

## **719. Historic Building/Structure Demolition/Substantial Modification Delay Ordinance**

### **719.1 Purpose and Authority**

**719.1.1** The purpose of this article is to:

1. Establish a process for preserving and protecting significant buildings or other structures within the Town of Windham (the "Town") which constitute or reflect distinctive features of the cultural, political, architectural or social history of the Town;
2. To encourage owners of such buildings or 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 demolishing or substantially renovating them; or, barring that,
3. To create a record, including a photo/video history of such buildings or other structures; and
4. To provide a reasonable time period for public notice, public hearing and discussion by interested groups and individuals of means by which to preserve such buildings or other structures.

**719.1.2** This Ordinance shall be adopted as an Innovative Land Use Control under the provisions of RSA 674:21

### **719.2 Definitions**

Except as otherwise provided herein, the following definitions shall apply:

Building or other structure: any combination of materials forming a shelter for persons, animals or property.

Community Development Department (CDD): Includes any staff members working for or on behalf of the Department, including but not limited to the Building Inspector, Code Enforcement Officer, Community Planner, and Community Development Director.

~~Cultural Resource List: A list prepared by the Heritage Commission dated January 2010, as may be updated, pursuant to RSA 674:44 b(1)(a) of the Archeological Sites and Structures of the Town of Windham.~~

Demolition: The act of pulling down, destroying, removing or razing any buildings or other structure or commencing the work of total or substantial destruction with the intent of completing the same.

Demolition Permit: A written application for the demolition of a building or structure and/or the approval of such, applied for and obtained through the ~~Community Development Department~~CDD in accordance with the NH State Building Code

~~Historic District Commission: (HDC): The duly established and appointed Commission in the Town of Windham, which is authorized to assume the duties of a Heritage Commission, while continuing its responsibility to act as a HDC, in accordance with the 1998 Town Meeting vote.~~

~~HC: The duly established Heritage Commission of the Town of Windham.~~

~~HDC: The duly established Historic District Commission of the Town of Windham.~~

Historic Building/Structure Sign: A Sign ~~purchased by the HC and~~ stored at the Community Development Department, which is to be posted on properties that are subject to the permitting provisions of Sections **719.4** and **719.6** of this Ordinance.

Historic Cultural Resource List: A list prepared by the HDC dated 2015, as may be updated, pursuant to RSA 674:44-b (I) (a), of the Historic Sites and Structures in the Town of Windham, and is available on the Town Web Site or at the CDD.

~~Historic Resource Lists:~~ A list prepared by the ~~Heritage Commission~~ dated May 2010, as may be updated, pursuant to ~~RSA 674:44 b(I)(a) of the 18<sup>th</sup>, 19<sup>th</sup> and 20<sup>th</sup> Century Buildings of the Town of Windham.~~

Review Committee: A standing committee of the HDC Windham Heritage Commission comprised of ~~three-five~~ (35) members of the Commission and two (2) alternates appointed by the chair of the commission.

Substantially Renovate: To do work, to renovate, rehabilitate or modify a building or other structure such that its exterior appearance or architectural features are substantially replaced and would require a building permit or Planning Board approval.

### **719.3 Criteria**

This Ordinance applies to:

1. Any building, which is or was a habitable residential or commercial structure, OR
2. A detached outbuilding, barn, garage or ancillary structure, AND
3. ~~That w~~Was constructed prior to 1940, OR
4. Appears on the Historic Cultural Resource List dated 2015~~Historic Resource List dated May 2010~~, as may be updated

~~In addition to the criteria listed above, the Procedure outlined in Section 719.6, applies to any site that appears on the Cultural Resource List dated January 2010, as may be updated.~~

### **719.4 Procedure – Building Permits**

Except as provided in Section **719.7**, when an application for a demolition permit or a building permit involving substantial renovations is submitted for a property meeting the criteria outlined in Section **719.3**, the following procedure is to be followed:

**719.4.1** Within 10 business days of receipt of an application, the ~~Community Development Department~~CDD will provide in person with signed receipt, by or by certified mail, a copy of this Ordinance to the applicant and notification that a “Historic Building/Structure” Sign may be required to must be posted on the property.

**719.4.2** Within 10 business day of receipt of an application, the ~~Community Development Department~~CDD will provide a copy of the application to the HDC Chair~~HC~~, as well as email and phone notice to the HDC Chair~~HC Chair~~ that such application has been applied for.

**719.4.3** Within ~~10-30 business calendar~~ days of the HDC Chair~~HC~~ being made aware of the application, the HDC~~HC~~ must (1) determine if a public hearing is to be held and specify the date, time and location, or (2) if this Section of the Ordinance is to be waived. —HDC Chair~~HC~~ will

provide notification of such decision to the ~~Community Development Department~~CDD in writing and to the applicant by certified mail.

**719.4.4** If a public hearing is to be conducted by the Review Committee on the submitted application, it must take place within ~~30-20~~ calendar days of notification as listed in Section **719.4.3**.

**719.4.5** Within 5 business days of the ~~Community Development Department~~CDD and applicant's receipt of the ~~HDC's HC's~~ decision to hold a public hearing, as outlined in Section **719.4.3**, the applicant must erect the "Historic Building/Structure" Sign on the subject property; the sign shall remain on the site in a location at the front of the structure, that is unobstructed and clearly visible to the transient public until a permit is issued by the ~~Community Development Department~~CDD or the application is withdrawn by the applicant.

**719.4.6** Notice of the public hearing will be posted by the ~~HDC HC~~ as outlined in **NH RSA 675:7**

**719.4.7** The applicant, or a representative of the applicant, proposing the demolition or substantial renovations, shall be invited to attend the public hearing to hear the concerns and/or alternatives that are proposed by the members of the public.

**719.4.8** The Review Committee and the applicant or the applicant's representative may agree to hold a meeting within 10 business days ~~of~~after the public hearing to discuss alternatives to demolition/substantial renovation if the Review Committee determines that the proposal is potentially detrimental to the community.

## **719.5 Demolition/Substantial Renovations**

**719.5.1** If no alternatives to demolition/substantial renovations have been identified and agreed to by the applicant, after the public hearing provided for in Section **719.4.7** and/or the meeting provided for in Section **719.4.8**, the ~~Community Development Department~~CDD may proceed to issue the permit.

**719.5.2** After the permit has been issued and~~P~~ prior to demolition/substantial renovations, the applicant is encouraged to provide the ~~HDC HC~~ the opportunity to photographically document the building or structure. The ~~HDC HC~~ shall also encourage the applicant to salvage significant architectural features.

## **719.6 Procedure – Planning Board Applications**

When an application for a Site Plan or Subdivision involving demolition, ~~or~~ substantial renovations, or development of the property is submitted for a property meeting the criteria outlined in Section **719.3**, or the site is included on the ~~Historic Cultural Resource List~~Cultural Resource List, the following procedure it to be followed:

**719.6.1** The application will be provided to the ~~HDC HC~~for review and comment by the CDD as part of ~~its the Technical Review Committee Process (TRC) internal application review process for review and comment~~.

**719.6.2** As part of the ~~Community Development Department~~CDD staff review of the application for TRC, a copy of this Ordinance will be provided to the applicant.

**719.6.3** Ten calendar days prior to when the application has been scheduled for a Planning Board public hearing, notification will be provided to the HC requesting comments for the Planning Board to consider.

**719.6.4** Ten calendar days prior to the scheduled Planning Board public hearing on the application, the applicant must erect the “Historic Building/Structure” Sign, which is to be provided by Community Development Department staff, on the subject property in a location visible to the transient public.

The sign shall remain on the site until a notice of decision is issued by the Community Development Department on behalf of the Planning Board or the application is withdrawn by the applicant.

## **719.7 Exceptions**

**719.7.1** Nothing in this Ordinance shall be construed to prevent immediate demolition where public safety is at stake and the building has been determined by the Building Inspector and/or Fire Inspector to be a public hazard and demolition is the only viable recourse.

**719.7.2** The provisions of this Ordinance do not apply if an applicant previously received a permit under Section 719.5.1 or Planning Board approval under Section 719.6 and the applicant is seeking to renew or extend said permit or approval or to re-apply after the expiration of said permit or approval, provided the application is for the identical work previously permitted or approved.

**719.7.3** The provisions of Section 719.4 do not apply if a permit is being requested for a building or structure that was part of an application under 719.6.