

## **CHAPTER XXIX**

### **Demolition of Historically Significant Buildings**

**Section 1: Intent and Purpose.** This by-law is adopted by the Town to assist in preserving and enhancing the Town of Danvers' historical and cultural heritage by preserving, rehabilitating, or restoring, whenever possible, buildings or landmarks with distinctive architectural features or historical associations that contribute to the historic fabric of the Town. The purpose of this by-law is to encourage owners or developers to preserve, rehabilitate, or restore such significant buildings or landmarks, which are outside the local Historic District, rather than demolishing or removing them.

The intent of the by-law is not to permanently prevent demolition but to provide an opportunity to develop preservation solutions for buildings or landmarks threatened with demolition. The by-law is intended to encourage owners and commissioners to seek out persons or entities who might be willing to purchase, preserve, rehabilitate, or restore them rather than demolish them.

To achieve these purposes, the Danvers Preservation Commission ("Commission") is empowered to advise the Building Commissioner with respect to the issuance of permits for demolition of significant buildings or landmarks, and, where appropriate and consistent with the intent and purpose of this by-law, to allow demolition under conditions designed to minimize the loss of distinctive features of significant buildings. This by-law further seeks to document those structures which cannot be saved through photographic, video and/or written materials and to preserve these materials as part of the public record through the Town Archives.

**Section 2: Definitions.** For this Chapter, the following words and phrases mean the following:

- A. Applicant: The record owner(s) of the property upon which the building or landmark proposed for Demolition is situated, or the duly authorized agent or representative of the record owner(s). If the Applicant is an agent or representative, the signed written authorization of the record owner(s) must be included on or accompany any application.
- B. Building: An independent structure, including appurtenant elements (porches, decks, etc.) resting on its foundations and designed for the shelter or housing of persons, animals, chattels, or property of any kind that is larger than 100 square feet.
- C. Building Commissioner: The Town of Danvers Building Commissioner or their designee.
- D. Business Day: Any day which is not a legal municipal holiday, Saturday, or Sunday.
- E. Commission: The Danvers Preservation Commission.
- F. Delay Period: A twelve (12) month period following a public hearing where the Preservation Commission determined a building or landmark to be worthy of preservation.
- G. Demolition: Any act of pulling down, destroying, removing, razing, or moving a building or landmark, or any portion thereof, or commencing the work of relocating or of total or

substantial destruction of a building or landmark, or portion thereof, with the intent of completing the same.

- H. Demolition Permit: Any permit issued by the Building Commissioner required by the State Building Code which authorizes the demolition of a building (excluding interior demolition) or landmark regardless of whether such permit is called a demolition permit, alteration permit, building permit, etc.
- I. Historically Significant Building: Any building within the Town that is in whole or in part one hundred (100) years or older and has been determined by the Commission or its designee to be significant based on any of the following criteria:
  - i. Is listed on, or is within an area listed on the National Register of Historic Places; or
  - ii. The Building has been found eligible for the National Register of Historic Places; or
  - iii. The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the Town, the Nation, or the Commonwealth; or
  - iv. The Building is historically or architecturally important (in terms of period, style, method of building construction, or association with a recognized architect or builder) either by itself or in the context of a group of buildings.
- J. Landmark: A site, monument, or object historically significant in National, State, or local history and culturally important to Danvers. Landmarks demonstrate exceptional value or quality in illustrating or interpreting the Town's heritage in history, architecture, archeology, technology, and culture.
- K. Removal: To transfer a building from its existing location.

**Section 3: Adoption of Rules and Regulations.** The Commission may adopt rules governing its proceedings and may promulgate regulations to carry out the provisions of this chapter.

**Section 4: Regulated Buildings and Landmarks.** The provisions of Chapter XXIX apply only to the following:

- A. Any building or landmark 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 landmark which, in whole or in part, was built one hundred (100) or more years before the date a demolition permit is sought by an applicant.

**Section 5: Procedure.**

- A. Receipt of Demolition Permit and Referral to the Preservation Commission. Upon receipt of an application for a demolition permit for any building or landmark, or portion thereof, which is a regulated building or landmark, or which is of indeterminate age, the following occurs:

- i. The Building Commissioner must notify the Applicant and Preservation Commission in writing of the meeting at which the Preservation Commission intends to make its Determination of Historical Significance.
  - ii. No demolition permit shall be issued at that time.
- B. Preservation Commission Determination of Historical Significance. The Determination of Historical Significance is an administrative finding required of the Preservation Commission to decide whether a regulated building or landmark meets one or more of the criteria described in the definition of "Historically Significant Building" found in Section 2, Definitions, of this Chapter.

The Determination should occur at the next scheduled meeting of the Commission, provided the Applicant is given at least seven (7) days advance notice, but never more than forty-five (45) days from the date the demolition permit application was received. The Determination of Historical Significance occurs at a public meeting of the Preservation Commission but is not a public hearing.

  - i. Buildings Determined NOT to be Historically Significant. If the Commission's Determination finds that the building IS NOT historically significant, the Commission shall notify the Building Commissioner and Applicant of its decision, in writing, within ten (10) business days of the Determination. Upon receipt of such notice, or upon the expiration of ten (10) business days from the date of the meeting, without having received any notification from the Commission, the Building Commissioner may issue a demolition permit for the subject building. These determinations are valid for nine (9) months from the date the Determination was filed with the Building Commissioner. If the Building is not demolished within that time, then a new demolition permit application must be submitted to the Building Commissioner.
  - ii. Buildings Determined to be Historically Significant. If the Commission's Determination finds that the building IS historically significant, the Commission shall notify the Building Commissioner and Applicant of its decision, in writing, within ten (10) business days of such Determination. The Commission must also, within forty-five (45) days of the Determination, conduct a public hearing to determine whether the Historically Significant Building should seek preservation alternatives. The Commission shall give public notice of said hearing by publishing notice of the time, place, and purpose of the hearing to all parties of interest (as defined in GL c.40A) of the property and in a newspaper of general circulation in the Town at least seven (7) days before the hearing.
- C. Public Hearing for Historically Significant Buildings or Landmark. A public hearing for historically significant buildings or landmarks is held to decide whether the demolition of a historically significant building or landmark would be detrimental to the historical or architectural heritage, or resources of the Town.

- i. If, after a public hearing, the Commission decides that the demolition of a historically significant building or landmark would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall notify the Applicant and the Building Commissioner, in writing, within ten (10) business days. Upon receipt of such notice, or upon the expiration of ten (10) business days from the date of the close of the Commission's public hearing, without having received any notification from the Commission, the Building Commissioner may issue a demolition permit for the subject building or landmark.
- ii. If, after the public hearing, the Commission decides that demolition of a historically significant building or landmark would be detrimental to the historical or architectural heritage or resources of the Town, the building or landmark shall be considered to be worthy of preservation, and the Commission shall so advise the Applicant and the Building Commissioner, in writing, within ten (10) business days. If the Commission fails to notify the Building Commissioner of its decision within ten (10) days of the meeting, the Building or landmark shall be deemed not historically significant, and the Building Commissioner may issue a demolition permit.

D. Procedures for Historically Significant Buildings Found Worthy of Preservation

- i. For buildings or landmarks found worthy of preservation, no demolition permit may be issued for twelve (12) months from the date the Commission decided the building or landmark was worthy of preservation. During this period, the Applicant is encouraged to locate a purchaser for the building or landmark willing to rehabilitate, restore, or otherwise preserve the building or landmark.
- ii. Notwithstanding the preceding paragraph, the Building Commissioner may issue a demolition permit for a historically significant building or landmark at any time during the 12-month delay period after a public hearing (as described in Section 5.B.ii above), and the receipt of a written opinion from the Commission to the effect that:
  - a. The Commission is satisfied that there is no reasonable likelihood that either the Applicant or some other person or group is willing to purchase, preserve, rehabilitate, or restore such building or landmark, or
  - b. The building or landmark has been either documented, moved, or preserved in another manner to satisfy the purpose of the demolition delay in the opinion of the Commission.
- iii. Once a building or landmark is determined to be historically significant, the owner must properly secure the building or landmark to the satisfaction of the Building Commissioner. Should the owner fail to secure the building or landmark, any subsequent destruction of the building or landmark during the 12-month demolition delay period, which the required security measures could have prevented, shall be considered a demolition in violation of this by-law.

- iv. Post Demolition Delay Period. If the building or landmark is not demolished within eighteen months of the expiration of the delay period, then a new application to demolish said building or landmark must be submitted to the Building Commissioner.

**Section 6: Non-compliance.**

- A. Anyone who effects, or begins to affect, the demolition of a regulated building or landmark without first complying fully with the provisions of this by-law shall be subject to a fine of not more than three hundred dollars (\$300.00) for each day in violation.
- B. In addition, unless a Demolition Permit issued in accordance with this by-law is obtained and unless the Demolition Permit is fully complied with, the Building Commissioner may elect, and the Commission may request the Building Commissioner to:
  - i. Issue a stop-work order halting all work on the building or landmark unless and until the Commission notifies the Building Commissioner in writing that the Applicant has appeared before the Commission to address such non-compliance, and the Commission has accepted the Applicant's plans to remediate such non-compliance.
  - ii. Refuse to issue any certificates of occupancy, temporary or final, until any non-compliance has been remediated; and/or
  - iii. Refuse to issue any permit required by the State Building Code pertaining to any property on which a regulated building has been demolished, or such demolition was commenced, for two (2) years from the date of such demolition, provided that this provision shall not prevent the Building Commissioner from issuing any permit required to ensure the safety of persons and property. The Building Commissioner shall give prompt written notice to the Commission of any action taken or refused to be taken pursuant to this section.

**Section 7: Emergency Demolition.** Notwithstanding the following provisions, the Building Commissioner 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. Before doing so, the Building Commissioner must inspect the building or landmark and 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 Commissioner shall make every effort to inform the Commission Chair of their intention to allow demolition before issuing a permit for emergency demolition. No provision of this by-law is intended to conflict with or abridge any obligations or rights conferred by M.G.L.c.143 regarding the removal or demolition of dangerous or abandoned structures. In the event of a conflict, the applicable provisions of General Law 143 shall control.

**Section 8: 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.