



City of Milford, Connecticut

Founded 1639

TO: Ordinance Committee Members

FROM: Frank Smith, Chairman

DATE: November 26, 2014

**SUBJECT: ORDINANCE COMMITTEE MEETING AND PUBLIC HEARING
Monday, December 1, 2014 – CITY HALL AUDITORIUM**

There will be a meeting of the Ordinance Committee of the Board of Aldermen on **Monday, December 1, 2014, at 7:00 pm.** in the City Hall auditorium regarding the following Ordinances:

AGENDA

1. An Ordinance Establishing Chapter 18, Planning, Article XXI, Historic Preservation Commission, §§18-218 through 18-232 of the Milford Code of Ordinances.
2. An Ordinance Amending Chapter 6, Buildings and Building Regulations, Article I, In General; Demolition §§6-7 And 6-10.

Copies of said proposed Ordinance(s) are on file open to public inspection at the office of the City Clerk. Any individual with a disability who needs special assistance to participate in the meeting should contact the Director of Community Development (783-3230) five (5) days prior to the meeting, if possible.

Distribution:

Mayor Benjamin G. Blake
Philip Vetro, Chairman, Board of Aldermen
Joanne Rohrig, City Clerk
Jonathan D. Berchem, City Attorney
Christopher Saley, Public Works Director
Peter Erodici, Finance Director
Julie Nash, Community Development
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Deepa Joseph, Acting Health Director
Joseph Griffith, DPLU Director
Paul Piscitelli, Recreation Director
Tania Barnes, Human Resource Director
Christine Angeli, Library Director
Chief Douglas Edo, Fire Department
Chief Keith Mello, Police Department
Kathy Huber, Recording Secretary

**AN ORDINANCE ESTABLISHING CHAPTER 18,
PLANNING, ARTICLE XXI, HISTORIC PRESERVATION
COMMISSION, §§18-218 THROUGH 18-232
OF THE MILFORD CODE OF ORDINANCES.**

Be it ordained and enacted by the Board of Aldermen of the City of Milford that §§18-218 through 18-232 of the City of Milford Code of Ordinances are hereby established:

**ARTICLE XXI
HISTORIC PRESERVATION**

Sec. 18-218. Legislative Authority.

The purpose of this ordinance is to protect the historic and architectural character of properties not lying within an historic district and that are listed on, or under consideration for listing on, the National Register of Historic Places, Section 470 of Title 16a of the United States Code, or the State Register of Historic Places, as defined in Section 10-410 of the Connecticut General Statutes, as such sections now exist or may subsequently be amended. This ordinance is adopted pursuant to the authority granted to municipalities under Section 7-148 of the Connecticut General Statutes, as amended from time to time.

Sec. 18-219. Specific Purposes.

The purposes of the commission established by this ordinance are to promote the educational, cultural, economic, environmental, and general welfare of the municipality by:

- (a) Protecting the historic and/or architectural character and continuity of properties that are listed on, or under consideration for listing on, the National Register of Historic Places and/or the State Register of Historic Places; and
- (b) Strengthening the local economy by stabilizing and improving property values and economic activity through the adaptive use and reuse of historic structures, while also protecting and enhancing the attractiveness of the locality; and
- (c) Fostering appropriate use and wider public knowledge and appreciation of distinctive areas, sites, structures, features and objects that have historic and/or architectural significance; and
- (d) Providing a resource, or referrals, for information and expertise to those interested in rehabilitating an historic structure, or construction having an impact on an historic structure; and
- (e) Ensuring and fostering preservation, restoration and rehabilitation that respects the historic, cultural, and architectural significance of distinctive areas, sites, structures and objects; and
- (f) Drafting and applying design standards in a reasonable and flexible manner to prevent the unnecessary loss of a community's historic character.

Sec. 18-220. Relevant Definitions.

- (a) "Protected Property" means a property that is listed on, or Under Consideration for listing on, the National Register of Historic Places and/or the State Register of Historic Places.

- (b) “Under Consideration” means, with regard to an application for placement on the National Register of Historic Places, that an application has been approved for study by the State Historic Preservation Office and, with regard to an application for placement on the State Register of Historic Places, that an application has been scheduled for hearing by the State Historic Preservation Council.

Sec. 18-221. Organization of the Historic Preservation Commission.

- (a) There is hereby established an Historic Preservation Commission (“Commission”) whose purpose and duty shall be to carry out the specific purposes as set forth in §18-219 of this Article and to administer the provisions of this Article.
- (b) The commission shall consist of five (5) members and up to three (3) alternates appointed by the Mayor with the consent of a majority of the Board of Aldermen present and voting. Alternates may be designated by the Chairperson of the Commission to sit as a commissioner if a Commission member is absent.
- (c) Each member and alternate of the Commission shall be an elector of the City of Milford and shall serve without compensation. Preferably at least one (1) member shall be a licensed architect, preferably with experience in historic architecture, and at least one (1) member shall have a background with credentials in local cultural history, architectural history, or archaeology or has served as a city or state historian.
- (d) Members shall serve for a term of five (5) years or until a successor is appointed, except that the initial members of the Commission shall be appointed for terms as follows:
 - (1) One member with an initial term expiration of December 31, 2015.
 - (2) One member with an initial term expiration of December 31, 2016.
 - (3) One member with an initial term expiration of December 31, 2017.
 - (4) One member with an initial term expiration of December 31, 2018.
 - (5) One member with an initial term expiration of December 31, 2019.
- (e) Any member of the Commission may be removed for cause upon recommendation of the Mayor and by majority vote of the Board of Aldermen present and voting.
- (f) The members of the Commission shall elect annual from its members a Chairperson who shall preside at meetings of the Commission and a Vice-Chairman to preside in the absence of the Chairperson.
- (g) The Commission shall adopt rules of procedure for the receipt of complaints, applications, the conduct of meetings and hearings, and any other matters deemed appropriate by the Commission. In all matters of parliamentary procedure not determined in this Article, Robert's Rules of Order (revised) shall be taken as authority to decide the course of proceedings.
- (h) No member of the Commission shall participate in a meeting or decision of the Commission upon any matter in which the member has a specific personal or financial interest as defined in

the City of Milford Code of Ethics.

- (i) The Commission shall meet on the second Wednesday of each month, except when there is no business for the Commission to act upon, and at such other times as it deems necessary. A quorum shall consist of three (3) members. A majority vote of the Commission shall be required for any action of the Commission. The Chairperson or any three (3) members may call a meeting of the Commission. The Commission shall keep records of its meetings and activities.

Sec. 18-223. Community Heritage Responsibilities.

- a) The Commission shall undertake, on its own initiative or with the cooperation of other partners, the research and documentation of historic buildings, sites, and structures within the City of Milford using public records, historical records, and visual observation from the public way.
- b) The Commission may enlist and supervise the work of volunteers, students, or paid consultants to help document historic resources within the City of Milford, subject to available resources. The standards and format for documentation shall comply with those of the State Historic Preservation Office for community-based surveys and inventories.
- c) With the approval of the Board of Aldermen, the Commission shall be authorized to apply for grants from public and/or private sources to support the activities of the Commission as outlined in this ordinance.

Sec. 18-224. Advisory Responsibilities.

- a) When buildings, structures or sites have been accepted for protection under the Milford Historic Preservation Ordinance, the Commission shall notify all relevant City departments, including, but not limited to, the Building Department, Planning and Zoning Board, and the City Engineer.
- b) The Commission shall maintain a list of properties that are listed on, or under consideration for listing on, the State Register of Historic Places and/or the National Register of Historic Places, as well as any buildings or structures that have been inventoried or documented by the Commission. This list shall be made available in printed form at the City Clerk's Office and Milford Public Library, as well as on the City's website.
- c) The Commission shall maintain regular communication with the State Historic Preservation Office, in order to be apprised of any new and pending nominations to the State Register and National Register.
- d) The Commission shall submit annually to the Mayor a list of historic properties that are recommended for nomination to the State Register and/or the National Register of Historic Places. The Commission shall also have the authority to prepare and submit nominations to the State Historic Preservation Office on behalf of the City of Milford.

- e) The Commission may advise other City boards, commissions, and staff on the preservation, rehabilitation, reuse, or demolition of any City owned property of designated historic or architectural significance.
- f) The Commission may advise and assist other City boards, commissions, and staff in recognizing and preserving the buildings and structures of historical or architectural significance within the City and implementing local ordinances, codes and regulations that may have an impact on historic properties.
- g) The Commission may review and consult in the periodic preparation and updating of the municipal Plan for Conservation and Development.

Sec. 18-225. Certificate of Appropriateness: Historical and Architectural Review.

- (a) No building or structure located on a Protected Property shall be altered, restored, moved, dismantled or demolished until after an application for a Certificate of Appropriateness as to Exterior Architectural Features has been submitted to and approved by the Commission for:
 - (1) any dismantling or demolition of any building or structure, or part thereof, located on a Protected Property; or
 - (2) any alteration of any such building or structure, or part thereof, located on a Protected Property if that alteration is visible from a street other than a street which faces only the rear of the building.
- (b) Dismantling or demolition of a building or structure located on a Protected Property shall be approved by the Commission only if the applicant establishes, to the satisfaction of the Commission, that there is no feasible nor prudent alternative to dismantling or demolition.
- (c) "Exterior Architectural Features" shall include, but not limited to, such portion of the exterior of any building or structure which is open to view from a public street, way or place. The provisions of this section shall not be construed to apply to the color of paint used on the exterior of any building or structure.
- (d) The Commission shall adopt the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (36 CFR Part 68.3(b) - Rehabilitation).

Sec. 18-226. Application; hearing; approval

- a) The Commission shall hold a public hearing upon each application for a Certificate of Appropriateness as to Exterior Architectural Features. Notice of the time and place of such hearing shall be given by legal publication in a newspaper having a substantial circulation in the City at least seven (7) days before such hearing. Within not more than sixty (60) days after the filing of an application as required by Section 18-225, the Commission shall act upon such application and shall give written notice of its action to the applicant. Evidence of approval, as referred to in Section 18-225, shall be by Certificate of Appropriateness issued by the Commission. Failure of the Commission to act within said sixty (60) days shall constitute

approval and no other evidence of appropriateness and of all its doings shall be necessary. The Commission shall keep a record of all applications for Certificates of Appropriateness and of all its doings.

- b) For the purpose of this Article, an application will be considered to have been filed upon the receipt of said application by the Clerk of the Commission, or, if there is no such Clerk, upon the receipt of said application by the City Clerk, who will immediately forward the application to the Chairperson of the Commission noting the time of said receipt.
- (c) Any application for Commission approval shall include adequate illustrations, plans, elevations, sections, and details at a scale of no less than 1/4", clearly illustrating the scope of the proposed work. All applications and drawing submittals for major additions and alterations shall be signed and sealed by a licensed architect who qualifies as an Historic Architect, as defined by 36 CFR Part 61, and, if necessary, additionally signed and sealed by a licensed Professional Engineer.
- d) In its deliberations, the Commission shall not consider interior arrangement or use and shall take no action except for the purpose of preventing the alteration, restoration, moving, dismantling or demolition of Protected Properties obviously incongruous with the historic aspects of this Article. The Commission shall set forth its reason(s) for approving or denying each application for a Certificate of Appropriateness in its written notice of its decision to the applicant and in the record of its proceedings.
- e) Demolition of a Protected Property shall be approved by the Commission only if the applicant establishes, to the satisfaction of the Commission, that there is no feasible nor prudent alternative to demolition.

Sec. 18-227. Considerations in determining appropriateness

If the Commission determines that the proposed alteration, restoration, moving, dismantling or demolition will be appropriate, it shall issue a Certificate of Appropriateness. In acting upon appropriateness as to Exterior Architectural Features, the Commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style and general design of the architectural features involved. A Certificate of Appropriateness may be denied for any building or structure, the alteration, restoration, moving, dismantling or demolition of which, in the opinion of the Commission, would be detrimental to the interests of the City.

Sec. 18-228. Variances permissible, when

Where, by reason of topographical conditions, immediately adjoining existing developments or because of other unusual circumstances, the strict application of any provisions of this Article would result in exceptional practical difficulty or undue hardship upon the owner of any Protected Property, the Commission shall have power to vary or modify strict adherence to the Sections herein or to interpret the meaning of said Sections so as to relieve such difficulty or hardship. Any such variance, modification or interpretation shall remain in harmony with the general purpose and intent of said Sections. In granting variances, the Commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, better fulfill the purpose of said

Sections.

Sec. 18-229. Action by Commission to prevent illegal acts.

If any action or ruling taken by the Commission has been violated, the Commission may, in addition to other remedies, institute an action or proceeding to prevent such unlawful alteration, restoration, moving, dismantling or demolition or to restrain, correct or abate such violation. Regulations and orders of the Commission issued pursuant this Article shall be enforced by the Building Inspector of the City of Milford, who is hereby authorized to inspect and examine any building, structure, place or premises and to require in writing the remedying of any condition found to exist therein or thereon in violation of any provision of the regulations or orders made under the authority of this Article. The owner or agent of any building or premises where such a violation has been committed or exists, or where the lessee or tenant of an entire building or entire premises where such violation has been committed or exists, or the owner, agent, lessee or tenant of any part of the building or premises in which such violation has been committed or exists, or the agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation exists, shall be subject to punishment as provided in Section 1-9 of this Code of Ordinances, for each day that such violation continues, and the Superior Court for the Judicial District of Ansonia-Milford at Milford shall have jurisdiction of all such offenses, subject to appeal as in other cases.

Sec. 18-230. Appeals.

Any person or persons severally or jointly aggrieved by any decision of the Commission or of any officer thereof may, within fifteen (15) days from the date when such decision was rendered, take an appeal to the Superior Court for the Judicial District of Ansonia-Milford at Milford, which appeal shall be made returnable to such court in the same manner as that prescribed for civil actions brought to such court. Procedure upon such appeal shall be the same as that defined in Section 8-8 of the General Statutes of Connecticut, as amended.

Sec. 18-231. Exempted acts.

Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any exterior feature of a Protected Property which does not involve a change of design thereof; nor to prevent the construction, reconstruction, alteration, dismantling or demolition of any such feature which the Building Inspector certifies is required by public safety because of an unsafe or dangerous condition; nor to prevent the alteration, restoration, dismantling or demolition of any such feature under a permit issued by the Building Inspector prior to the effective date of establishment of this Article.

Sec. 18-232. Auxiliary services.

The facilities and services of the City Planner, Planning & Zoning staff and office, shall be available to the Commission as it may reasonably require. The Commission shall otherwise operate within the amount of the appropriation provided in the City budget each year.

**AN ORDINANCE AMENDING CHAPTER 6,
BUILDINGS AND BUILDING REGULATIONS,
ARTICLE 1, IN GENERAL; DEMOLITION §§6-7 and 6-10**

Sec. 6-6. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

APPLICATION -- An application for a demolition permit to demolish a building, structure or part thereof.

DEMOLITION/DEMOLISH -- The intentional act of disassembling, dismantling, dismembering, removal, alteration, replacement and/or razing of exterior walls of any building or structure. Nothing herein shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in the appearance or design thereof.

DESIGNATED STRUCTURE -- A building, structure or part thereof which is 500 square feet or larger and 75 years old or more.

NOTICE OF INTENT -- A notice of intent to demolish any designated structure that complies with the requirements of Section 6-7(b).

Sec. 6-7. Requirements and procedure for demolition of particular structures.

- (a) Any person applying for a permit authorizing the demolition of a building, structure or part thereof shall file a permit application with the Building Department. Such permit application shall contain, in addition to other information as may be required, the name and address of the owner of the building, structure or part thereof to be demolished and the address, age and square footage of the building or structure to be demolished. Verification of both size and age shall be provided by the applicant. If the age of the building or structure is unknown, not indicated or in dispute, it shall be assumed to be at least 75 years old or more for the purpose of this article.
- (b) If the building, structure or part thereof to be demolished is a designated structure, as defined in Section 6-6 above, then within seven days following the filing of the application, the applicant shall:
 - (1) Mail a notice of intent to the owners of all property abutting and across the street from the property on which the building(s) or structure(s) to be demolished is located. Notice to a condominium association alone shall be deemed notice to all owners therein. The applicant shall provide certificates of mailing as evidence of compliance with this provision.

- (2) Mail a notice of intent to the City Historian, as well as any organization concerned with the preservation of buildings or structures within the City. Said notice shall include a date stamped copy of the permit application submitted to the Building Department. To be entitled to notification under this provision, any such organization shall register with the Building Department, indicating a desire to be notified of such applications. The applicant shall provide certificates of mailing as evidence of compliance with this provision.
- (3) Post in a conspicuous location on the property on which the building or structure to be demolished is situated a sign at least 24 inches by 36 inches in size, visible from the nearest public or private street. Such sign shall include a copy of the notice of intent and shall contain the word "DEMOLITION" in capital letters no less than two inches in height. Signs required hereunder shall remain posted on the property for 14 days.

Sec. 6-8. Form of notice of intent to demolish.

The notice of intent required by Section 6-7(b) shall be on a form provided by the Building Department and shall include the information required by Section 6-7(a).

Sec. 6-9. Notice filing.

Within 14 days after filing the application to demolish a designated structure the applicant shall file in the Building Department an affidavit under oath, on a form provided by the Building Department, certifying that all of the requirements of this article have been complied with and attaching thereto a copy of the notice of intent, photograph of the posted sign and all certificates of mailing.

Sec. 6-10. Waiting period.

A waiting period of ~~90~~180 days following the date upon which the Building Department receives a permit application shall be imposed on the demolition of a designated structure which is subject to the provisions of this article. Any objections to the issuance of the permit shall be in writing and received by the Building Division not later than 30 days following the date of mailing of the required notice of intent. Objections shall state the architectural, historic or cultural importance of the subject building or structure. Objections which do not provide such information shall not be considered. In the event that no objections meeting the requirements of this section are received within the time prescribed herein, the Building Official may issue the permit. The City Historian shall have the authority to waive the waiting period provided by this section. Any such waiver must be in writing and submitted to the Building Division.

Sec. 6-11. Compatibility with state statutes.

This article is intended to supplement and not to limit any requirements now or hereafter imposed on any applicant for or recipient of a demolition permit and to supplement and not limit any authority now or hereafter granted to the Building Official by the State Building Code and the State Demolition Code.

Sec. 6-12. Applicability to historic districts and historic structures.

Designated structures that are located in designated historic districts or are designated historic properties are also governed by Chapter 97a of the Connecticut General Statutes.

Sec. 6-13. Penalties for offenses.

Failure to abide by the provisions of this article shall subject the violator to all applicable penalties under state law. In addition to any and all other remedies, the Chief Building Official is authorized to institute a civil action to obtain compliance with the requirements of this article or to prevent a threatened violation thereof.

Sec. 6-14. Exceptions.

The provisions of this article shall not apply to:

- (1) Any building, structure or part thereof, the proposed demolition of which was on file with the Building Department on the date of passage of this article.
- (2) Orders issued by the Director of the Health or the Building Official for emergency application because of a threat to public health and/or safety.
- (3) Any building, structure or part thereof acquired by the City of Milford through foreclosure or otherwise which has been designated by the Mayor as a "blighted structure."