

RESOLUTION

Item #33668

RE: HISTORIC BUILDINGS – DELAY OF DEMOLITION

To Her Honor, the Mayor, and the Common Council of the City of New Britain:
the undersigned beg leave to recommend the adoption of the following:

Resolution Summary: INTENT AND PURPOSE: To amend Chapter 19 of the Code of Ordinances, in accordance with the recommendations of the Historic Preservation Action Plan for the City of New Britain, in order to encourage the preservation of architecturally and historically significant buildings, by establishing a demolition delay and required review process to be followed prior to issuance of a demolition permit for any building recognized as being historically significant.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF NEW BRITAIN, that Chapter 19 of the Code of Ordinances be amended by adding a new Article XI to read as follows:

[NEW]

ARTICLE XI. HISTORIC BUILDINGS - DELAY OF DEMOLITION

Sec. 19-149. TITLE AND PURPOSE

This chapter shall be known as An Ordinance to Encourage the Preservation of Architecturally and Historically Significant Buildings by Delay of Demolition.

This chapter is duly enacted by the City in order to 1) preserve and protect significant buildings and structures within the town which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the City, and 2) to limit the detrimental effect on community character and heritage that may result from the demolition of such buildings and structures.

Connecticut General Statutes Section 29-406 authorizes municipalities to approve a waiting period before granting any permit for the demolition of any building, structure, or part thereof. Under this chapter, the City shall impose a waiting period of not more than one hundred eighty (180) days before granting a permit for the demolition of any building or structure that is designated as Preferably Preserved according to the definitions in Sec. 19-151 (below).

By this chapter, City residents are alerted to the anticipated demolition of significant buildings or structures and the owners of such buildings or structures are encouraged to consider preservation, restoration, rehabilitation or relocation as alternatives to demolition. To achieve this purpose, the Historic Preservation

Commission or other designated body is authorized to advise the Director of Licenses, Permits, and Inspections with respect to demolition permit applications.

Sec. 19-150. INTENTION AND LIMITATIONS

This chapter shall not be construed to prevent the ordinary maintenance or repair of any exterior architectural features; nor shall it prevent the erection, alteration or removal of any such feature which the Director of Licenses, Permits, and Inspections certifies is required by public safety because of a condition which is unsafe or dangerous due to deterioration. This chapter shall not delay any application for demolition under emergency demolition orders issued by the Director of Licenses, Permits, and Inspections due to a threat to public safety or public health.

Sec. 19-151. DEFINITIONS

APPLICANT – Any person or entity who files an application with the City for a demolition permit. If the applicant is not the owner of the premises upon which the building or structure is situated, the owner's consent or endorsement of the proposed application must be provided on the permit application.

APPLICATION – A written request to the City in an authorized format to issue a permit for the demolition of a building or structure.

BUILDING – Any combination of materials assembled by human intent to form a shelter for persons, animals or property.

COMMISSION – The Historic Preservation Commission or other designated body authorized to advise the Director of Licenses, Permits, and Inspections on the issuance of demolition permits under this chapter.

DELAY – A period of up to 180 days imposed by the City, during which time the Director of Licenses, Permits, and Inspections shall withhold issuance of a demolition permit and the owner of a historically significant building or structure shall work with the Commission, the State Historic Preservation Office, the Connecticut Trust for Historic Preservation and other interested parties to consider other viable alternatives to demolition, including preservation, restoration, rehabilitation, relocation or detailed

recordation, with the delay period beginning at such the time that the Commission renders their decision that imposing said delay is warranted.

DEMOLITION – The intentional act of substantially pulling down, destroying, dismantling, defacing, removing or razing a building or structure, or commencing the work of a total, substantial, or partial destruction with the intent of completing the same; also the act or process of delaying or withholding maintenance of a building or structure in such a way as to cause or allow significant damage to occur which may result in a public hazard or nuisance.

DEMOLITION PERMIT – The permit issued by the Director of Licenses, Permits, and Inspections authorizing the full or partial demolition of an existing building or structure, excepting for this chapter only any permit issued solely for the demolition or removal of interior features with no effect on the exterior appearance of the building or structure.

DIRECTOR OF LICENSES, PERMITS, AND INSPECTIONS – A person hired or appointed by the City to serve as Director of the Department of Licenses, Permits, and Inspections, Chief Building Official or Zoning Officer, etc. or otherwise duly authorized to issue demolition permits.

HISTORICALLY SIGNIFICANT BUILDING – Any building or structure within the municipal boundaries which, in whole or in part, which has been determined by the Historic Preservation Commission or other designated authority to be significant to the community based on one or more of the following criteria:

- The building or structure is listed on the State or National Register of Historic Places, or is partially or completely within the boundaries of any National, State or Local Historic District; or
- The building or structure has been determined by the State Historic Preservation Office and/or the National Park Service to be eligible for listing on the State or National Register of Historic Places; or
- The building or structure has documented associations with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the town, the state or the nation; or

- The building or structure has documented historical or architectural importance in terms of period, style, method of construction, specific use, or association with a recognized builder or architect, either by itself or in the context of a group of buildings; or
- Any property that is listed on the City of New Britain's 1996 "Grand List Historic Properties Survey".

STRUCTURE – Any combination of materials assembled by human intent to shelter property or activities; or to mark and delineate boundaries or limits of use; or to facilitate transportation, communication, manufacturing or commerce; or to provide for the defense and protection of people or property.

Sec. 19-152. PERMIT REQUIRED

No person, firm, corporation, or other entity shall demolish any building, structure, or part thereof without obtaining a permit from the Director of Licenses, Permits, and Inspections, in accordance with Section 7-1 of this Code of Ordinances.

The Director of Licenses, Permits, and Inspections shall not issue a demolition permit for a building or structure that is recognized as a Historically Significant Building as defined in Section 19-151 of this chapter, except as provided in this chapter. In addition to complete demolition of a building or structure, the following actions shall require a demolition permit under this chapter:

- A. Removal of a roof for the purpose of: raising the overall height of a roof; rebuilding the roof to a different pitch; or adding another story to a building.
- B. Removal of one or more exterior wall(s) or partition(s) of a building.
- C. Gutting of a building's interior to the point where exterior features (windows, doors, etc.) are impacted.
- D. Removal of more than 25% of a structure's overall gross square footage.
- E. The lifting and relocating of a building on its existing site or to another site.
- F. The delay or withholding of maintenance on a building or structure in such a way as to cause or allow a significant loss of architectural integrity or structural stability.

Sec. 19-153. APPLICATION FOR DEMOLITION

Any person wishing to obtain a permit to demolish a building or structure, in whole or in part, shall file an application in the office of the Director of Licenses, Permits, and Inspections on a form approved by the Director of Licenses, Permits, and Inspections, in accordance with Section 7-1 of this Code of Ordinances.

Sec. 19-154. PROCEDURES

The Director of Licenses, Permits, and Inspections shall not issue any demolition permit for any building or structure in the City, except under the provisions outlined in this chapter.

Upon adoption of this chapter, for every building or structure for which an application for demolition permit application has been filed for any historically significant building, as defined in Sec. 19-151 above, the following process shall apply:

- Upon receipt of any demolition permit application involving a property meeting, the criteria of a Historically Significant Building under Section 19-151 (above), the Director of Licenses, Permits, and Inspections shall immediately notify the Historic Preservation Commission staff and forward a copy of the application.
- Staff shall consult with the Commission chairperson and verify for the Director of Licenses, Permits, and Inspections, the significance of the building or structure using the criteria stated in Section 19-151 (above).
- If the building or structure is not determined to be significant, or if the Commission staff fails to notify the Director of Licenses, Permits, and Inspections of their determination within ten (10) business days of their being notified of the pending permit, the Director of Licenses, Permits, and Inspections may proceed with issuance of the demolition permit.
- In the case of buildings determined to be historically significant, the Director of Licenses, Permits, and Inspections shall direct the owner/applicant to contact the staff to the Historic Preservation Commission, to file a historic review application, on a permit application form provided by the Commission and including such information, plans,

photographs, details and explanation as may be deemed necessary by the Commission to aid in their decision.

- Within twenty-five (25) calendar days from application, or at the next Commission meeting, provided notice requirements can be met, the Commission shall hold a public hearing to solicit public comment on any building or structure that the Commission has determined to be significant. The staff to the Historic Preservation Commission shall cause public notice of the time, place and purpose of the hearing to be posted in a conspicuous place in the city hall or town hall for a period of not less than seven (7) calendar days prior to the date of said hearing.
- The Commission staff shall also notify the Director of Licenses, Permits, and Inspections and the owner/applicant in writing of the meeting time and place. Any interested party shall have the opportunity to speak at the public hearing, subject to normal limitations and procedures. The Director of Licenses, Permits, and Inspections shall also report to the Commission, either in person or in written format, on matters relevant to the pending demolition permit. Failure of the Director of Licenses, Permits, and Inspections to report to the Commission, at or prior to the hearing, shall not prevent the Commission from acting on the pending application.
- Within thirty (30) calendar days from demo delay review application, the Commission shall decide by majority vote whether to invoke the demolition delay and shall notify the Director of Licenses, Permits, and Inspections and the owner/applicant of their decision in writing. The Commission's decision may not be postponed except by written agreement on the part of the owner/applicant.
- In the event that the owner/applicant is uncooperative in participating in filing an application for historic review or in providing information deemed necessary for rendering a decision, the Commission may proceed in making a determination to institute a 180 day demolition delay, based on information made available to them through the Commission staff, the

Director of Licenses, Permits, and Inspections, public input and other sources.

Upon notification of the Commission that the building or structure is not subject to the demolition delay, or if the Commission fails to notify the Director of Licenses, Permits, and Inspections of its decision within the allotted time, the Director of Licenses, Permits, and Inspections may proceed to issue a demolition permit.

Upon notification by the Commission staff that the building or structure is subject to the demolition delay, the Director of Licenses, Permits, and Inspections shall delay the issuance of a demolition permit for no more than 180 calendar days from the date that the Commission's decision is rendered, unless otherwise agreed in writing by the Commission. During that period, the Director of Licenses, Permits, and Inspections shall not issue any permits for new construction or alterations on the subject property.

Upon determination by the Historic Preservation Commission that a building or structure is subject to the demolition delay, and within ten (10) calendar days from the date that the Commission's decision is rendered, staff to the Historic Preservation Commission shall take the following actions:

- A. The staff to the Historic Preservation Commission shall publish in a local newspaper having substantial circulation in the City a legal notice entitled a "Notice of Intent to Demolish" which shall include:
 1. Notice that an application has been filed for a demolition permit;
 2. The common name and actual street address of the building or structure to be demolished;
 3. The name and address of the owner(s) of the building or structure to be demolished;
 4. The age of the building or structure to be demolished; and
 5. Notice that the Historic Preservation Commission has determined that the building or structure is subject to a demolition delay for a specified period of time.
- B. The staff to the Historic Preservation Commission shall mail copies of the "Notice of Intent to Demolish" by Certified Mail with Return Receipt to the

owners of all properties adjoining and across the street from the property on which the building or structure to be demolished is situated;

- C. The staff to the Historic Preservation Commission shall mail copies of the "Notice of Intent to Demolish" by Certified Mail with Return Receipt to any person, organization, firm, corporation, or other entity who has requested, in writing, from the Director of Licenses, Permits, and Inspections, copies of any such notices filed pursuant to this ordinance. The Historic Preservation Commission shall maintain the list of those requesting to be so notified, and shall delete from the list those who do not annually renew in January, in writing, the request to be notified; and
- D. The owner/applicant shall post a sign in a conspicuous location of the property on which the structure is situated. The sign shall be at least 24" by 36" in size visible from the nearest public street. Such sign shall include a copy of the "Notice of Intent to Demolish" and shall contain the word "DEMOLITION" in capital letters no less than three inches in height. If there is more than one structure or building proposed for demolition, one sign shall be posted in respect to each structure. All signs required hereunder shall remain posted on the property, if the permit is issued, until the completion of all demolition activities authorized by the permit.

Sec. 19-155. EMERGENCY DEMOLITION

If after a thorough inspection, the Director of Licenses, Permits, and Inspections finds that a building or structure, subject to this chapter, poses an immediate threat to public health or safety due to its deteriorated condition and that there are no reasonable alternatives to the immediate demolition of the building or structure, then the Director of Licenses, Permits, and Inspections may issue an emergency demolition permit to the owner of the building or structure. The Director of Licenses, Permits, and Inspections shall then submit a written report to the Historic Preservation Commission detailing the condition of the building or structure and the basis for Director of Licenses, Permits, and Inspections' decision.

Sec. 19-156. ISSUANCE OF PERMIT

During the demolition delay period of up to 180 days from the date that the Commission's decision is rendered, the owner of a historically significant property shall pursue and give due consideration to all possible alternatives to demolition, including preservation, restoration, rehabilitation, relocation, or detailed recordation of the affected building or structure. In order to avoid or mitigate the anticipated effects of demolition, the owner shall make a good faith effort to accommodate reasonable requests from any interested parties for information about or access to the building or structure for the purpose of evaluating alternatives to demolition.

No permit for demolition of a historically significant building or structure shall be issued by the Director of Licenses, Permits, and Inspections until all plans for future use and development of the site have been filed with the Director of Licenses, Permits, and Inspections and have been found to comply with all laws pertaining to the issuance of a building or zoning permit.

All approvals necessary for the issuance of such building or zoning permit, including without limitation any necessary zoning variances or special permits, must have been granted and all appeals from the granting of such approvals must have been concluded prior to the issuance of a demolition permit for a historically significant building or structure under this chapter.

If no viable alternatives to demolition are identified and accepted before the expiration of the demolition delay period, the Director of Licenses, Permits, and Inspections may proceed to act on the permit application.

Sec. 19-157. FEES AND COSTS FOR DEMOLITION PERMITS

The fees and costs for demolition permits are as provided for in Section 7-4 of this code.

Sec. 19-158. FEES FOR HISTORIC REVIEW HEARING

The Historic Preservation Commission may determine and recommend application fees for public hearings for the review of demolitions, sufficient to off-set costs of legal notification. Said fees shall be additional to those required for standard

demolition applications, per Section 7-4 of this code and shall be established in accordance with City Ordinance, Article IX, Sec. 19-130, as may be amended from time to time, and made payable to the Treasurer, City of New Britain, Connecticut.

Sec. 19-159. VIOLATIONS AND PENALTIES

The staff to the Historic Preservation Commission and the Director of Licenses, Permits, and Inspections are each specifically authorized to institute any and all actions or proceedings, in law or in equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this chapter or to prevent a threatened violation thereof.

During the application processing period and during the demolition delay period, if applicable, the owner shall adequately maintain and protect the building or structure in order to prevent any further deterioration. Failure to do so shall be considered demolition by neglect and may be subject to penalties.

In the case of full or partial demolition of any building or structure in the absence of or in advance of a valid demolition permit, the Director of Licenses, Permits, and Inspections shall impose a two-year restriction on the property during which no earthwork, landscaping, construction or further demolition may take place on the subject property or on any adjoining parcels under common ownership and control without the review and approval of the Historic Preservation Commission. The restriction may only be lifted by written agreement of the Director of Licenses, Permits, and Inspections and the Historic Preservation Commission.

Any persons failing to abide by the provisions of this chapter or Connecticut General Statutes Sections 29-401 through 29-415 shall be fined \$1,000 or imprisoned not more than six months, or both, per day, as each day constitutes a separate violation, pursuant to Connecticut General Statutes Section 29-254a. All fines imposed shall be collected and made payable to the Treasurer, City of New Britain, Connecticut.

Sec. 19-160. ADMINISTRATION

The Historic Preservation Commission may adopt such rules and regulations as are necessary to administer the terms of this chapter.

By majority vote at a duly posted meeting, the Commission may delegate to one or more members of the Commission or to a qualified City employee, the authority to make initial determinations of significance under this chapter.

The Commission may, on its own initiative and with information available to it, develop a list of significant buildings and structures that will be subject to this chapter. The initial adoption of the list and any subsequent additions to the list shall be enacted after public hearings on the subject.

Sec. 19-161. SEVERABILITY

In case any section, paragraph or part of this ordinance shall for any reason be declared invalid or unconstitutional by any court, every other section, paragraph and part shall remain in full force and effect.

Alderman Don Naples

***Ald. Naples moved to accept and adopt, seconded by Ald. Collins. So voted.
Approved December 19, 2016 by Mayor Erin E. Stewart. ADOPTED 12/21/16***