

**LOCAL LAW OF 2006**

**A DEMOLITION AND SITE PLAN REVIEW LOCAL LAW**

**TOWN OF BRIGHTON, MONROE COUNTY, NEW YORK STATE**

**Section 1. Title**

This Local Law shall be known as the ADemolition and Site Plan Review Local Law, of the Town of Brighton, Monroe County, New York State.

**Section 2. Purpose and Intent**

The purpose and intent of this Local Law is to amend the Town Code to provide better staff and public oversight of demolitions of buildings in the Town and to provide for site plan review for houses built on lots where homes have been demolished and on infill lots, along with the more detailed purposes set forth in new Section 73-53 herein. All references herein to sections shall be deemed to refer to sections of the Brighton Town Code.

**Section 3. Amendments**

I. Chapter 73 of the Town Code is hereby amended to add Article VI, entitled "Demolition of Buildings, Board Reviews Required," consisting of Sections 73-53 through 73-70, reading in its entirety as follows:

**§73-53. Purpose.**

- A. The quality and feel of the Town of Brighton are heavily shaped by the attributes, integrity, historical character, neighborhood character and design scale of existing residential and non-residential neighborhoods and areas. The preservation, enhancement and continued use of structures with historic, architectural, cultural and/or aesthetic importance is essential in retaining this community and neighborhood character.
- B. The process of demolition alters the characteristics of the site and, whether or not redevelopment is proposed, can significantly impact the natural features of the site and the character of the neighborhood.
- C. The Town of Brighton Planning Board, after considering citizen, citizen board, and professional input, as necessary,

should decide whether a structure may be removed from the neighborhood fabric of Brighton. When demolition of a building that has been found by the Brighton Historic Preservation Commission not to be appropriate for landmark designation is proposed, any replacement structure should be compatible with existing neighborhood character and qualities. Demolition activity itself should be designed to minimize disturbances and hazard to the neighborhood and community. Whether or not redevelopment is proposed, proper site restoration is important to the impact of demolition on the surrounding properties and neighborhood character.

D. This article establishes procedures for the review of proposed demolitions and construction of replacement buildings necessary to meet this purpose.

§73-54. Definitions.

Substantial Demolition. In this article, a building is considered to be substantially demolished when demolition equals or exceeds fifty percent (50%) of the affected building's existing coverage (the ground area covered by any roofed part of the building, including cantilevers but excluding roof eaves).

§73-55. Article application.

A. Demolition Review approval by the Planning Board and issuance of a permit for demolition by the Building and Planning Department shall be required prior to substantial demolition of a principal building, dwelling, barn or carriage house. The requirement for Demolition Review shall be cumulative, and shall apply to all projects proposed for a building following the adoption of this article that, when combined, meet or exceed the requirements of this section within any two year period.

B. In addition to the requirements of Chapter 224 of the Code relating to the demolition of designated landmarks, review by the Town Historic Preservation Commission shall be required prior to demolition of any portion of an exterior wall of a building on a property which has not been designated as a landmark but is included in the list of properties adopted by the Commission for which a cultural survey has been prepared for consideration of possible designation by the Commission. Issuance of a permit for demolition by the Building and Planning Department may also be required. Listed survey properties shall also be subject to subsection A, above, if

applicable.

C. Exceptions. Accessory structures not included in §73-55.A or §73-55.B, above shall not be required to conform to the requirements of this Article. However, a permit for demolition may be required by the Building and Planning Department.

§73-56. Submittal requirements.

A. Applications for Demolition Review shall be filed with the Building and Planning Department on forms prepared by the Town Planner. A fee as set by the Town Board shall be provided.

B. Every application for Demolition Review shall include standard submittal requirements as prepared by the Town Planner. Applications must include information necessary to allow the Planning Board and/or other Town review boards to review the building replacing the demolished structure, if applicable, and may include, but are not limited to, building facade elevations, sections, floor plans, site plans, grading plans, landscaping plans and existing and proposed first floor elevations. Any and all zoning variances required for the proposed building shall be specified. All drawings and plans shall show both existing and proposed facade elevations and clearly identify all new construction and label all materials as new or existing. Complete photos of the existing structure's exterior shall be provided. Additional information may be required by the Town Planner or Planning Board as deemed necessary to determine conformity with Town regulations and with the spirit and intent of this act. Such additional information may include, but is not limited to, demolition/development procedures proposed to ensure the protection of the public and surrounding properties.

C. A restoration plan for the property following demolition and/or redevelopment and an estimate of the cost of restoring the site, including the costs of materials, grading, landscaping, and maintenance until the site is fully restored, shall be submitted to ensure that restoration conforms to the approved plan and that landscaping survives in a healthy condition.

D. An independent evaluation and report by a qualified consultant specializing in historic preservation, historical resources or a similar field may be required by the Town Planner or Planning Board. This consultant will be selected

by the Town and retained at the applicant's expense.

§73-57. Demolition Review by Historic Preservation Commission, Architectural Review Board and Conservation Board.

A. For projects requiring Demolition Review Approval by the Planning Board pursuant to §73-55.A:

1. Upon receipt of a complete application for Demolition Review and required review fee(s), the Town Planner shall submit the application to the Historic Preservation Commission, Conservation Board and, for proposed new construction, the Architectural Review Board for consideration at their next available meetings.
2. Historic Preservation Commission review.
  - a. Properties previously designated as landmarks. The Historic Preservation Commission shall review the project according to Chapter 224 of the Town of Brighton Comprehensive Development Regulations, Historic Preservation, and shall forward its determination(s) to the Planning Board.
  - b. Properties not previously designated as landmarks. Upon review of the application, the Historic Preservation Commission shall, in a timely fashion, make a determination of whether or not the existing structure should be considered for landmark designation based on the criteria of §224-3 of the Town of Brighton Comprehensive Development Regulations, "Criteria and procedures for designation of landmarks." The Historic Preservation Commission shall forward its determination to the Planning Board.
3. Architectural Review Board review. Upon review of the application, the Architectural Review Board shall, in a timely fashion, prepare a recommendation regarding the design of the proposed new or remodeled structure based on the criteria of §221-8 of the Town of Brighton Comprehensive Development Regulations, "Applications for building permits; approval or disapproval by Board." The Architectural Review Board shall forward its determinations and recommendations regarding the proposed new or remodeled structure to the Planning Board.
4. Conservation Board review. Upon review of the application, the Conservation Board shall, in a timely fashion, review

the project pursuant to Chapter 223 of the Town of Brighton Comprehensive Development Regulations, and shall forward its recommendations to the Planning Board.

B. Applications for projects requiring review only by the Historic Preservation Commission pursuant to §73-55.B shall be reviewed according to the normal policies and procedures of the Commission regarding properties with potential historic/cultural importance. Approval by the Architectural Review Board may be required if further action toward designation is not taken by the Commission following review.

§73-58. Public Hearing for projects requiring Demolition Review Approval by the Planning Board. Upon receipt of a complete application for Demolition Review and required review fee(s), the Planning Board shall review the application at a public hearing according to the normal schedule, rules, policies and public notification procedures of the Planning Board.

§73-59. Approval – Special conditions. The Planning Board may place conditions of approval on the demolition and redevelopment of the site as necessary to meet the purpose of this chapter and to make the findings of §73-62.

§73-60. The Planning Board may require that a letter of credit or certified check, in an amount as determined by the board to be sufficient to ensure the restoration of the property following demolition and/or redevelopment, is submitted to and accepted by the Town prior to the issuance of a permit for demolition or a building permit.

§73-61. Decisions of the Planning Board. Upon consideration of the application submitted and testimony presented and the determinations, recommendations and comments of the Historic Preservation Commission, Architectural Review Board, and Conservation Board, the Planning Board in a timely fashion shall approve, conditionally approve, or deny any application presented for Demolition Review.

§73-62. Findings.

A. The Planning Board, upon consideration of the application submitted, testimony presented, and the determinations, comments and recommendations of the Historic Preservation Commission, Architectural Review Board, and Conservation Board may approve or conditionally approve any application upon making the following findings:

1. The existing building, if currently designated as a landmark, has received required approvals from the Historic Preservation Commission, and if not currently designated, has been found by the Commission not to be a candidate for designation by the Historic Preservation Commission as a landmark.
2. The Architectural Review Board and Conservation Board have reviewed the project per the requirements of this Article and their determinations and recommendations have been considered.
3. The project is consistent with the Brighton Comprehensive Plan.
4. The project meets all Town zoning requirements, or a variance has been granted by the Brighton Zoning Board of Appeals.
5. The Brighton Department of Public Works has approved the proposed grading plan for the project.
6. The project complies with the requirements of the Town's regulations regarding trees.
7. A restoration/landscaping plan has been approved by the Planning Board.
8. The project will comply with the requirements of NYSDOL Code Rule 56 regarding asbestos control and Chapter 91 of the Code of the Town of Brighton, Lead-Based Paint Removal. In addition to any other requirements of Code Rule 56, the project will comply with Section 56-3.4(a)(2) regarding on-site maintenance of a project record, Section 56-3.6(a) regarding 10 Day Notice requirements for residential and business occupants, the licensing requirements of Section 56-3, and the asbestos survey and removal requirements of Section 56-5.
9. The project will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.
10. The project does not have a significant negative impact on affordable housing within the Town.

B. The Planning Board shall deny any project for which it cannot make the findings required in this section.

§73-63. Denial of incomplete or inactive applications. The Commissioner of Public Works or designee may administratively deny without prejudice any application which remains incomplete or inactive for a period of greater than ninety days or is continued at the applicant's request for more than sixty days.

§73-64. If permitted new construction is not commenced in a timely fashion, as determined by the Commissioner of Public Works or designee, following completion of demolition, the property shall be restored in accordance with the approved restoration plan and any conditions of Planning Board approval. Failure to commence permitted construction or restoration of the property in a timely fashion following completion of demolition shall be cause for the Town, upon notice by the Commissioner of Public Works to the property owner, to proceed with restoration of the property, using funds of the letter of credit or certified check submitted for the project.

§73-65. If new construction is not proposed by the application for Demolition Review, any future proposed construction of a principal building or addition to a principal building on the property shall require site plan approval by the Planning Board prior to application for a building permit.

§73-66. Noncompliance. Failure to comply in any respect with the conditions of approval or with approved plans constitutes grounds for the town to immediately stop work related to the noncompliance until the matter is resolved.

§73-67. Penalties for offenses.

A. Any person who violates or knowingly permits the violation of this article shall be deemed to have committed an offense against this article and shall be punishable as provided in Chapter 1, General Provisions. Each separate violation shall constitute a separate additional offense.

B. Any action or proceeding in the name of the Town of Brighton may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of the provisions of this article. Such remedy shall be in addition to penalties otherwise prescribed by law.

§73-68. Emergency situations. An emergency permit for demolition may be issued by the Commissioner of Public Works or designee prior to Demolition Review approval when a structure is determined to be unsafe pursuant to Chapter 51 of the Code of the Town of Brighton. The Commissioner of Public Works or designee may condition such emergency demolition as necessary to provide compliance with this chapter.

§73-69. Transferability. A permit for demolition that is subject to Demolition Review approval may not be transferred from the party to whom it has been issued. Notwithstanding any transfer of property, compliance with the conditions of any permit issued pursuant to Demolition Review approval shall be the responsibility of that party including, but not limited to, the satisfaction of all permit conditions, the maintenance of any financial security (certified check or letter of credit) required, and compliance with this Article.

§73-70. Expiration. Failure to secure a permit for demolition and/or failure to cause demolition to commence will cause Demolition Review approval and any permit for demolition issued to expire without further notice one year from the date of Demolition Review approval without further notice.

II. Section 217-9 is hereby amended to read in its entirety as follows:

Section 217-9. **Exceptions.** Prior to the issuance of a building permit in any zoning district or a permit for a change in use or approval of a conditional use, the Building Inspector shall require site plan approval in accordance with the provisions of this article. All new land use activities shall require site plan approval, including new structures, new uses, expansions of existing structures, excavation operations, new conditional uses and legal conversions of existing buildings to other uses. Exceptions to these requirements are:

- A. Permitted accessory structures to one- and two-family dwellings.
- B. Ordinary repair or maintenance or interior alterations to existing structures or uses.
- C. Exterior alterations or additions to one and two-family dwellings.

III. Section 217-10 is hereby amended to read in its entirety as follows:

**Section 217-10. Site Plan review and approval process.** Site plan review shall follow a two-step approval process: preliminary site plan review and approval and final site plan review and approval. However, at the discretion of the Planning Board Executive Secretary, application for preliminary and final site plan review may be combined. For significant or complex projects, there is an optional sketch plan step.

IV. Section 217-12(B)(3)(a) is hereby amended to read in its entirety as follows:

(a) The location of uses and outlines of structures, drawings and scale and including the first floor elevation of principal buildings, on and within 100 feet of the lot line.

V. Section 217-12(B)(4)(a) is hereby amended to read in its entirety as follows:

(a) The location of proposed buildings or structural improvements, including the first floor elevation of all proposed principal buildings.

VI. Section 217-12(C)(10) is hereby amended to read in its entirety as follows:

(10) Overall impact on the neighborhood, including compatibility of design, compatibility of the first floor elevation of proposed buildings, in the effect of the project on the environment and preservation of natural features such as trees.

VII. Section 217-13(c)(6) is hereby amended to read in its entirety as follows:

(6) The layout of the proposed building including the first floor elevation of the principal buildings, and the proposed layout of parking areas and any other proposed structures or uses.

VIII. Chapters 217 of the Town Code is hereby amended to add a new Article IV, Demolition Review, consisting of a new Section 217-16 reading in its entirety as follows:

Section 217-16 **Demolition review.** The Planning Board

shall conduct Demolition Review pursuant to Chapter 73, Article VI of the Code of the Town of Brighton.

IX. The first sentence of Section 221-12 is hereby amended to read in its entirety as follows:

Upon request of the Planning Board, the Board of Architectural Review shall consult with and advise the Planning Board with respect to any Site Plan or Demolition Review on which it is required to pass under the provisions of law or of the Comprehensive Development Regulations.

X. Section 224-2(D) is hereby amended to add Sub-Sections (11) and (12), reading in their entirety as follows:

- (11) Review of applications pursuant to Chapter 73, Article VI of the Code of the Town of Brighton.
- (12) The adoption and amendment, from time to time, of a list of properties that may have historic or cultural significance and for which a cultural survey has been completed.

#### Section 4. Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.

#### Section 5. Severability

If any clause, sentence, phrase, paragraph or any part of this Local Law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Local Law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this Local Law would have been adopted had any such provision been excluded.