

ARTICLE XXI Demolition of Significant Buildings or Structures

Section 1. Intent and Purpose

This By-Law is adopted for the purpose of protecting the historic and aesthetic qualities of the Town by preserving, rehabilitating or restoring, whenever possible, buildings or structures which constitute or reflect distinctive features of the architectural, ~~historic, or~~ geographic resources of the Town, thereby promoting the public welfare and preserving the cultural heritage of the Town. The intent of the By-Law is to provide an opportunity to develop preservation solutions for significant, preferably preserved buildings or structures threatened with demolition. The By-Law is intended to encourage owners and townspeople to seek out persons or parties who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them, or to find other solutions that might limit the detrimental effect of demolition on the historical and architectural resources and character of the Town. It is also intended to provide time to document historical resources before they are lost from Lincoln’s cultural landscape. This By-Law applies only to the exteriors of buildings and structures.

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Section 2. Definitions

For the purposes of this By-Law, the following words and phrases have the following meanings:

- 2.1 Building: any combination of materials forming a shelter for persons, animals or property.
- 2.2 Day: calendar day.
- 2.3 Demolition: any act of pulling down, destroying, removing, burning by arson, dismantling, or razing a building or structure, or any substantial portion thereof, or commencing the work of total or substantial destruction with the intent of completion of the same. Substantial portion is defined as twenty-five percent (25%) of the volume of the building or structure, or twenty-five percent (25%) of the roof structure.
- 2.4 Demolition Permit: a written approval for demolition of a building or structure, issued by the LBI in response to an application for such a permit.
- 2.5 Historic District: an historic district established by the Town pursuant to Chapter-40C of the Massachusetts General Laws or special law.
- 2.6 LBI: the Lincoln Building Inspector, or other person authorized by state law or local By-Law to issue demolition permits in the Town.

2.7 LHC: the Lincoln Historical Commission.

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2.8 Neighborhood Conservation District: a Neighborhood Conservation District established by the Town pursuant to Article XXIII of the Town’s General By-Law.

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2.9 Preferably Preserved Significant Building or Structure: any historically ~~or~~

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architecturally significant building or structure which is established, after a public hearing by the LHC, to be worthy of preservation in whole or in part.

2.10 Premises: the entire parcel of land upon which the significant building or structure is or was located.

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2.11 Significant Building or Structure: any building and/or structure, or portion thereof, not within an historic district or a Neighborhood Conservation District, but which meets one or more of the following criteria:

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A. it is listed on, is within an area listed on, or is within 200 feet of the boundary line of an area listed on, the National or State Register of Historic Places, or is the subject of a pending application for listing on said National or State Register;

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B. it is listed in the Inventory of the Historic Assets of the Commonwealth, or designated by the LHC for inclusion in said inventory; or

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C. it is:

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(1) determined by majority vote of the LHC to be importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town of Lincoln, The Commonwealth of Massachusetts, or the United States of America; or

(2) determined by majority vote of the LHC to be historically or architecturally important by reason of period, style, method of construction, or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures; or

(3) determined by majority vote of the LHC to be geographically important with regard to its unique location or its physical characteristics, or that it represents an established and familiar visual feature of the neighborhood or the community as a whole.

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2.12 Structure: the combination of materials or part thereof other than a building, including but not limited to a bridge, dam, tower, silo, monument, stone wall, fence, path or road way.

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2.13 Twelve-Month Delay: the twelve-month period, dated from the submission of the LHC report.

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Section 3. Procedure

3.1 No owner, tenant or occupant of any premises shall undertake any demolition of a building or structure on such premises without first submitting an application for a demolition permit in accordance with this By-Law. A permit for the demolition of a building or structure shall be issued only upon compliance with the provisions of this By-Law.

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3.2 The LBI shall forward a copy of each demolition permit application for a building or structure identified in SECTION-2 of this By-Law to the LHC within seven (7) days after the filing of such application. Every application for a demolition permit for a building and/or structure subject to the provisions of this By-Law, as provided in SECTION-2 of this By-Law, shall be made and signed by the owner of record at the time of the application and be filed with the LBI. Separate applications shall be filed for each building or structure on the property for which a demolition permit is being sought, and each application shall contain or be accompanied by the following information, without which the application shall not be considered complete, requiring a resubmission of the application(s):

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A. the address of the building or structure to be demolished, along with the map and lot number for the premises as listed with the Board of Assessors;

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B. the owner's name, current address and telephone number;

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C. a brief description of the type of building or structure and of the proposed demolition;

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D. the date of construction of the building and/or structure as established by the Board of Assessors, deed, or other documentation;

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E. photographs of all elevations of the building or structure, as well as photographs showing any other buildings on the premises;

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F. a map showing the location of the building or structure to be demolished with reference to lot lines and to neighboring buildings and structures.

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3.3 Within forty-five (45) days after its receipt of such application, the LHC shall determine whether or not it is a significant building or structure. The applicant shall be informed of the date of a meeting at least seven (7) days prior to the meeting, and the LHC shall require the applicant or the applicant's designated representative to make a presentation and/or respond to questions on the proposal at the meeting, and failure to do so shall require the resubmission of the application.

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3.4 If the LHC determines that the building or structure is not significant, it shall so notify the LBI and the applicant in writing and the LBI may issue a demolition permit, but the LHC may require that specified visual or other documentation be made of the building or structure prior to the issuance of the demolition permit. If the LHC determines that the building or structure is significant, it shall notify the LBI and the applicant in writing that a demolition plan review must be made prior to the issuance of a demolition permit. A non-transferable decision by the LHC shall remain valid for a period of two (2) years from the date of the decision or until the sale of the property, whichever comes first. If the LHC fails to notify the LBI and the applicant of its determination within forty-five (45) days after its receipt of the application, then the building or structure shall be deemed not significant and the LBI may issue a demolition permit.

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3.5 If the applicant decides to proceed, then within sixty (60) days after the applicant is notified that the LHC has determined that a building or structure is significant, the applicant for the permit shall submit to the LHC ~~seven (7)~~ copies of a demolition plan, which shall include the following information:

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A. ~~a copy of the Board of Assessors map showing the parcel, as well as a map or plan~~ showing the location of the building or structure to be demolished with reference to lot lines and to neighboring buildings and structures;

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B. photographs showing:

(1) all elevations of the building and/or structure;

(2) the view from the street of the building and/or structure;

(3) any other buildings on the premises;

(4) at least two (2) street or neighborhood views that place the building and/or structure in proximate context to neighboring buildings and structures.

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C. a description of the building or structure, or part thereof, to be demolished;

D. the reason for the proposed demolition and data supporting said reason; and

E. plans for proposed restoration or building or other alterations to the site;

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F. the signature of the owner of record, along with proof of ownership.

3.6 Within ~~forty-five (45)~~ days of receipt of the materials required under SECTION 3.5, the LHC shall hold a public hearing with respect to the application for a demolition permit, and shall give public notice at the expense of the applicant in a local newspaper of the time, place and purposes thereof at least fourteen (14) days before said hearing in such manner as it may determine, and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property and other property deemed by the LHC to be materially affected thereby as they appear on the most recent real estate tax list of the ~~Board of Assessors~~, or the ~~Planning Board~~, or any person filing written request for notice of hearings, and to such other persons as the LHC shall deem appropriate to receive notice. Within thirty (30) days after the closing of the public hearing, the LHC shall file a written report with the LBI on the demolition plan which shall include the following:

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A. a description of the age, architectural style, historical association and importance of the building or structure to be demolished; and

B. a determination as to whether or not the building or structure should be preferably preserved and the reasons therefor.

3.7 If, following the demolition plan review, (1) the LHC does not determine that the building or structure should be preferably preserved, or (2) where less than a complete demolition is being proposed, the LHC determines that the work to be done will not materially diminish its historical or architectural significance, or (3) if the LHC fails to file a report with the LBI within the time limit set out in SECTION 3.6, then the LBI may issue a demolition permit.

3.8 If, following the demolition plan review, the LHC determines that the building or structure should be preferably preserved, then the LBI shall not issue a demolition permit for a period of twelve (12) months from the date of the filing of the LHC's report unless the LHC informs the LBI prior to the expiration of such twelve (12) month period that it is satisfied that the applicant for the demolition permit has made a continuing bona-fide, reasonable and unsuccessful effort to find a way to preserve, rehabilitate or restore the building or structure, or has agreed to accept a demolition permit on specified conditions approved by the LHC. During the twelve (12) month period, the LHC shall invite the applicant to participate in an investigation of alternatives to demolition. On or before the expiration of the twelve (12) month period, the applicant or a designated representative must appear before the LHC and document that the applicant has made a continuing, bona fide and reasonable effort to locate a purchaser to preserve, rehabilitate and restore the building or structure, and that such efforts have been unsuccessful. If the LHC concurs that such an effort has been made and no means can be found, then the LHC shall so inform the LBI in writing, and the LBI may issue a demolition permit for a period of one (1) year from that date, following which time a new application must be submitted. In all such cases, the LHC may require that specified visual or other documentation be made of the building or structure prior to the issuance of the demolition permit.

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Section 4. Emergency Demolition

If the condition of a building or structure poses a serious and imminent threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request the issuance of an emergency demolition permit from the LBI. As soon as practicable after the receipt of such a request, the LBI shall arrange to have the property inspected by a board consisting of the LBI, the Chairs of the LHC and the Board of Health, and the Chief of the Fire Department, or their respective designees. After the inspection of the building or structure and consultation of this board, the LBI shall determine whether the condition of the building or structure represents a serious and imminent threat to public health or safety and whether there is any reasonable alternative to the immediate demolition of the building or structure which would protect the public health and safety. If the LBI finds that the condition of the building or structure poses a serious and imminent threat to public health or safety, and that there is no reasonable alternative to the immediate demolition thereof, he or she may issue an emergency demolition permit to the owner of the building or structure. Whenever the LBI issues an emergency demolition permit under the provisions of this SECTION-4, he or she shall prepare a written report describing the condition of the building or structure and the basis of the decision to issue an emergency demolition permit with the LHC. Nothing in this SECTION-4 shall be inconsistent with the procedures for the demolition and/or securing of buildings and structures established by Chapter 143, Sections-6-10, of the Massachusetts General Laws. In the event that a Board of Survey is convened

under the provisions of Section-8 of said Chapter-143 with regard to any building or structure identified in SECTION-2 of this By-Law, the LBI shall request the Chair of the LHC or his or her designee to accompany that Board of Survey during its inspection. A copy of the written report prepared as a result of such inspection shall be filed with the LHC.

Section 5. Non-compliance

Anyone who demolishes a building or structure identified in SECTION-2 of this By-Law without first obtaining, and complying fully with the provisions of, a demolition permit, shall be subject to a fine of three hundred dollars (\$300) for each day, not to exceed sixty (60) days, in which such person was not in compliance with the provisions of a demolition permit.

Upon a determination by the LHC that a building or structure is a preferably preserved significant building or structure, the owner shall be responsible for properly securing the building or structure, if vacant, to the satisfaction of the LBI. Should the owner fail to secure the building or structure, the loss of such building or structure through fire or other cause shall be considered demolition. In addition, unless a demolition permit was obtained for such demolition, and unless such permit was fully complied with, the LBI shall not for a period of three (3) years after the date of demolition issue a building permit for erection of a building and/or structure, paving of driveways or for parking pertaining to any premises on which a building or structure identified in SECTION-2 of this By-Law has been demolished.

Section 6. Building Permits

No permit for the erection of a new structure on the site of an existing significant building or structure may be issued prior to the issuance of a demolition permit for such existing building or structure.

No building permit shall be issued unless and until the applicant has satisfied all obligations for approvals under the Lincoln Zoning By-Law, Lincoln Wetlands Protection By-Law, Wetlands Protection Act, sanitary codes, and other pertinent federal, state and local laws.

Section 7. Intersection with Lincoln, By-Laws The granting of permission to demolish by the LHC under this By-Law shall not be construed as approval by the Town of Lincoln for the construction or reconstruction of any building or structure on the property. Once demolition has been approved by the LHC under this By-law, the recipient of that demolition approval must obtain all other approvals required under Lincoln By-Laws for any such construction or reconstruction before a building permit shall be issued.

Section 8. Appeals to Court

Any person aggrieved by a determination of the Historical Commission under this By-Law may seek judicial review of such determination pursuant to the provision of Massachusetts General Laws Chapter 249, Section 4.

Section 9. Severability

In case any section, paragraph or part of this By-Law is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part of this By-Law shall continue in full force and effect.

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Any person aggrieved by a determination of the LHC may, within twenty (20) days after the filing of the notice of such determination with the LBI, appeal to the superior court for Middlesex County. The court shall hear all pertinent evidence and shall annul the determination of the LHC if it finds the decision of the LHC to be unsupported by the evidence or to exceed the authority of the LHC or may remand the case for further action by the LHC or make such other decree as justice and equity shall require
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