically Significant,” in the second sentence.
4. In section 3.4, insert the word “be” before the words “Historically Significant” and the phrase “and possibly Preferably Preserved,” in the first sentence so that the sentence reads: “If a building is found to **be** Historically Significant, **and possibly Preferably Preserved**, and following public notice as set forth below in section 3.7...”
5. In subsection 3.5 (1), delete the phrase “the CHC determination” and insert the phrase “the submission of an application for demolition review” after the words “one (1) year after” at the end of the first sentence.

**So the Demolition Review Bylaw reads as follows (highlighted sections have changed per above):**

**Section 1. Intent and Purpose**

The Demolition Review Bylaw is intended to establish a uniform process for preserving and protecting significant buildings and structures within the Town of Concord (the “Town”), which constitute or reflect distinctive features of the architectural, cultural, political, or social history of the Town; to encourage owners of these structures to actively seek out alternatives which preserve, rehabilitate, relocate or restore the structures rather than demolish them; and to provide a reasonable time period for public discussion before a historic structure is lost. The Bylaw further seeks to document those structures which cannot be saved through photographic, video and/or written materials and to preserve these materials as part of the public record.

**Section 2. Definitions**

For the purposes of this bylaw the following words and phrases shall have the meanings set forth below:

- 2.1 “CHC” - the Concord Historical Commission
- 2.2 “Building Commissioner”- the Building Commissioner of the Town of Concord, or other person authorized by state law or local bylaw to issue demolition permits in the Town
- 2.3 “Building or Structure” - any combination of materials forming a shelter for persons, animals, or property
- 2.4 “Application” - An application to the Building Commissioner for a demolition permit as defined by this bylaw.
- 2.5 “Demolition Permit” - Any permit issued by the Building Commissioner which is required by

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the State Building Code and which authorizes the total demolition or removal of a building or structure.

2.6 “Total Demolition” - The razing, destruction, or removal of the entire portion of a building or structure which is above ground, excepting its foundation.

2.7 “Historically Significant Building or Structure”: Any building or structure which is in whole or in part built before 1941 and (1) is listed on or within an area listed on the National Register of Historic Places, or listed on or is within an area listed on the State Register of Historic Places; or, (2) is included in Concord’s Survey of Historical and Architectural Resources.

2.8 “Preferably Preserved”: An historically significant building or structure which the CHC determines would be better preserved than demolished, in accordance with the standards set forth in section 3.4 below.

2.9 “One Year Delay period” - the 12 month period dating from the submission of an application for demolition review.

### Section 3. Procedure

3.1 No demolition permit for a building or structure which is in whole or in part built before 1941 shall be issued by the Building Commissioner except in conformity with the provisions of this bylaw, as well as with any other applicable law, statute, bylaw or regulation.

3.2 If any applicant, or the owner of the building or structure if different from the applicant, seeks to demolish a building or structure which is in whole or in part built before 1941, the owner of the building or structure shall file a Demolition Review Application with the CHC for a determination as to whether the building or structure is Historically Significant. The Application shall include the following information: (1) a plot plan of the property showing the structure(s) proposed to be demolished; (2) photographs of all existing façade elevations of the building or structure to be demolished; and, (3) a description of the proposed plans for demolition and the reason(s) therefore. The date that the CHC receives all the above information shall be stamped on the information received and shall be considered the submission date.

3.3 The Demolition Review Application shall initially be reviewed by a designated CHC member and a member of the Planning Department for a determination of Historical Significance as defined in section 2.7 above, and a preliminary review of possible Preferably Preserved status as defined in section 2.8 above. If the building or structure is determined to be Not Historically Significant or not Preferably Preserved, no further review is required and the CHC shall notify the Building Commissioner of its determination.

3.4 If a building is found to be Historically Significant and possibly Preferably Preserved, and following public notice as set forth below in section 3.7, the CHC shall hold a public hearing within forty-five (45) days of the submission date to determine whether the building or structure should be Preferably Preserved and therefore demolition delayed for up to one year. If the CHC by a majority vote finds that the proposed demolition would result in the loss of a historically significant building or structure which would be detrimental to the architectural or historical heritage of the Town of Concord, then the CHC shall find that the building or structure is Preferably Preserved.

3.5 Upon a determination that the building or structure which is the subject of an application for a demolition permit is Preferably Preserved, the CHC shall give written notice of the determination to the Building Commissioner and to the owner/applicant for the demolition permit. For any property determined to be Preferably Preserved: 29 (1) No demolition permit shall be issued for the total demolition of a building or structure found Preferably Preserved until

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one (1) year after **the submission of an application for demolition review**. The CHC has the authority to waive all or part of the One Year Delay period if the applicant for the Demolition Permit: a) has made bona fide, reasonable and unsuccessful efforts to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure; and/or, b) has agreed to accept a demolition permit on conditions specified by the CHC. (2) Once the One Year Delay is waived or expired, the applicant shall have two (2) years from the date of the expiration of the delay in which to act upon a demolition permit. No demolition permit shall be issued for the same building or structure after the expiration of this two (2) year period without a new Demolition Review.

3.6 Should the CHC fail to make any determination concerning preferable preservation within forty-five (45) days of the submission date of a Demolition Review Application, the Building Commissioner may grant a demolition permit for the subject building or structure.

3.7 Public notice of Demolition Review hearings shall provide the date, place and time of the hearing and the address of the property to be considered at the hearing. Public notice shall include, at a minimum, posting with the Town Clerk and notification to the Director of Planning and Land Management, to the Building Commissioner, to the applicant, to the owners of all abutting properties, and to other property owners deemed by the CHC to be materially affected.

#### **Section 4. Securing Historically Significant and Preferably Preserved Buildings and Structures**

If a building or structure has been determined to be Historically Significant, or during the One Year Delay Period for Preferably Preserved buildings or structures, such building or structure is destroyed through fire or other cause, the Building Commissioner shall not issue any permit required under the State Building Code pertaining to the property on which the building or structure was located (except as necessary to secure public safety or health) until the end of the One Year Delay Period, unless the owner can provide evidence to the CHC that they took reasonable steps to secure the building or structure against fire or other loss and that the cause of the destruction was not due to the owner's negligence.

#### **Section 5. Emergency Demolition**

If a building or structure poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request issuance of an emergency demolition permit from the Building Commissioner. As soon as practicable after the receipt of such request, the Building Commissioner shall arrange to have the property inspected by a committee consisting of himself, the town engineer, the fire chief, and the chair of the CHC, or their designees. After inspection of the building or structure and consultation with the other committee members, the Building Commissioner shall determine whether the condition of the building or structure represents a serious and imminent threat to public health and safety and whether there is any reasonable alternative to the immediate demolition of the building or structure. If the Building Commissioner finds that the condition of the building or structure poses a serious and imminent threat to public health and safety and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Commissioner may issue an emergency demolition permit. Whenever the Building Commissioner issues an emergency demolition permit under the provisions of this section of the bylaw, he shall prepare a written report describing the condition of the building or structure to the CHC. Nothing in this section shall be inconsistent with the procedures for the demolition and/or securing of buildings and structures established by M.G.L. c. 143.

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**Section 6. Enforcement and Remedies**

6.1 The CHC and/or the Building Commissioner are authorized to request that the Town Manager, with the approval of the Select Board, institute any and all actions and proceedings, in law or in equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this bylaw or to prevent a threatened violation thereof. 30 6.2 Anyone who demolishes a Preferably Preserved building or other structure without first complying fully with the provisions of this bylaw shall be subject to a fine as specified in Appendix A of the Regulations for the Enforcement of Town Bylaws under M.G.L. Chapter 40, §21D and the Bylaw for Non-Criminal Disposition of Violations adopted under Article 47 of the 1984 Town Meeting, as amended. 6.3 No building permit for a new building or other structure shall be issued for any premises upon which a Preferably Preserved building or other structure has been voluntarily demolished in violation of this bylaw for a period of two (2) years after the date of the completion of the demolition. As used herein “premises” includes the parcel of land upon which the demolished Preferably Preserved building or other structure was located, and all adjoining parcels of land under common ownership or control. 6.4 Nothing in this bylaw shall be deemed to exempt applicants from any requirements of the State Building Code.

**Section 7. Local Historic Districts**

Nothing in this bylaw shall be deemed to conflict with the provisions of Chapter 345 of the Acts of 1960 as amended (the Historic Districts Act). This bylaw shall not apply to any proposed demolition of a building or other structure which is located within a Local Historic District established under the Local Historic Districts Act. The Historic Districts Commission shall have jurisdiction over any demolition proposals within a Local Historic District pursuant to all procedures, standards and requirements set forth therein.

**Section 8. Severability**

In case any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect.