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**ARTICLE X. - BUILDING DEMOLITION** [\[40\]](#)

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**Sec. 5-306. - Intent and purpose.**

This article is adopted for the purpose of preserving and protecting significant buildings or structures within the City of Newburyport which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the city; to encourage owners of preferably-preserved significant buildings to seek out persons who might be willing to purchase and to preserve, rehabilitate, or restore such buildings or structures, rather than demolish them; and by furthering these purposes to promote the public welfare and to preserve the resources of the city. To achieve these purposes, the Newburyport Historical Commission is empowered to advise the Newburyport Building Commissioner with respect to the issuance of permits for demolition, and the issuance of demolition permits for significant buildings and structures is regulated as provided in this article.

*(Ord. of 11-8-05, § 1.1)*

**Sec. 5-307. - Definitions.**

The following terms when used, whether or not capitalized in this article, shall have the meanings set forth below, unless the context otherwise requires:

*Building or structure.* Any combination of materials forming a shelter for persons, animals, or property, including additions and accessory structures.

*Building commissioner.* The person occupying the office of commissioner of buildings or otherwise authorized to issue demolition permits.

*Business day.* A day which is not a legal municipal holiday, Saturday or Sunday.

*Commission or NHC.* The Newburyport Historical Commission.

*Commission staff.* The chairman of the commission, the person performing the functions of the chairman in the event there is no person with the title of chairman as such, or any other person regularly providing staff services for the commission to whom the commission has delegated authority to act as commission staff under this article.

*Demolition.* The act of partial or total pulling down, destroying, removing, relocating, or razing a historically significant building or structure or part thereof including a change in roof pitch (excluding dormers) or change in footprint from its location, its lot, or the moving of the building or structure from its lot. Demolition also includes commencing the work of partial or total demolition with the intent of completing the same.

*Determination.* Any determination contemplated in [section 5-308](#) of this article made by the Commission or the commission staff.

*Historically significant building or structure.*

- (1) Any principle building or structure within the city which is in whole or in part seventy-five (75) or more years old; or
- (2) Any accessory structure one-hundred (100) or more years old; or
- (3) Any building or structure which is listed on the National Register of Historic Places; or
- (4) Any principle or accessory building or structure which is or has been designated by the commission to be a significant building or structure because either:
  - a. It is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the city or the commonwealth; or
  - b. It is historically or architecturally significant (in terms of period, style, method of building construction, or association with a famous architect or builder) either by itself or in the context of another building or a group of buildings, such as a neighborhood streetscape or farm complex.

*Preferably-preserved.* Any historically significant building or structure or part thereof which the commission determines, as provided in [section 5-308](#) of this article, is in the public interest to be preserved or rehabilitated rather than to be totally or partially demolished.

*NHC Demolition Permit Application.* An application for a permit for the demolition of a building or structure available at the office of planning and development.

*Permit.* A permit issued by the building commissioner for demolition of a building pursuant to an application therefore.

(Ord. of 11-8-05, § 1.2)

### **Sec. 5-308. - Review procedures.**

- (a) For all buildings or structures listed in definition, "historically significant building or structure", the applicant shall complete the NHC Demolition Permit Application and submit it, along with the filing and review fee to the commission through the office of planning and development.
- (b) Within twenty-one (21) days from its receipt of a NHC Demolition Permit Application, the commission shall determine whether the building or structure is historically significant. The applicant for the permit shall be entitled to make a presentation to the commission if he or she so chooses. If the commission determines that the building or structure is historically significant and should be considered for preservation, the commission shall so notify the building commissioner in writing that a demolition plan review must be made prior to the issuance of any demolition permit.

If the commission determines that the building or structure is not historically significant or is historically significant but not considered for preservation, then it shall so notify the building

commissioner, who may then proceed to issue a demolition permit. If the commission fails to notify the building commissioner of its determination within twenty-one (21) days of its receipt of the application, then the building or structure shall be deemed not historically significant and the building commissioner may issue a demolition permit.

(c) **Demolition plan review:**

- (1) After the commission's determination that a historically significant building or structure should be considered for preservation, the applicant for the permit shall submit to the commission ten (10) copies of a demolition plan which shall include the following information:
  - a. A map showing the location of the building or structure or part thereof to be demolished on its property and with reference to neighboring buildings or structures;
  - b. Existing conditions photographs of all street facade elevations;
  - c. A description of the building or structure, or part thereof, to be demolished;
  - d. A description of the proposed alternations to the historically significant building or structure, or part thereof, to be demolished is located. If the property is located within the NNRHD, the application shall include site plans and exterior elevations of any resultant exterior changes to the historically significant building or structure. In reviewing applications, the commission will reference the most recent copy of the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings.
  - e. If the application for demolition is based on a claim of structural deficiency, then the applicant may be required by the commission to submit a structural report on the structure's soundness that is prepared by a licensed professional structural engineer.
  - f. A list of all permits required for the project, date of application for these permits and any conditions of approval.
- (2) Upon receipt of the demolition plan referenced in subsection (1) above, the commission shall hold a public hearing within forty-five (45) days from the date of the NHC Demolition Permit Application and shall give public notice thereof by posting notice of the time, place and purpose of the hearing in City Hall at least fourteen (14) days before said hearing and also, within seven (7) days of said hearing, mail a copy of said notice to the applicant and to a certified list of abutters and abutters to abutters within three-hundred (300) feet of the structure in question.
- (3) After said public hearing, and within sixty (60) days from receipt of the NHC Demolition Permit Application, the historical commission shall provide written documentation to the building commissioner about the demolition plan, including, at a minimum, the following information:
  - a. A description of the age, architectural style, historical associations and importance of the building or structure to be demolished;
  - b. A determination as to whether or not the building or structure should be preferably preserved.
- (4) If the building or structure is not determined to be preferably preserved or if the commission fails to file its report with the building commissioner within the time period set forth above, then the building commissioner may issue a demolition permit.

(d) *Demolition delay:*

- (1) If the building or structure is determined to be preferably preserved following the demolition plan review, then the building commissioner shall not issue a demolition permit for a period of twelve (12) months from the date the commission's report is filed with the building commissioner unless the commission informs the building commissioner at any time prior to the expiration of such twelve-month period that:
  - The commission is satisfied that the applicant for the demolition permit has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure, or;
  - The applicant has agreed to accept a demolition permit on specified conditions approved by the commission. Such conditions may include the review and approval by the commission of a revised set of the submitted site plans according to the requirements of subsection (c)(1)f.
- (2) The applicant may apply to receive a demolition permit any time prior to the expiration of the 12-month delay by demonstrating the conditions above (subsection (d)(1)) according to the following procedure:
  - a. Submit an amended Demolition Plan to the NHC including updated materials listed in subsection (c) above.
  - b. Present the amended demolition plan to the NHC during a regularly scheduled meeting of the NHC. If determined that material changes are included in the project, the NHC may choose to hold a public hearing to review the changes to the project. If so, they shall follow the review procedures listed in subsection (c) above.

The applicant may choose to repeat procedures described above (subsection (d)(2)) as many times as they choose.

(Ord. of 11-8-05, § 1.3)

### **Sec. 5-309. - 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. After inspection of the building 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 which would protect public health and safety. 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 building commissioner may issue an emergency demolition permit to the owner of the building or structure.

(Ord. of 11-8-05, § 1.4)

### **Sec. 5-310. - Enforcement and remedies.**

- (a) *Enforcement.* The building commissioner is specifically authorized to institute all actions and proceedings, in law or in equity, as they may deem necessary and/or appropriate to obtain compliance with, or to enforce the requirements of the ordinance or to prevent a threatened violation thereof.
- (b) *Building permit to be withheld:* Unless written approval is obtained from the NHC, no building permit shall be issued for a period of two (2) years with respect to any premises upon which

a historically significant building or structure as defined under "historically significant building or structure" has been intentionally demolished without a demolition permit obtained in compliance with the provisions of the ordinance. The two-year period begins after the date of the completion of such demolition. As used herein "premises" refers to the parcel or parcels of land upon which the demolished building or structure was located and all adjoining parcels of land under which the demolished building or structure was located and all adjoining parcels of land under common ownership or control at the time of demolition.

*(Ord. of 11-8-05, § 1.4)*

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**FOOTNOTE(S):**

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<sup>(40)</sup> **Editor's note**—An ordinance adopted November 8, 2005, amended article X in its entirety to read as herein set out. Former article X, §§ 5-306—5-310, pertained to similar subject matter, and derived from Ord. of 9-30-02(1), §§ 1.1—1.5. [\(Back\)](#)

<sup>(40)</sup> **Cross reference**— Newburyport Historical Commission, § 2-106 et seq. [\(Back\)](#)