

Chapter XXIV
Demolition Delay By-Law

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.

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 which is not a legal municipal 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.
Historically Significant Building or Structure	<p>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:</p> <ol style="list-style-type: none">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/or2. 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/or3. 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/or4. 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.

Section 3. *Application.*

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. Within twenty (20) business days from its receipt of a 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 so chooses for the purposes of the Commission's review of whether or not a building or structure is historically significant. If the Commission determines that the building or structure is not historically significant the Commission shall so notify the Building Inspector in writing and the Building Inspector may issue a demolition permit. If the Commission determines that the building or structure is historically significant, the Commission shall notify the Building Inspector in writing that a demolition plan review must be made prior to the issuance of any demolition permit. If the Commission fails to notify the Building Inspector of its determination within twenty (20) business days of its 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 4. *Demolition Plan Review.*

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:

- (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) A description of the building or structure, or part thereof, to be demolished;
- (iv) The reason for the proposed demolition and data supporting said reason. Data sufficient to establish any economic justification for demolition may be included;
- (v) A brief description of the proposed reuse of the property on which the building or structure to be demolished is located;

Upon receipt of the plan referenced above the Commission shall, within 22 business days, 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) business days before said hearing and also, within 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, 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.

Within ten (10) business days from the date of the 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 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 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 six (6) months from the date of such determination. Written notice of its determination and the period of delay imposed shall be 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 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 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. 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 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.

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 intention to allow demolition before he issues 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.

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. 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.; or take any action relative thereto.