

Article 5

CHAPTER XXIVa XXXII - Demolition Delay By-Law

(change chapter number from 24a to 32 because there are 2 chapter 24's)

Section 1. Purpose.

The purpose of this by-law is to protect and preserve buildings and structures within Mendon which reflect or constitute distinctive features of the architectural, cultural, economic, political or social history of the Town. The intent of the by-law is not to permanently prevent demolition but rather to provide an opportunity to develop preservation solutions for properties threatened with demolition.

To achieve these purposes, the issuance of demolition permits for buildings and structures is regulated as provided in Sections 3 through 7.

Summary of Process and Timelines

Step	Timeline	Description
Demolition Delay Review Application	N/A	<i>Completed application for review submitted online or in person</i>
Historical Significance Review	Up to 45 Days	Commission makes determination as to building or structure's historical significance
Demolition Delay Hearing	Up to 45 Days	Commission schedules a demolition delay hearing
Demolition Delay	Up to 12 months	<i>A delay period before the issuance of a demolition permit intended to provide a window of opportunity to research and consider alternatives to demolition</i>

Section 2. Definitions.

- Building or Structure** Any combination of building materials giving support or forming a permanent shelter for persons, animals, or property.
- Business Day** A day, **Monday through Friday**, which is not a legal **state** holiday, Saturday or Sunday.
- Commission** The Mendon Historical Commission.
- Demolition** The act of substantially or totally pulling down, destroying, removing, or razing a building or structure, or commencing the work of total or substantial destruction with the intent of completing the same. **Includes demolition by neglect**
- Demolition by Neglect** **The practice of allowing a building to deteriorate to the point that demolition becomes necessary or restoration becomes unreasonable.**
- Demolition Delay** **A delay period before the issuance of a demolition permit intended to provide a window of opportunity to research and consider alternatives to demolition**
- Demolition Delay Review** **The process outlined in this chapter involving the Historic Commission's review of the proposed demolition of a building or structure**
- Demolition Delay Approval** **The written report as outlined in Section 4, notifying the Building Department if the building or structure shall or shall not be preferably preserved and if a demolition delay is in effect.**
- Demolition Permit** **The permit issued by the Building Department as required under the state building codes.**

Historically Significant Building or Structure The Historical Commission will determine whether a building or structure is historically significant at an open meeting of the Commission. The Historical Commission shall consider the following criteria when deciding if a building is historically significant **and warrants further preservation:**

- 4.1. Any building or structure, or portion thereof, within the Town which is in whole or in part seventy-five (75) or more years old or is of unknown age; and/or
- 4.2. The building or structure is associated with events or activities that have made a significant contribution to the history of Mendon, the Commonwealth of Massachusetts, or the United States; and/or
- 4.3. The building or structure is associated with the life or lives of persons significant in the history of Mendon, the Commonwealth of Massachusetts, or the United States; and/or
- 4.4. The building or structure embodies, either by itself or in context with a group of buildings or structures, distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values.

Preferably Preserved The determination by the Historic Commission that a building or structure meets the standard as "Historically Significant" and warrants further preservation efforts.

Section 3. Application.

The legal owner of the property or their agent shall submit a complete application for Demolition Delay Review on a form approved by the Historical Commission either:

- a) Electronically through an online permitting system
 - a. Electronic applications shall be considered received once confirmed by the Historical Commission through the permitting system

OR

- b) In person to the Town Clerk's office.
 - a. In person applications shall be considered received once timestamped by the Town Clerk.

~~Applications shall be forwarded to the Historical Commission within 5 business days. The Building Inspector shall forward a copy of each demolition permit application for a building or structure or part thereof to the Commission within five (5) business days of the filing of such application.~~

At a minimum the application shall include the following items:

- (i) A map showing the location of the building or structure to be demolished on its property and with reference to neighboring properties;
- (ii) Photographs of all street façade elevations;
- (iii) **Photographs of the interior including the floors and any important architectural features**
- (iv) A description of the building or structure, or part thereof, to be demolished;
- (v) The reason for the proposed demolition and data supporting said reason. Data sufficient to establish any economic justification for demolition may be included;
- (vi) A description of the proposed reuse of the property on which the building or structure to be demolished is located;
 - a. If the proposed reuse of the property requires a site plan review, planning board review, special permit, or variance, a copy of the approved decision shall be included.
 - i. If such approval is required, the Commission shall issue a determination of historical significance as described below. However, the Demolition Delay Hearing shall be delayed until 45 days after the issuance of the required approvals or variances. Or if already opened, the demolition delay hearing may be continued until such approvals are issued.
- (vii) A timeline for the completion of the proposed reuse project.

The application must be signed by the current property owner and submitted by them or their agent.

Within ~~forty-five (45), twenty (20)~~ business days from its receipt of a **complete** demolition permit application, the Commission shall determine whether the building or structure is historically significant. The applicant for the demolition permit shall be entitled to make a presentation to the Commission if ~~he or she~~ **they** so chooses for the purposes of the Commission's review of whether or not a building or structure is historically significant.

1. If the Commission determines that the building or structure **is not** historically significant the Commission shall so notify the **Applicant and** Building Inspector in writing and the Building Inspector may issue a demolition permit.
2. If the Commission determines that the building or structure **is** historically significant, the Commission shall notify the **Applicant and the** Building Inspector in writing **that a demolition delay hearing is required** prior to the issuance of any demolition permit.
3. If the Commission fails to notify the **Applicant and** Building Inspector of ~~its~~ **their** determination within ~~twenty (20) forty-six (46)~~ business days of ~~its~~ **their** receipt of the application, then the building or structure shall be deemed not historically significant and the Building Inspector may issue a demolition permit.

Section 3.1 Alternate Disposition

The Commission may also make an alternate determination as "Historically Significant but not worthy of further preservation" This determination will allow demolition to proceed despite the potential historical significance of the property. This determination shall be used when the condition of the property or structure is in such a state of disrepair or deterioration no adaptive reuse is possible. The Commission may request the Applicant to install a sign commemorating the property. A fee may be charged to cover the costs of the sign.

Section 3.2 - Exemptions

Any property or structure less than 50 years of age may be eligible for an exemption from the full demolition delay review and hearing process. The chairperson of the Historic Commission or their designee shall make the sole determination as to the applicability of this exemption and notify the applicant and building inspector in writing within 45 days of the application. Upon such notification, the demolition process may proceed.

Section 4. Demolition Delay Hearing

~~No more than twenty (20) business days after the Commission's determination that a building or structure is historically significant, the applicant for the demolition permit shall submit to the Commission five (5) copies of a demolition plan which shall include the following information:~~

- ~~(viii) — A map showing the location of the building or structure to be demolished on its property and with reference to neighboring properties;~~
- ~~(ix) — Photographs of all street façade elevations;~~
- ~~(x) — A description of the building or structure, or part thereof, to be demolished;~~
- ~~(xi) — The reason for the proposed demolition and data supporting said reason. Data sufficient to establish any economic justification for demolition may be included;~~
- ~~(xii) — A brief description of the proposed reuse of the property on which the building or structure to be demolished is located;~~

If the Commission determines the structure or property is historically significant a demolition delay hearing shall be required. Upon receipt of the plan referenced above the Commission shall, Within forty-five (45) 22 business days, or within such further time as the applicant may allow in writing, the Commission shall schedule a public hearing on the application and shall give public notice thereof by publishing the time, place and purpose of the hearing in a local newspaper at least ~~ten (10) fourteen (14)~~ business days before said hearing and also, within ~~fourteen (14) five (5)~~ business days of said hearing, mail a copy of said notice to the applicant, the property owner (if the applicant is a non-owner), to owners of all ~~adjoining property abutters~~ **within a minimum of 750 foot radius**, and to other property owners deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors. The expense of publishing the hearing notice and the mailing to all such persons shall be borne by the applicant **in accordance with Section 12. The owner or their agent shall be given the opportunity to speak at this hearing.**

If ownership of the property changes during the time period between the submission of the demolition plan and the public hearing, the Commission reserves the right to continue the hearing until an updated application is submitted signed by the new owners.

At the conclusion of the hearing, a quorum of the Commission members present shall vote as to whether or not the building or structure shall be preferably preserved.

Within ten (10) business days from the date of the **conclusion of the demolition delay** hearing, the Commission shall file a written report with the Building Inspector ~~on the demolition plan~~ which shall include the following:

- i. ~~A description of the age, architectural style, historical associations and importance of the building or structure to be demolished;~~
- ii. A determination as to whether or not the building or structure, or part thereof, ~~is shall be~~ preferably preserved. ~~Such a determination shall be made by a vote of the of the Commission members present.~~

If the building or structure or part thereof ~~is not~~ determined to be preferably preserved or if the Commission fails to file its report with the Building Inspector within **ten (10) business days from the date of the conclusion of the hearing** ~~the time period set forth above~~, then the Building Inspector may issue a demolition permit.

If the Commission determines that the building or structure ~~is~~ preferably preserved, it shall impose a demolition delay of up to ~~six (6)~~ **twelve (12)** months from the date of such determination. Written notice of its determination and the period of delay imposed shall be **provided** ~~mailed~~ promptly to the applicant and property owner (if applicable), and a copy thereof shall be furnished to the Building Inspector who shall not issue a demolition permit during the period specified therein. However, such permit may be issued prior to the end of such period if the Commission notifies the Building Inspector **in writing** that the applicant and property owner (if applicable) (i) has/have made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who has agreed to preserve, rehabilitate, restore or relocate the same, or (ii) has/have agreed to alternatives to demolition or has agreed to accept a demolition permit on specified conditions approved by the Commission.

Section 5. Responsibilities of the Owner and the Commission.

Once a building or structure has been determined to be **a historically significant and/or a preferably preserved building or structure**, the owner shall be responsible for properly securing the building or structure, if vacant, to the satisfaction of the Building Inspector. **All windows and doors shall remain intact and the building or structure shall be secured to prevent entry of persons, animals, or water.** Should the owner fail to secure the building or structure, a subsequent destruction of the building or structure, or part thereof, at any time during the ~~six (6) month~~ demolition delay period, which destruction could have been prevented by the required security measures, shall be considered **demolition by neglect** and a violation of this by-law.

The Commission shall notify the Massachusetts Historical Commission, Town Administrator, Community Preservation Committee and any other interested parties in an effort to obtain assistance in preservation funding or in finding an adaptive use of the building or structure which will result in its preservation. The Commission shall invite the owner of record of the building or structure to participate in an investigation of alternatives to demolition including but not limited to incorporation of the building or structure into future development of the site, adaptive re-use of the building or structure, seeking a new owner willing to purchase and preserve, restore or rehabilitate the building or structure or part thereof, or moving the building or structure.

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The Commission reserves the right to request a photographic survey of the complete interior and exterior of the building or structure as a condition of their determination. No demolition shall proceed until such condition has been satisfied notwithstanding the expiration of any demolition delay. This survey shall be at the cost of the Commission.

Section 6. Emergency Demolition.

Notwithstanding the above provisions, the Building Inspector may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions. Prior to doing so, the Building Inspector and a member of the Commission shall inspect the building. The Building Inspector shall document, in writing, the findings and reasons requiring an emergency demolition, a copy of which shall be forwarded immediately to the Commission. Before allowing emergency demolition, the Building Inspector shall make every effort to inform the Chairperson of the Commission of ~~his their~~ intention to allow demolition before ~~he they~~ issue a permit for emergency demolition.

No provision of this by-law is intended to conflict with or abridge any obligations or rights conferred by Massachusetts General Laws, Chapter 143 regarding removal or demolition of dangerous or abandoned structures. In the event of a conflict, the applicable provisions of Chapter 143 shall control.

Section 7. Non-Compliance.

The Commission is authorized to carry out its duties and functions under this by-law.

The Commission and/or the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a threatened violation thereof.

Any owner of a building or structure or part thereof demolished without first obtaining a demolition permit in accordance with the provisions of this by-law shall be subject to a fine of \$300 per day. Each day the violation exists shall constitute a separate offense until the faithful restoration of the demolished building is completed to the satisfaction of the Commission. Such fines may be imposed in accordance with the non-criminal disposition procedures set forth in M.G.L. c. 40, § 21D. **In accordance with Chapter 19 of the Mendon Town By-Laws, no permit shall be issued until all fines are paid in full.**

No building permit shall be issued with respect to any premises upon which a historically significant building has been demolished in violation of this by-law for a period of two (2) years after the date of the completion of such demolition. As used herein, "premises" refers to the parcel of land upon which the demolished historically significant building or structure was located and all adjoining parcels of land under common ownership or control.

Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this by-law better serves the intent and purpose of this by-law, it may, prior to the expiration of said period of two (2) years, authorize issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this by-law, and may so notify the Building Inspector.

Section 8. Issuance of Demolition Permits

No permit for demolition of a building determined to be a preferably preserved under subsection 4 above shall be granted until plans for use or development of the site after demolition have been filed with the Building Department and found to comply with all laws pertaining to the issuance of a building permit. All approvals necessary for the issuance of such a building permit or certificate of occupancy including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

Section 9. Local Historic District.

In accordance with the Local Historic Districts By-Law, Chapter 30 Section 6.2 of the General By-Laws, no demolition permit for demolition or removal of a building or structure within a local historic district shall be issued until a certificate as required under Chapter 30 is issued by the Local Historic District Commission. The Historic Commission may, at their discretion, continue a demolition delay hearing without finding until such certificate is issued by the Local Historic District Commission.

Section 10. Expiration of Approvals and Permits

- A. The Historical Significance Determination shall expire after a period of 1 year notwithstanding any changes in ownership. After this time, a new application for demolition delay review shall be submitted to restart the process.
- B. If no permit for demolition is issued within one (1) year from the conclusion of the demolition delay period or the conclusion of the demolition delay public hearing, whichever is later, the process shall restart with a new application for demolition delay review.
- C. The expiration of Demolition Permits, once issued, shall fall under the jurisdiction of the Building Department.

Section 8-12. Fees.

The Historical Commission shall have the authority to set reasonable fees for Demolition Delay Review Applications.

1. There will be no fee charged for the initial Demolition Delay Review Application.
2. In accordance with Section 3.1 the Commission may charge a fee, not to exceed, \$250, for the costs of a sign to commemorate the location of a historic property that has been designated as “historically significant but not worthy of further preservation.
3. The fee for a Demolition Delay Hearing shall be set by the Commission. In no case shall the fee be more than 150% of the actual costs for publishing the hearing notice and the mailing of notices as outlined in Section 4.
 - a. No demolition permit shall be issued until the hearing fees are paid to the Town in accordance with this section notwithstanding the expiration of any other timeline or delay specified in this chapter.

Section 8-13. Severability.

In case any section, paragraph, or part of this by-law is for any reason declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part shall continue in full force and effect.

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