

## **Section 11. Demolition Delay**

### Purpose

This By-law is adopted to protect and preserve buildings and structures within Holliston 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 Holliston Historical Commission is empowered to advise the Holliston Building Inspector with respect to the issuance of permits for demolition, and the issuance of demolition permits for significant buildings and structures is regulated as provided in this By-law.

### Definitions

“Building or Structures”- 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 Holliston 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”- 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 may be deemed to be significant if the Historical Commission, at a public meeting, finds the building or structure is significant to the architectural, cultural, political, economic or social history of the Town.

### Procedure

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

Within thirty (30) 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 permit shall be entitled to make a presentation to the Commission if he or she so chooses. 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 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 thirty (30) 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.

#### Demolition Plan Review

Not more than sixty (60) days after the Commission's determination that a building or structure is historically significant, the applicant for the permit shall submit to the Commission ten (10) 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, including where applicable, data sufficient to establish any economic justification for demolition;
- (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 fix a reasonable time for a public hearing on the 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 and also, within seven (7) days of said hearing, mail a copy of said notice to the applicant and abutters. The expense of the hearing notice and the mailing to abutters shall be borne by the applicant.

After said public hearing, and within sixty (60) days from receipt of the demolition plan, 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 should be preferably preserved.

If the building or structure 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 may 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/or property owner, 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 Historical Commission notifies the Building Inspector that the applicant and/or property owner (i) has 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 same, or (ii) has agreed to alternatives to demolition or has agreed to accept a demolition permit on specified conditions approved by the Commission.

#### Responsibilities of the Owner

Once a building or structure has been determined to be a preferably preserved building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Inspector. Should the owner fail to secure the building, a subsequent destruction of the building at any time during the six (6) months 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 also 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 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 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 part thereof, or moving the building.

#### Emergency Demolition

If the condition of a building or structure poses a serious and imminent threat to the public health or safety due to its deteriorated condition, the owner of such building may request the issuance of an emergency demolition permit from the Building Inspector. As soon as practicable after the receipt of such a request, the Building Inspector shall inspect the property with a member of the Commission or designee. After the inspection of the building or structure, the Building Inspector shall determine whether the condition of the building or structure represents a serious and imminent threat to public health or safety and whether there is any reasonable alternative to immediate demolition of the building or structure which would protect the public health or safety. If the Building Inspector finds that the condition of the building or structure poses a serious and imminent threat to public health and safety, and that there is no reasonable alternative to the immediate demolition thereof, he may issue an emergency demolition permit to the owner of the building or structure. Whenever the Building Inspector issues an emergency demolition permit under this provision he shall prepare a written report describing the condition of the building or structure and the basis for his decision to issue an emergency demolition permit with the Commission. Nothing in this section shall be inconsistent with the procedures for the demolition and/or securing of buildings and structures established by Chapter 143, sections 6-10, of the Massachusetts General Laws. In the event that a Board of Survey is convened under the provisions of section 8 of said Chapter 143 with regard

to any building or structure identified in section 8 of said Chapter 143 with regard to any building or structure identified as an Historically Significant Building in this By-law, the Building Inspector shall request the Chairman of the Commission or his designee to accompany the Board of Survey during its inspection. A copy of the written report prepared as a result of such inspection shall be filed with the Commission.

#### Enforcement and Remedies

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

No building permit shall be issued with respect to any premises upon which a building or structure seventy-five (75) years or more old or of undetermined age has been voluntarily demolished otherwise than pursuant to a demolition permit granted after compliance with the provisions 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 building or structure was located and all adjoining parcels of land under which the demolished building or structure was located and all adjoining parcels of land under common ownership or control.

Any demolition permit issued pursuant to the provisions of this By-law will expire as provided in the State Building Code.

#### Severability

In case any section, paragraph, or part of this bylaw 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.

*(Passed ATM 5/8/2006, AG approval 7/17/2006)*