

CHAPTER XXIX
Demolition of Historically Significant Buildings and Structures

Section 1: Intent and Purpose. This by-law is adopted for the purpose of protecting and preserving significant buildings and structures, which constitute or reflect distinctive features of the history, architecture, and/or the character of the Town of Danvers. Through this by-law the Town desires to encourage owners, and others, to preserve, rehabilitate, or restore such significant buildings and structures rather than demolishing, removing or relocating them. To achieve these purposes, the Preservation Commission, formerly the Danvers Historical Commission is empowered to advise the Danvers Building Inspector concerning the issuance of permits for demolition, removal, or relocation of significant buildings and structures as provided in this by-law.

Section 2: Definitions. For the purpose of Chapter XXIX, the following words and phrases shall have the following meanings:

- a) Building: An independent structure resting on its foundations and designed for the shelter or housing of persons, animals, chattels or property of any kind.
- b) Commission: The Preservation Commission, formerly Danvers Historical Commission.
- c) Demolition: Any act of pulling down, destroying, razing, removing, or relocating a structure; or any attached portion thereof.
- d) Demolition Permit: The permit issued by the Building Inspector as required by the State Building Code for the demolition, or partial demolition or removal of a building or structure from its lot, or the moving of the building or structure on its lot.
- e) Historically Significant Building or Structure: Any building or structure which (1) is associated with one or more historic/prominent persons or events; (2) is associated with the architectural, cultural, economic, political or social history of the Town of Danvers, the Commonwealth of Massachusetts and/or the United States of America; (3) embodies the distinctive characteristics of a type, period, style and method of building construction, or represents the work of a particular architect or building, either by itself or in the context of a group of buildings or structures.
- f) Inspector: Danvers Inspector of Buildings.
- g) Removal: To transfer a structure from its existing location.
- h) Structure: Any combination of materials assembled, constructed, erected or maintained at a fixed location and placed permanently or temporarily in or on the ground.

Section 3: Regulated Buildings and Structures. The provisions of Chapter XXIX shall

apply only to the following buildings and structures:

- a) Any building or structure listed on, or which is the subject of a pending application for inclusion on, the National Register of Historic Places or the Massachusetts State Register of Historic Places; or
- b) Any building or structure which, in whole, or in part, was built 75 or more years prior to July 1, 1990. The age of the buildings and structures shall first be determined by Assessor's records as shown on the list filed with the Town Clerk and Building Inspector.
- c) However, the provisions of Chapter XXIX shall not apply to any building or structure located in a local historical district and subject to regulation under the provisions of General Laws Chapter 40C.

Section 4: Procedure.

- a) Application: The Inspector shall forward a copy of each demolition permit application for a building or structure identified in Chapter XXIX Section (3) to the Town Manager within 7 business days of the filing of such applications and shall notify the applicant that their application falls under the regulations of the Chapter XXIX, Demolition of Historically Significant Buildings and Structures.
- b) Historically Significant Determination: Within 45 days of receipt of the demolition permit application by the Town Manager, the Commission shall hold a public meeting to hear and collect information and evidence to determine whether the building or structure is historically significant. The applicant for the permit shall be notified in writing at least 7 days prior to the public meeting.

At least five (5) business days prior to the public meeting, the applicant shall provide to the Commission three (3) sets of photographs showing all sides of the building(s) or structure(s), and three (3) copies of a plot plan of the property.

The public meeting shall consist of a discussion of the proposed demolition of the building(s) and/or structure(s). A site visit with the Commission and landowner may also occur, if deemed appropriate by the Chairperson or Commission.

If the Commission determines that the building(s) or structure(s) is/are not historically significant, the Commission shall notify the Building Inspector, Town Clerk, and applicant of its decision, including the reasons for such a determination, and the Building Inspector may issue a demolition permit.

If the Commission fails to notify the Building Inspector of its determination within 10 days after the public meeting, the building(s) or structure(s) shall be deemed not historically significant and the Building Inspector may issue a demolition permit.

If the Commission determines that the building(s) or structure(s) is/are historically significant, the Commission shall notify the Building Inspector, Town Clerk, and applicant in writing of its determination and the reason therefore.

c) Historically Significant Building or Structure Demolition/Removal Plan Review:

1) After the Commission's determination that a building(s) or structure(s) is/are historically significant, the applicant for the demolition permit shall submit to the Commission 10 copies of a demolition/removal plan that includes the following information.

- a) A plot plan sufficient to show the location of the building(s) or structure(s) to be demolished/removed in relation to its property lines, and other buildings on the property;
- Photographs of all sides of the building(s) or structure(s);
- A brief description identifying the reasons for the proposed demolition/removal.
- Public Hearing
- Within 60 days from its receipt of the demolition/removal plan, the Commission shall hold a public hearing with respect to the demolition/removal application and plan.
- If a demolition/removal plan is not submitted the Commission shall hold a public hearing with respect to the available information within 90 days of the determination of the building(s) or structure(s) Historical Significance.

The public hearing shall be advertised in a newspaper of local circulation at least 7 days but no more than 30 days prior to the date of the public hearing. The advertisement shall be paid for by the Town. The Town shall provide the public hearing notice to all parties of interest (abutters) of the property where the building(s) or structure(s) is/are to be demolished, removed, or relocated at least 7 days, but no more than 30 days prior to the date of the public hearing. The public notice shall include the date, time and location of the public hearing. (Parties of Interest (Abutters) as defined in Chapter 40A, MGL)

d) Decision.

- Within 10 days of the close of the Commission's public hearing the Commission shall make a written decision, including the reasons for the determination, as to whether or not the building(s) or structure(s) is/are worthy of preserving. The required time limits for a public hearing and said action may be extended by written agreement between the petitioner and the permit granting authority.

- If the building or structure is determined by the Commission not to be worthy of preservation, or if the Commission fails to file its written decision with the Building Inspector and Town Clerk within 10 days of the close of the public hearing, the Building Inspector may issue a demolition permit.
- If the building(s) or structure(s) is/are determined to be worthy of preservation, then the Building Inspector shall not issue a demolition permit for a period of six (6) months from the date of the Commission's decision is filed with the Building Inspector. During this period, the applicant shall make an effort to locate a purchaser for the building(s) or structures(s), who is willing to preserve, rehabilitate or restore the building(s) or structure(s). The Commission may instruct the Building Inspector to issue a demolition permit prior to the expiration of the six (6) month period if:
 - a) The Commission is satisfied that the applicant for the demolition permit has made a bona-fide, reasonable and unsuccessful effort to locate a purchaser for the building(s) or structure(s) who is willing to preserve, rehabilitate or restore the building(s) or structure(s); or
 - b) The applicant for the demolition permit has agreed to accept a demolition permit according to certain conditions approved by the Commission.

Section 5: Emergency Demolition. Nothing in Chapter XXIX, Section (4) shall be inconsistent with the procedures for the emergency demolition and/or securing of buildings and structures established by General Laws Chapter 143, Sections 6 - 10.

Section 6: Non-Compliance. Anyone who demolishes, removes, or relocates a building or structure identified in Section (3) without complying fully with the provisions of Chapter XXIX, shall be subject to a fine of not more than \$300 as limited by Chapter 40A, MGL.

In addition, unless a demolition permit was obtained for such demolition, removal, or relocation and unless such permit was fully complied with, the Building Inspector shall not issue a building permit to any property on which a building or structure identified in Section (3) has been demolished for a period of two (2) years from the date of demolition, even if an assessed fine is paid.

Section 7: Severability. In case any section, paragraph, or part of Chapter XXIX is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part of such ordinance shall continue in full force and effect. (AUTH: ARTICLE 12, Town Manager 6/18/90 & ARTICLE 34, TM 5/15/00)

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The Danvers Preservation Commission is proposing two amendments to Chapter XXIX Demolition of Historically Significant Buildings and Structures of the Town of Danvers General By-Laws Delay By-Law in order to:

- Ensure that any demolition delay required is nontransferable and includes a two year expiration date
- Allow more time to explore all of the possible ways that all or part of the structure can be preserved by extending the Demolition Delay period from the current 6 months to 18 months.

Background:

The Demolition Delay By-Law is the only tool that the community has to help preserve historically significant structures outside of the Historic District. Voted by Town Meeting in 1990, it has not been amended since that time.

The intent and purpose of the By-Law is to preserve the visual heritage by protecting the historically significant buildings and/or structures within the Town of Danvers. It is not intended to permanently prevent all demolition. It is intended to limit the detrimental effect of demolishing historical and architectural resources of our town.

Present Issues:

We believe that the current By-Law contains loop-holes, and its short time limit constricts efforts to work at preserving our town's significant structures and often doesn't encourage the property owner to think in terms of alternative solutions other than demolishing the building.

The current By-Law limits our abilities, and if amended, the following may be accomplished:

- ✓ If we make the application nontransferable we will be consistent with the intent of the law and the goals of the Preservation Commission to work with an applicant to explore preservation solutions for threatened properties. The current wording of the By-Law, as well as the lack of an expiration date, invites applications to be used as a "selling point" transferring them to the new owner.
- ✓ The 6 month delay, rather than being a deterrent to demolition is actually an attraction to those without a vision to preserve our heritage. Applicants who have come before us this year have been commercial developers and realtors who want to market the property as a "tear down". Each applicant, without exception, has indicated that the short six month delay has been factored-in as part of their business plan. Preservation Commission members will state that most applications come to us during the late fall months (demolition and construction to start in the spring). In addition any other permitting from other Boards that is required for future redevelopment of the site could easily take an additional six months. As a result there is limited incentive for applicants to consider alternatives to demolition.
- ✓ Preservation Commission members have learned from contractors and realtors that historic properties are valued by them because they usually come with larger tracts of land to develop. Further, we are told that they will choose projects in our town over those that have 12-18 month Demolition Delays.
- ✓ Demolition Delays in Area Towns :
 - Beverly – 12 months plus Historic Districts
 - Peabody – 12 months plus Historic Districts

- Salem – 6 months plus multiple Historic Districts
- ✓ An 18-month Demolition Delay will be a valuable tool for our Preservation Commission to do its job. For reasons stated above, 6 months is not enough time to work proactively with an applicant on creative alternatives to demolition. Examples of our work are: seeking persons willing to purchase, preserve, rehabilitate or restore rather than demolish it, notifying the Massachusetts Historical Commission and other sources (leveraging town resources) in an effort to obtain preservation funding and/or finding an adaptive reuse of the building that might preserve it, moving the historic building or working to preserve portions of the building through partial demolition arrangements. Most importantly we want to educate residents of the Town as to the rich history of the community and how the architecture is a touch stone to that past. We need more time to do this important work.
- ✓ Preservation Commission members are volunteers chosen to serve by our Town Manager. We are all residents of Danvers with expertise in preservation and/or construction and are interested in preserving the culture and historic value of our community.

Once a property or structure is demolished, it is gone forever. We wish, by the passing of these amendments to be given the proper tools to in order to increase preservation efforts within the community. We believe that the distinctive characteristics of the properties and structures in Danvers are worth preserving and their existence makes our town one that others admire. Please help us in our efforts to keep “Historically Significant and Worthy of Preservation” properties and structures from becoming lost to the wrecking ball due to weak requirements and loop-holes.