

*Connecticut Trust for Historic Preservation  
Model Deconstruction Ordinance – February 2017*

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DISCLAIMER: THIS MODEL ORDINANCE IS DISTRIBUTED FOR GUIDANCE AND DISCUSSION ONLY AND DOES NOT REPRESENT LEGAL ADVICE. PLEASE CONSULT WITH MUNICIPAL LEGAL COUNSEL REGARDING CONNECTICUT ENABLING LEGISLATION, COMPLIANCE WITH EXISTING LOCAL ORDINANCES, AND ENFORCEMENT PROCEDURES.

*NOTE: This model ordinance is derived from the City of Portland, Oregon, Chapter 17.106, Ordinance No 187876, effective October 31, 2016.*

Code of the Town of \_\_\_\_\_, Connecticut

Updated [date]

**Sec. [n] – 1. TITLE AND PURPOSE**

This Ordinance of the municipal code shall be known as the **An Ordinance to Limit the Demolition of Historic Buildings and Reduce Demolition Waste**.

This ordinance provides deconstruction requirements for the removal of older and more historic primary dwelling structures.

The Ordinance to Limit the Demolition of Historic Buildings and Reduce Demolition Waste seeks to:

- A. Maximize the salvage of valuable building materials for reuse;
- B. Reduce carbon emissions associated with demolition;
- C. Reduce the amount of demolition waste disposed of in landfills; and
- D. Minimize the adverse impacts associated with building removal.

**Sec. [n] – 2. DEFINITIONS**

The terms used in this ordinance are defined as provided in this section:

- A. **“Building Official”** means a person hired or appointed by the City or Town to serve as Building Commissioner, Building Inspector or otherwise duly authorized to issue demolition permits.
- B. **“Certified Deconstruction Contractor”** means a contractor licensed by the State of Connecticut that has successfully completed a recognized deconstruction certification program. A firm will be considered certified if at least one person currently employed by the firm is certified.

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**C. “Deconstruction”** means the systematic dismantling of a structure, typically in the opposite order it was constructed, in order to maximize the salvage of materials for reuse, in preference over salvaging materials for recycling, energy recovery, or sending the materials to the landfill.

**D. “Primary Dwelling Structure”** means one and two-family structures (detached or attached) based on current permitted occupancy at the time of demolition permit application. Primary Dwelling Structures do not include accessory structures such as garages or accessory dwelling units.

**E. “Recycling”** means the processing of waste materials into new products or material feed stock for products. Materials that can be recycled include but are not limited to concrete, metal piping, and asphalt roofing shingles.

**F. “Responsible Party”** means any owner or person in control of a primary dwelling structure, or their authorized agent.

**G. “Reuse”** means the utilization of a product or material that was previously installed for the same or similar function to extend its life cycle. Materials salvageable for reuse include but are not limited to cabinets, doors, hardware, fixtures, flooring, siding, and framing lumber.

**Sec. [n] – 3. AUTHORITY OF THE BUILDING OFFICIAL**

**A.** The Building Official is hereby authorized to administer and enforce the provisions of this ordinance.

**B.** The Building Official is authorized to adopt rules, procedures, and forms to implement the provisions of this Ordinance.

**1.** Any rule adopted pursuant to this Section shall require a public review process. Not less than 10 nor more than 30 days before such public review process, notice shall be given by publication in a newspaper of general circulation. Such notice shall include the place, time and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.

**2.** During the public review, the Building Official shall hear testimony or receive written comment concerning the proposed rules. The Building Official shall review the recommendations, taking into consideration the comments received during the public review process, and shall either adopt the proposed rules, modify or reject them. Unless otherwise stated, all rules shall be effective upon adoption by the municipality.

**C.** The Building Official may temporarily suspend or modify the requirements of this ordinance based on a determination that such requirements are temporarily infeasible due to economic or technical circumstances. The Building Official’s determination to temporarily suspend or modify shall be filed as a report with the First Selectman, Mayor, or other executive authority. The Building Official’s determination shall be effective after the executive authority of the municipality has accepted the report.

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**Sec. [n] – 4. REGULATIONS**

**A. Scope.** The deconstruction requirements of this Ordinance apply to all demolition permit applications for:

1. Primary dwelling structures more than one hundred (100) years old according to building permit records, municipal assessors' records, or other reliable documentation on file with the municipality or with the State Historic Preservation Office (SHPO); or
2. Primary dwelling structures that have been designated as a historic resource subject to the demolition review or demolition delay review provisions of the municipality.

**B. Requirements.** Primary dwelling structures must be deconstructed in accordance with the provisions of this Ordinance and associated administrative rules. Salvaged material may be sold, donated, or reused on site.

1. **Demolition Permit Application.** An application for a demolition permit under this Ordinance for any primary dwelling structure shall not be considered complete unless it is accompanied by a completed Pre-Deconstruction Form provided by the Building Official.
2. **Certified Deconstruction Contractor.** Deconstruction work must be performed by a Certified Deconstruction Contractor. A Certified Deconstruction Contractor shall be assigned to the project throughout the course of deconstruction. Certified Deconstruction Contractors must comply with requirements of this Ordinance and the administrative rules.
3. **Site Posting.** On the first day of active deconstruction a yard sign in the size and format required by the Building Official when the permit is issued must be posted at the site. The sign must indicate that the structure is being deconstructed and must provide municipal contact information for questions or concerns.
  - a. The sign must remain in place throughout the course of deconstruction.
  - b. The sign must be placed on each street frontage of the site.
  - c. Signs must be posted within 5 feet of a street lot line and must be visible to pedestrians and motorists. Signs may not be posted in a public right-of-way. Signs are not required along street frontages that are not improved and allow no motor vehicle access.
4. **Heavy Machinery.** Heavy machinery may be used in deconstruction to assist in the salvage of materials for reuse or to remove material not required to be salvaged for reuse. Heavy machinery may not be used in deconstruction to remove or dismantle components of buildings in ways that render building components unsuitable for salvage. For purposes of this Ordinance, heavy machinery includes, but is not limited to, track hoes, excavators, skid steer loaders, or forklifts.
5. **Documentation.** Certified Deconstruction Contractors must maintain receipts for donation, sale, recycling, and disposal of all materials for any deconstruction project. Materials intended for reuse on site must be documented with photographs. The Building Official may ask that a Certified Deconstruction Contractor produce the receipts or photographs for inspection any time until the demolition is complete.

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**6. Demolition Permit Final.** A completed Post-Deconstruction Form and all documentation required in Subsection 5. above must be submitted to the Building Official before the demolition is complete.

**C. Additional Regulations.** Compliance with this Ordinance does not exempt the demolition of buildings from any other requirements of the municipal code, including Demotion Delay.

**D. Exemptions.** The following are exempt from the requirements of this Ordinance:

1. A building permit to move or relocate a structure intact.
2. Any primary dwelling structure that has been determined by the Building Official to be a current public hazard and requires emergency demolition.
3. Any primary dwelling structure that the Building Official has determined is unsuitable for deconstruction because:
  - a. The structure is structurally unsafe or is otherwise hazardous to human life; or
  - b. Most of the material in the structure is not suitable for reuse.

**E. Request for an Exemption.** An applicant may request an exemption from the requirements of this Ordinance by submitting a written request for exemption, together with supporting evidence, when submitting a demolition permit application.

**F. Determination of an Exemption.** The Building Official will make the final determination of exemption based on evidence submitted by the applicant as well as an inspection to confirm conditions and unsuitability. The demolition permit will not be issued until the final determination is made on the exemption request. Should the applicant disagree with the final determination the determination may be appealed by the applicant under Section [n] – 6 (below).

**Sec. [n] – 5. ENFORCEMENT AND PENALTIES**

**A.** The Building Official may impose penalties on any responsible party who fails to comply with the requirements of this Ordinance or who has misrepresented any material fact in a document or evidence required to be prepared or submitted by this Ordinance.

1. A first violation of this Ordinance may be subject to a penalty of up to \$[n].
2. A second violation of this Ordinance by the same person may be subject to a penalty of up to \$[n].
3. Third and subsequent violations of this Ordinance by the same person may be subject to a penalty of up to \$[n].
4. Penalties may be imposed on a per month, per day, per incident, or such other basis as the Building Official may determine as appropriate based upon criteria in Subsection E below.
5. Any person receiving a notice of violation shall, within 10 days of issuance of the notice,

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either pay to the City the stated amount of the penalty or request an appeal as provided in [ref.].

**B. Heavy Machinery.**

1. Improper use of heavy machinery in violation of this Ordinance may be subject to a penalty of up to \$[n].
2. Any person receiving a notice of violation shall, within 10 days of issuance of the notice, either pay to the City the stated amount of the penalty or request an appeal as provided in [ref.].

**C. Additional Enforcement Actions for Certified Deconstruction Contractors.** The Building Official may impose the following additional remedies for Certified Deconstruction Contractors.

1. A first violation of this Ordinance may result in removal from the list of approved Certified Deconstruction Contractors for up to 6 months.
2. A second violation of this Ordinance may result in removal from the list of approved Certified Deconstruction Contractors for up to 12 months.
3. Third and subsequent violations may result in revocation of certification whereby a contractor may not apply for recertification for a period of 18 months.
4. Temporary removal from the list of approved Certified Deconstruction Contractors will expire immediately following the term of removal and will not require further action from the Building Official.

**D. Stop Work Orders.** When necessary to obtain compliance with this Ordinance, the Building Official may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped.

If the Building Official issues a stop work order, activity subject to the order may not be resumed until such time as the Building Official gives specific approval in writing. The stop work order will be in writing and posted at a conspicuous location at the site.

When an emergency condition exists, a stop work order may be issued orally, followed by a written stop work order. It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order.

Any person subject to a stop work order may seek administrative review of the order and may appeal the Building Official's administrative determination as

**E. The Building Official will consider the following criteria in determining the amount of penalties or remedies to impose under this Section:**

1. The nature and extent of the person's involvement in the violation;
2. Whether the person was seeking any benefits, economic or otherwise, through the violation;
3. Whether other similar prior violations have occurred with that person;

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4. Whether the violation was isolated and temporary, or repeated and continuous;
5. The length of time from any prior violations;
6. The magnitude and seriousness of the violation;
7. The costs of investigation and remedying the violation;
9. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.

**F.** If the Building Official assesses an enforcement penalty as described in this Ordinance, the Building Official will file a statement with the City or Town Clerk that identifies the property, the amount of the penalty, and the date from which the charges are to begin. The Clerk will then:

1. Notify the property owner of the assessment of enforcement penalties;
2. Record a property lien in the municipal land records;
3. Bill the property owner monthly for the full amount of enforcement penalties owing, plus additional charges to cover administrative costs of the Clerk; and
4. Maintain lien records until the lien and all associated interest, penalties, and costs are paid in full; and the Building Official certifies that all violations listed in the original or any subsequent notice of violation have been corrected.

**G.** Inspections. The Building Official may conduct inspections whenever necessary to enforce any provisions of this Ordinance, to determine compliance with this Ordinance or whenever the Building Official has reasonable cause to believe there exists any violation of this Ordinance. If the responsible party is at the site when the inspection is occurring, the Building Official will first present proper credentials to the responsible party and request entry.

**Sec. [n] – 6. RIGHT OF APPEAL**

**A.** Whenever the responsible party has been given a written notice or order pursuant to this Ordinance or has been directed to make any correction, pay a penalty or to perform any act and the responsible party believes the finding of the notice or order was in error, the responsible party may have the notice or order reviewed by the Building Official. If a review is sought, the responsible party will submit a written request to the Building Official within 10 days of the date of the notice or order. Such review will be conducted by the Building Official. The responsible party requesting such review will be given the opportunity to present evidence to the Building Official. Following a review, the Building Official will issue a written determination. Nothing in this Section shall limit the authority of the Building Official to initiate a code enforcement proceeding.

**B.** A responsible party may appeal the Building Official's written determination to the municipality under the normal appeals process. The filing of an appeal request will remain the effective date of a penalty until the appeal is determined. If, pursuant to said appeal hearing, payment of a penalty is ordered, such payment must be received by the Building Official or postmarked within 15 calendar days after the order becomes final.