

DEMOLITION DELAY ORDINANCE TOWN OF EASTON

I. SUMMARY

Under this Ordinance (the Demolition Delay Ordinance), the Town of Easton shall impose a waiting period of not more than ninety (90) days authorized by Connecticut General Statute 29-406 before granting a permit for the demolition of any building or structure that is designated as an Historically Sensitive or Significant Structure (Structure) as defined in Section III below.

II. PURPOSE OF ORDINANCE

This Demolition Delay Ordinance is duly enacted by the Town of Easton (The Town) to aid the Town in its established policies based upon the Town Plan of Conservation and Development, including the following:

- A. To encourage the preservation, documentation, and protection of historically sensitive buildings, structures, or parts thereof that exhibit distinctive features of the architectural, cultural, economic, political, or social history of the Town; and
- B. To limit the detrimental effect on community character and heritage that may result from the demolition of such structures; and
- C. By means of a legally noticed delay period prior to the issuance of a demolition permit, town residents are alerted to the anticipated demolition of historically sensitive or significant structures, and the owner(s) of such structures are encouraged to consider preservation, documentation, restoration, rehabilitation, relocation, adaptive reuse, or resale as alternatives to demolition; and
- D. To achieve this purpose, a Historic **Preservation Review Commission** (the **Commission**) is established and authorized to advise the appropriate Town officials with respect to demolition permit applications related to

historically sensitive and/or significant structures. The Historic Review **Commission** shall require recommendations from qualified historic, archaeological, and/or historic architectural consultants. Applicants are also encouraged to consult with qualified individuals concerning historic and cultural sensitivity, significance, or preservation of structures to be demolished.

III. DEFINITIONS

The following terms are defined solely for their use within the language of this ordinance:

- A. **APPLICANT** – Any person or entity who files an application with the Town for a demolition permit. If the applicant for the Demolition Permit is not the owner(s) of record of the premises upon which the building or structure is situated, the owner(s)' consent or endorsement of the proposed application must be provided on the Demolition Permit application.
- B. **APPLICATION** – A written request to the Town, in a format as prescribed by the Town, to issue a permit for the demolition of a building, structure or any part thereof.
- C. **BUILDING OFFICIAL** – a person hired or appointed by the Town to serve as Building Inspector, or otherwise duly authorized to issue demolition permits.
- D. **COMMISSION (HISTORIC PRESERVATION REVIEW COMMISSION)** – as described in Section IV.
- E. **CONSULTANT** - a qualified historian, archaeologist, or architectural historian meeting professional standards of education and experience as generally defined and/or listed by the National Park Service (NPS).
- F. **DELAY PERIOD** – A waiting period of up to 90 days, imposed by the Town, as described in Section V.
- G. **DEMOLITION** – The intentional act of substantially pulling down, destroying, dismantling, defacing, removing, or razing a building, structure, or any part thereof, or commencing the work of a total, substantial, or partial destruction.

- H. DEMOLITION BY NEGLECT - The failure by the owner of record to secure and maintain the building or structure during the demolition delay period in a manner that minimizes the risk of water penetration, vandalism, fire, or other significant damage.
- I. DEMOLITION PERMIT – The permit issued by the Town Building Inspector authorizing demolition of an existing building, structure, or any part thereof.
- J. INDEX TO HISTORIC HOMES IN EASTON - The list of buildings and structures based on the *Easton Historic Resources Inventory* recorded and currently filed with the Connecticut Department of Economic and Community Development (formally known as the Connecticut Historical Commission) in Hartford. Buildings and structures on this list are considered either Historically Sensitive or Historically Significant as defined in Section III, Subsections K. or L. Buildings and structures on this list are to be noted on the assessor’s property cards. This index is also on file with the Building and Zoning Department at the Town Hall and may be viewed during normal business hours.
- K. HISTORICALLY SENSITIVE STRUCTURE – Any building, structure, or part thereof which has been determined by the **Commission** and their consultants to meet criteria for listing on the State Register of Historic Places (SRHP) or National Register of Historic Places (NRHP), as defined: “The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling and association;” or
1. that is associated with events that have made a significant contribution to the broad patterns of our history; or
 2. that is associated with the lives of persons significant in our past; or
 3. that embodies the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic value, or that represent a significant and

distinguishable entity whose components may lack individual distinction; or

4. that has yielded, or may be likely to yield, information important in prehistory or history.

L. **HISTORICALLY SIGNIFICANT STRUCTURE** - Any building, structure, or part thereof which has been determined by the **Commission** and their consultants to be significant to the community based on one or more of the following criteria:

1. The structure has been determined by the State Historic Preservation Office and/or the National Park Service to be eligible for listing on the State Register of Historic Places or National Register of Historic Places, or
2. The structure and/or buildable area contains Historic Preservation Easements recorded by deed with the Town of Easton; or
3. The structure is listed on the State Register of Historic Places or National Register of Historic Places, or is partially or completely within the boundaries of a district so listed.

M. **APPENDIX P** - The list of buildings and structures in Appendix P of the 2009 Historical and Archaeological Assessment Survey of Easton Connecticut prepared by Stuart Reeve et al. for the Town of Easton. Buildings and structures listed and highlighted in this index are considered either Historically Sensitive and/or Historically Significant as defined in Section III, Subsections K or L.

N. **ADJUNCT COMMISSION MEMBER** – a non-voting member of the **Commission** who may not be a town resident but who offers a level of expertise that the **Commission** may benefit from.

IV. HISTORIC PRESERVATION REVIEW COMMISSION

- A. The **Commission** is the body authorized and appointed by the Board of Selectmen to advise the pertinent town officials at the Land Use Office and Zoning Office on the issuance of demolition permits related to Historically Sensitive or Significant Structures under this Ordinance.
- B. The **Commission** shall consist of a minimum of eight members, one designee from the **Building Department as a full member**, and a **minimum of seven** Easton citizens to be appointed by the Board of Selectmen, **with no less than four as additional full members and no less than three as alternate members**. All members shall possess knowledge of local history and/or historic preservation practices. Each member shall serve for a **five-year term, with terms staggered**. In the event a member cannot fulfill their term, a replacement shall be appointed for the duration of the term **within 90 days**. **The Commission may also include Adjunct Members that the Board of Selectmen may, from time to time, choose to appoint. There shall be at least two members who are 36 CFR 61, Appendix A – qualified in the professions of architecture, historic architecture, history, or archaeology, to the extent available within the community, as defined by National Historic Preservation Act Amendments of 1980 (P.L. 96-515) as amended.**
- C. The **Commission** is required to seek the advice of the Town’s historic preservation consultants and other qualified experts as deemed necessary by the **Commission** to document historic sensitivity and/or significance of structures, and recommendations for alternative actions to demolition.
- D. The **Commission** shall elect a Chairperson and a Secretary and shall meet a minimum of **four times** per annum or more frequently as needed to determine historic sensitivity of structures under review for demolition.
- E. The **Commission** and their historic preservation consultants will be charged with conducting a periodic review and updating of the structures to be included in the Demolition Delay process that are listed in the *Index to Historic Homes in Easton*, once every twenty-four (24) months commencing with the enactment of this ordinance. Appendix P as defined in Section III, Subsection M, shall be used as an aid to the **Commission** in the review process. The **Commission** shall have sixty (60)

days from the beginning of each review period to update the inventory and approve any changes.

- F. When considering adding an eligible structure to the *Index to Historic Homes in Easton* the **Commission** shall be empowered to determine whether a particular structure is a Historically Sensitive Structure as provided in this Ordinance in Section III, Subsection J; or a Historically Significant Structure as provided in this Ordinance in Section III, Subsection K.
- G. The Commission shall be charged with the task of reviewing any historic or preservation easement that names the Town as the Grantee and advise the Board of Selectmen whenever a waiver is requested to obtain a permit for alterations, repairs, or improvements to any part of the structure as stipulated in the easement.
- H. The Commission shall maintain the minimum qualifications and governing procedures required by the Connecticut Certified Local Government Program as administered by the Connecticut Department of Economic and Community Development as amended.
- I. The Commission shall act in an advisory capacity to the Board of Selectmen with regards to all preservation matters, including providing written recommendations for any structure or parcel of land that is nominated for historical recognition by the National Park Service.

V. PROCEDURE

- A. From the effective date of this Ordinance, the Building Official shall not issue any demolition permit for any building, structure, or any part thereof, except under the provisions outlined herein.
- B. Upon receipt and acceptance of an application for demolition by the Land Use Office, a 90-day waiting period (per CGS 29-406) shall begin, *only* if the structure in question is listed in the *Index to Historic Homes in Easton*. Structures not on that list are exempt from this ordinance and demolition permits shall be issued according to then

current zoning regulations. The application shall be emailed by the Land Use Office to the **Commission** Chairman and Cc'd to the other members no later than the close of the following business day.

- C. The **Commission** shall request access from the applicant and their consultants to conduct documentary studies that include photographs.
- D. The **Commission** and their consultants shall have a maximum of 21 calendar days to document whether Historic Sensitivity or Significance still exists. Upon determination that a structure is no longer historically significant or sensitive, it shall then be documented and filed with the Land Use Office. After this 21-day period, or sooner, if possible, if no Historic Sensitivity or Significance still exists, the **Commission** will e-mail this determination to the Land Use Office and the application will be processed with no further delay.
- E. If Historic Sensitivity is confirmed, a written report documenting the determination of Historic Sensitivity shall be e-mailed by the **Commission** to the Land Use Office. The applicant, at his or her expense, shall simultaneously deliver a proper notice of Demolition to abutting property owners stating the intent of Demolition.
- F. If Historic Sensitivity is documented, the **Commission** shall negotiate with the owner(s) during the remainder of the 90 days to achieve the purpose of this Ordinance as described in Section II, Subsection C.
- G. Whenever a structure is confirmed to possess Historic Sensitivity or Significance, the **Commission** may contact the Historical Society of Easton, the Connecticut Trust for Historic Preservation, and any other pertinent groups deemed necessary for assistance in negotiating its preservation.
- H. Throughout the demolition delay period imposed under this Ordinance, the owner of record shall be required to secure and maintain the building or structure in a manner that minimizes the possibility of Demolition by Neglect as defined in Section III, Subsection H. Partial demolition including the removal of windows, doors, roofing, or any other building material is expressly prohibited during the demolition delay period.

- I. The owner(s) of a Historically Sensitive or Significant structure may consider alternatives to demolition (e.g., preservation, adaptive reuse, restoration, rehabilitation, relocation, or resale).
- J. Mitigation of demolition impact may include the detailed recording and documentation of historic features and significance along with accompanying photographs.

VI. EXCEPTIONS

- A. This Ordinance shall not apply to:
 - 1. Applications for demolition due to a threat to public health; or
 - 2. Emergency demolition orders issued by the Building Official due to a threat to public safety; or
 - 3. Demolition required for the removal of a structure acquired by the Department of Transportation for a transportation project.
- B. Pursuant to paragraphs A (1), A (2), and A (3) above, the Building Official shall submit a written report to the **Commission** detailing the condition of the building, structure, or part thereof and the basis for the official's decision.
- C. This Ordinance shall not be construed to prevent the ordinary maintenance or repair of any exterior architectural features; nor shall it prevent the erection, alteration, or removal of any such feature which the Building Official certifies to be required for public safety because of a condition which is unsafe or dangerous due to deterioration.

VII. VIOLATIONS

The Town intends to exercise its rights of redress fully under state statute in any instance of unauthorized demolition, including Demolition by Neglect.

VIII. SEVERABILITY

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

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