

# **TOWN OF CONCORD MASSACHUSETTS**

## **DEMOLITION DELAY BYLAW**

### **Section 1. Intent and Purpose**

The purpose of this article is to establish a predictable process for preserving and protecting significant buildings and other structures within the Town of Concord (the “Town”) which constitute or reflect distinctive features of the cultural, political, architectural or social history of the Town; to encourage owners of such buildings and other structures to seek out persons or groups of people who might be willing to purchase, preserve, rehabilitate, or restore such buildings or other structures rather than demolish them; or, barring that, to create a record, including a photo/video history of such buildings or other structures; and to provide a reasonable time period for public notice and discussion by interested groups and individuals of means by which to preserve such buildings and other structures.

### **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 other Structure” - any combination of materials forming a shelter for persons, animals, or property, and/or such other walls, fences, paths, statues, monuments, bridges, burial grounds or other combinations of building materials.
- 2.4 “Demolition” - any act of pulling down, destroying, removing or razing any building or other structure or any substantial portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same. A “substantial” portion or “substantial” destruction of a building or other structure is defined as either half the volume of the building or other structure or half its value, as determined by the Building Commissioner.
- 2.5 “Significant listed building or other structure” - a building or other structure placed on the attached list by virtue of its inclusion in the Historic Re-

sources Masterplan of Concord, MA of 1995\* or its having been designated a “significant listed building or other structure” by the procedures laid out in section 8 of this bylaw, and by its location outside of a Local Historic District, or LHD. (LHD buildings are already protected by the LHD designation.) \*Available at the Public Library.

- 2.6 “Demolition Permit” - a written approval for demolition of a building or other structure, issued by the Building Commissioner in response to an application for such a permit, as required by the State Building Code.
- 2.7 “6 Month Delay period” - the 6 month period, dated from the stamped receipt by the Building Commissioner of the application for a demolition permit.

### **Section 3. Procedure**

- 3.1 When the Building Commissioner receives a demolition permit application for a “significant listed building or other structure”, he will within 15 days inform both the applicant and the CHC in writing by certified mail that a demolition permit application has been received, that the Demolition Review Bylaw is in effect, and whether s/he has determined to grant or deny such permit.

If the Building Commissioner determines to grant the demolition permit, the CHC will then have up to 15 days to appeal the Building Commissioner's decision to the Board of before a demolition permit is issued.

If the Building Commissioner determines not to grant the demolition permit, the permit applicant may in a similar manner as above appeal the decision to the Board of Appeals. The Board of Appeals will handle appeals under this bylaw in the same manner in which it handles all other appeals. No demolition permit may actually be issued until the expiration of the appeal period. The filing of an appeal will stay the issuance of a demolition permit until final disposition of the appeal. In any case, at the end of the 6 Month Delay period, all appeals by either the CHC or the applicant or any abutter shall be moot, and a demolition permit shall be issued if no alternative method of saving the significant listed building or other structure has been agreed upon.

If the applicant does not choose to appeal, the 6 Month Delay period will go into effect and no demolition permit will be issued until 6 months after the date of the initial application to the Building Commissioner.

- 3.2 During the 6 Month Delay period, the applicant, the CHC and any other interested parties are encouraged to work to seek an alternative to the proposed demolition. (See Sec. 1, Intent and Purpose). The Building Commissioner will not issue a permit for any construction or alteration on the site of the significant listed building or other structure during this 6 months.

3.3 Upon notification of the 6 Month Delay period in the issuance of the demolition permit, an applicant may request a waiver of the demolition delay bylaw by applying directly to the Concord Historical Commission for a demolition plan review.

#### 3.4 Demolition Plan Review

- (a) After the Building Commissioner's initial determination that a demolition application involves a demolition of a significant listed building or other structure which is subject to the 6 month delay period, the applicant for the demolition permit may submit to the CHC a demolition plan which shall include the following information: (i) a lot plan showing the location of the building or other structure to be demolished on the property and with reference to neighboring properties; (ii) a brief description of the type of building or other structure and the reason for the proposed demolition with supporting data; (iii) and optionally may include a brief description of the proposed reuse of the premises upon which the building or other structure is located.
- (b) After giving public notice the CHC shall hold a public hearing within 30 days from receipt of the demolition plan. At the close of this hearing a vote of the majority of the CHC members shall determine whether to issue a waiver. Within 15 days from the date of the public hearing the CHC shall file a written report of its decision with the Building Commissioner, which shall include the following: (i) a description of the age, architectural style, historical associations and importance of the building or other structure to be demolished; (ii) a determination as to whether the building or other structure should be preserved and remain subject to the demolition delay.
- (c) Upon a determination by the CHC that any building or other structure which is the subject of an application for demolition is a significant building or other structure which should be preserved, the CHC shall advise the applicant and the Building Commissioner that the 6 Month Delay period remains in force, and no demolition permit shall be issued until 6 months after the date of the original application to the Building Commissioner.

3.5 The Building Commissioner may issue a demolition permit for a significant listed building or other structure at any time after receipt of written opinion from the CHC to the effect that either: (i) the building or other structure is determined not to warrant preservation, or (ii) the CHC is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building or other structure.

#### **Section 4. Emergency Demolition**

Nothing in this bylaw shall restrict the Building Commissioner from immediately ordering the demolition of any building or other structure in the event of an imminent danger to the safety of the public.

#### **Section 5. Enforcement and Remedies**

- 5.1 The CHC and/or the Building Commissioner are each specifically authorized to request that the Town Manager, with the approval of the Selectmen, 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.
- 5.2 Anyone who demolishes a significant listed building or other structure without first obtaining and complying fully with the provisions of a demolition permit in accordance with 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.
- 5.3 No building permit for a new building or other structure shall be issued with respect to any premises upon which a significant listed 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 significant listed building or other structure was located, and all adjoining parcels of land under common ownership or control.
- 5.4 Upon application for a demolition permit for a significant listed building or other structure the owner shall be responsible for properly securing the building or other structure, if vacant, to the satisfaction of the Building Commissioner. Should the owner fail to secure the building or other structure, the loss of such building or other structure through fire or other cause may be considered voluntary demolition for the purposes of section 5.2 and/or section 5.3.
- 5.5 Nothing in this bylaw shall be deemed to exempt applicants from any requirements of the state Building Code.

#### **Section 6. 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 District Bylaw. 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 7. 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.

**Section 8. Addition of other significant buildings and/or other structures to this Bylaw's list**

Further significant buildings and other structures may be added to the list covered by this Bylaw when there is a future revision of the Historic Resources Masterplan. Such additions will be pursuant to a Town Meeting vote modifying the significant listed buildings or other structures based on a report from the CHC, following the public hearings required for all warrant articles.

**Demolition Review: Buildings and other structures deemed Historically valuable, but not protected by Local Historic District designation:**

NL = National Landmark  
NR = National Register

LD = Local Historic District  
SR = State Register

SO = State Owned  
TO = Town Owned

		Pri- ority	N R	S R	L D	S O	T O	Comments
138 Baker Ave	Hosmer Homestead	3	Y	Y				House
265 Ball's Hill Road	Old Ball House	2						
265 Ball's Hill Road	Ball Barn	1						Barn
612 Barrett's Mill Rd	James Barrett House	2						House
324 Bedford Street	Caesar Robbins	2						
50-52 Belknap Street	Josiah Davis Store	3						House
383 Cambridge Turn- pike	Fletch/Cuming	2						
455 Cambridge Tpke	Eliphalet, Nathaniel & John Fox House	3						House
20 Commonwealth Avenue	Concord Junction Depot	2	Y	Y				Depot
106 Elm Street	Franklin Sanborn	2						
965 Elm Street	Warden's House	2				Y		
998 Elm Street	John Cuming House	2	Y	Y		Y		
299 Estabrook Road	Benj. Clark House	3						"Antietam"
Fairhaven Road	Smallpox Cemetery	2					Y	Cemetery
158 Fairhaven Road	Ephraim Potter/Pest	2	Y	Y				Smallpox Hospital
240 Fairhaven Road	Chas Francis Adams	2						

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		Pri- ority	N R	S R	L D	S O	T O	Comments
350 Fitchburg Tpke	Francis & Noah Wheeler House	3						House
317 Garfield Road	Thorn Mott Shaw	2	Y	Y				
112 Great Meadows Road	Samuel Hoar House	3						Gave Gt. Meadows
249 Harrington Ave	Wheeler/Harrington	2					Y	
45 Hubbard Street	Black Horse Tavern	2						
702 Lowell Road	Charles Flint House	3						House
761 Lowell Road	Brown House	3						House
1325 Lowell Road	Daniel Wood House	3						Musket. Farm
1710 Lowell Road	Adams/Chandler/Mel	2						
631 Main Street	Amos Wood House	3						House
1646 Main Street	Capt John Brown House	3						House
1694 Main Street	Roger Brown	2	Y	Y				
1700 Main Street	Damon Mill	2	Y	Y				Mill
1709 Main Street	Damon Mill Tail Race	2						Tail Race
25 Middle Street	Old Academy	2						HDT Taught
577 Monument Street	J.E. Wright (Shattuck/Barr)	3						
635 Monument Street	Minot Pratt Farm	3						
755 Monument Street	Log Cabin/Water Tank	2						
775 Monument Street	Barrett/Hutchins House	1						
1024 Monument Street	Barn	3						Barn
1024 Monument St	Samuel Buttrick House	3						
1360 Monument Street	Barrett House/Boathouses	2						Oct. Farm
1455 Monument Street	Lawrence Farm/Barn	3						Farm Bldgs.
1586 Monument Street	Blood/Mason House	3						
190 Nashawtuc Road	Wm. Wheeler/Maru-Yama	3						
505 Old Bedford Road	Samuel Fox House	3						
550 Old Bedford Road	Enos Fox House	3						
637 ORNAC	Wood Stave Water Tank	2					Y	Water Tank
20 Powdermill Road	Parkman Tavern	1	Y	Y				
82 Sandy Pond Road	Prescott/Hosmer	2						
256 Simon Willard Road	Berkeley Wheeler House	3						H. Little, Arch.
263 Simon Willard Road	Little Home	2						H. Little, Home

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		<b>Pri- ority</b>	<b>N R</b>	<b>S R</b>	<b>L D</b>	<b>S O</b>	<b>T O</b>	<b>Comments</b>
Opp 110 Spencer Brook Rd.	Barn & 2 Silos	1						Barn/Silos
107 Spencer Brook Road	Barn, Now house	2						Barn
110 Spencer Brook Road	Jones/Farrar	2						
158 Spencer Brook Road	Clarke/Mansfield	2						
606 Strawberry Hill Road	Barn	2						Barn
49 Sudbury Road	Sanborn House/School	2						
92 Sudbury Road	Edward Bulkeley	1						
99 Sudbury Road	Scotchford/Wheeler	2						
120 Sudbury Road	Henry & Caleb Wheeler House	3						House
387 Sudbury Road	Abiel Wheeler House	3						
728 Sudbury Road	Henry Bigelow House	3						
1571 Sudbury Road	Windmill	3						Windmill
19 Thoreau Court	Burke-Brennan House	3						House
341 Virginia Road	John Wheeler/'Thoreau	1					Y	Thoreau Birthplace
477 Virginia Road	Wheeler/Merriam	2	Y	Y				
711 Virginia Road	Hangar 24	3		Y		Y		
170 Walden Street	Asa Heywood House	3						House
107 Westford Road	Stephen Barrett	2						
216 Westford Road	Peter/Hiram	2						
344 Westford Road	John Melvin	2						
Westford/Pope Roads	Spencer Brook Bridge	2					Y	Bridge
321 Williams Road	Barn & Silo	2						Barn/Silo
321 Williams Road	Ezekiel Miles House	3						
429 Williams Road	Charles Miles	2						

Article 53, Annual Town Meeting, May 3, 1999

Article 64, Annual Town Meeting, April 2006

Article 8, Special Town Meeting, November 2007

Article 45, Annual Town Meeting, April 2008 (Corrected & Revised October 2011)