

IN THE YEAR TWO THOUSAND AND THIRTEEN

THIRTIETH AMENDMENT TO CHAPTER 18 OF THE REVISED CODE OF ORDINANCES OF THE CITY OF HOLYOKE, MASSACHUSETTS 1997

AN ORDINANCE

Be it ordained by the City Council of the City of Holyoke as follows:

SECTION 1. Section 34 entitled "Demolition Delay Ordinance" of Chapter 18 entitled "Building and Building Regulations" of the Revised Code of Ordinances of the City of Holyoke, Massachusetts, 1997, as amended, is hereby further amended by the following:

DELETING:

Section 34 in its entirety

AND ADDING IN ITS PLACE:

Sec. 18-34. - Demolition delay ordinance.

A. *Purpose.* This section is adopted for the purpose of protecting the historic and aesthetic qualities of the city by preserving, rehabilitating or restoring, whenever possible, buildings or structures which contribute or reflect distinctive features of the architectural or historic resources of the city, thereby promoting the public welfare and preserving the cultural heritage of the city. A demolition delay ordinance will provide time to explore demolition alternatives, such as developing adaptive reuses for the building or structure, locating purchasers, or moving the building or structure to a new location.

B. *Definitions.* As used in this chapter, the following terms shall mean:

Commissioner: The Holyoke Building Commissioner.

Commission: The Holyoke Historical Commission.

Demolition permit: The permit issued by the commissioner as required by the State Building Code for the demolition, partial demolition or removal of a building or structure.

Historically significant building or structure: Any building or structure which is (1) listed on the National Register of Historical Places; (2) listed on the current Historic Inventory of Holyoke; (3) located within 200 feet of the boundary line of any National Register or local historic district; or (4) greater than 100 years old at the time of demolition permit application filing.

C. *Procedure.*

- (1) *Preamble.* No permit for the demolition of a historically significant building or structure shall be granted unless it is first submitted to the Commission for review and comment in accordance with the provisions of this section. Any project in which the City is the project proponent or is required to complete a federal environmental review pursuant to N.E.P.A. shall be exempt from this section, but shall comply with the requirements of Section D below..
- (2) Upon receipt of an application for a demolition permit for a historically significant building or structure, the Commissioner shall forward a copy thereof to the Commission. No demolition permit shall be issued at that time.
- (3) The Commission shall hold a public hearing within forty-five (45) days of receiving a copy of such application, and shall give public notice thereof by publishing notice of the time, place and purpose of the hearing in a local newspaper at least fourteen (14) days before said hearing. The commission shall also send notice by certified mail at least 14 days prior to said hearing to any person whose property abuts the building or structure and abutters within 300 feet of the property line of the building or structure as determined from the records of the city assessors. A copy of said notice shall also be sent to the Commissioner, Planning Board, City Council, City Clerk and Mayor, and shall be posted in accordance with the MA Open Meeting Law. All costs related to the public hearing shall be borne by the applicant.
- (4) At least fourteen (14) days prior to the date of the public hearing, the applicant for demolition shall provide the following to the Commission:
 - i. A copy of the Assessors Map showing the location of the building or structure with reference to lot lines and abutting buildings and structures;
 - ii. Photographs of all street façade elevations;
 - iii. A written description of the building or structure, or part thereof, to be demolished;
 - iv. Reason(s) for the proposed demolition and data supporting said reason, including data sufficient to establish any economic justification for demolition; and
 - v. A description of the proposed reuse of the parcel on which the building or structure is located.
- (5) At the hearing, the Commission shall determine whether the demolition of the historically significant building or structure will be detrimental to the historical, cultural or architectural heritage or resources of the City and should be preferably preserved. The Commission shall consider the following in making its decision:

- i. The building or structure is of such interest or quality that it would meet National Historical Register criteria for designation as a historical or architectural landmark;
- ii. The building or structure is of such unusual or uncommon design, texture, or material that it could not be reproduced without great difficulty or expense;
- iii. The building or structure is of such architectural or historic interest that its removal would be a detriment to the public interest;
- iv. Retention of the building or structure would help preserve and protect a historic place or area of historic interest in the city;
- v. The reason(s) for the proposed demolition and data supporting said reason, including data sufficient to establish any economic justification for demolition; and
- vi. The proposed reuse of the parcel on which the building or structure is located.

(6) The Commission shall make its written determination within fourteen (14) days of the close of the public hearing and shall notify the Commissioner and the applicant of the same by certified mail. If the Commission determines that the demolition of the historically significant building or structure would not be detrimental to the historical, cultural or architectural heritage or resources of the City, the Commissioner shall issue the demolition permit forthwith. If the Commission determines that the demolition of the historically significant building or structure would be detrimental to the historical, cultural or architectural heritage or resources of the City, a demolition delay shall be imposed and no demolition permit shall be issued for six (6) months from the date of the Commission's decision.

- i. If a delay is imposed, the Commission shall work with the property owner to identify viable alternatives to demolition and to develop a historic preservation plan for the property.

(7) Upon receipt of notice that a demolition delay has been imposed, the applicant shall secure the building or site against vandalism, fire or other destruction and shall post a notice of the determination on the building in a place visible from the nearest public way.

(8) If the Commission fails to hold a public hearing within the time specified herein, or if the Commission fails to notify the Commissioner and applicant of its determination following a public hearing within the time

specified herein, the demolition of the historically significant building or structure shall be deemed to not be detrimental to the historical, cultural or architectural heritage or resources of the City and the Commissioner shall issue the demolition permit upon the expiration of the applicable time period.

- (9) The written determination or lack of action of the Commission may be used for the purposes of Section 106 of the National Historic Preservation Act of 1966 as amended (36 CFR 800) and M.G.L. Chapter 9, Section 26-27c as amended by Chapter 254 of the Acts of 1988 (950 CMR 71.00).

D. *Procedure for City Projects.*

- (1) For any demolition project for a historically significant building or structure in which the City is the project proponent or in which the City is required to prepare a federal environmental review pursuant to N.E.P.A., a demolition review shall be conducted by the Commission upon the commencement of a project and concurrent with the other required regulatory reviews.
- (2) The Mayor's Office shall issue a Notice of Intent to Demolish a historically significant building or structure to the Commission, via certified mail. The notice shall include a description of the proposed demolition, the funding sources and the proposed reuse of the property. A copy of the notice shall also be provided to the Commissioner.
- (3) Within forty-five (45) days of receipt of a Notice of Intent to Demolish, the Commission shall hold a public hearing in accordance with the procedures set forth herein for other projects.
- (4) Within fourteen (14) days of the close of the public hearing, the Commission shall issue its written determination to the Mayor and the Commissioner by certified mail or hand delivery. If the Commission determines that the demolition of the historically significant building or structure would not be detrimental to the historical, cultural or architectural heritage or resources of the City, the project may move forward and there shall be no further review by Commission when the demolition permit is applied for. If the Commission determines that the demolition of the historically significant building or structure would be detrimental to the historical, cultural or architectural heritage or resources of the City, a demolition delay shall be imposed and no demolition permit shall be issued for six (6) months from the date of the Commission's decision.
- (5) If the Commission fails to hold a public hearing within the time specified herein, or if the Commission fails to notify the Commissioner and Mayor of its determination following a public hearing within the time specified

herein, the demolition of the historically significant building or structure shall be deemed to not be detrimental to the historical, cultural or architectural heritage or resources of the city and the building commissioner shall be able to issue the demolition permit upon the expiration of the applicable time period.

- (6) If a demolition delay is imposed pursuant to this section, the Commission shall work to develop a viable historic preservation plan and to identify alternatives to demolition. The Commission shall present the same to the Mayor.
- (7) Upon the expiration of the delay period, the project may move forward and there shall be no further review by Commission when the demolition permit is applied for. If no action is taken on the historically significant building or structure within three (3) years of issuance of consent for demolition, the Mayor's Office must issue another Notice of Intent to Demolish for said property to the Commission.
- (8) The written determination or lack of action of the Commission may be used for the purposes of Section 106 of the National Historic Preservation Act of 1966 as amended (36 CFR 800) and M.G.L. Chapter 9, Section 26-27c as amended by Chapter 254 of the Acts of 1988 (950 CMR 71.00).

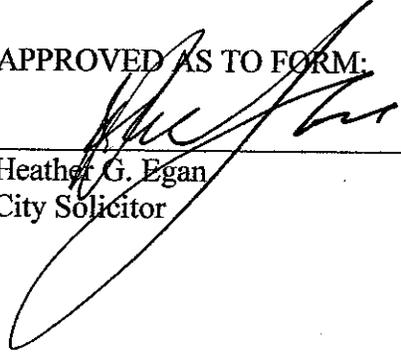
E. *Emergency Demolition*

- (1) Notwithstanding the above provisions, the Commissioner may issue a demolition permit at any time for a historically significant building or structure in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions.
- (2) The Commissioner shall document in writing the findings and reasons requiring an emergency demolition and shall forward a copy to the Commission.
- (3) No provision of this ordinance is intended to conflict with or abridge any obligations or rights conferred by Massachusetts General Laws, Chapter 143 regarding the removal or demolition of dangerous or abandoned structures. In the event of a conflict, the provisions of Chapter 143 shall control.
- (4) The Commissioner shall send via certified mail a copy of any notices issued pursuant to Chapter 143 involving a historically significant building to the Commission.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on the date of passage.

APPROVED AS TO FORM:



Heather G. Egan
City Solicitor



City of Holyoke

IN CITY COUNCIL

Introduced by Councilor Rebecca Lisi
 Ordered, That the demolition delay ordinance, Sec. 18-34, be reviewed and amended to update the procedures for notification to the historic commission in order to bring it in line with current city practices.
 In City Council, June 5, 2012. Received and referred to the Ordinance Committee.
 Approved by the Mayor.

Clerk

Presented to the Mayor	Mayor's Office
For Approval _____, 20	Holyoke, Mass. _____, 20
_____ City Clerk	Approved _____ _____ Mayor

3.12.13
 Rec. Adopt as amended
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