

## **DEMOLITION DELAY BY-LAW**

### **§ 61-1. Purpose.**

The purpose of this bylaw is to preserve and protect historically and architecturally significant buildings within the Town of Dennis from demolition; to encourage owners of such buildings to explore and develop alternatives to such demolition; and to seek out persons or entities willing to purchase, preserve, rehabilitate, or restore such buildings, or to relocate the building to another site, preferably within the Town of Dennis.

### **§ 61-2. Definitions.**

1. Alteration – any exterior change that will modify the architectural or historical significance of a building.
2. Applicant – The record owner(s) of the property upon which the Building or structure 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, the Application.
3. Application – a document seeking permission for the Demolition of a Building and which meets the requirements of §61-3-2.
4. Building – any structure or other combination of materials having a roof and a permanent foundation forming a shelter for persons, animals or property, including any portion of such structure, other than its interior.
5. Building Commissioner – the Building Commissioner of the Town of Dennis or his or her designee.
6. Commission – the Dennis Historical Commission.

7. Delay Period – a twelve (12) month period following the receipt of the Application by the Commission. If the Commission determines that the Building is a Preferably Preserved Significant Building, a Demolition Permit shall not be issued during this time period, except as provided in §61-3-4, or §61-5 of this bylaw.
8. Demolition – any act of moving, pulling down, destroying, removing, dismantling or razing a Building, or commencing the work of moving, or of total or substantial destruction (25% or more of the exterior) of a building, excluding ordinary maintenance and/or repair.
9. Demolition permit – the permit issued by the Building Commissioner for the Demolition of a Building, excluding a Building Permit issued solely for the Demolition of the interior of a Building.
10. Preferably Preserved Significant Building – any historically or architecturally Significant Building, the preservation, rather than the Demolition of which, the Commission determines to be in the public interest.
11. Significant Building – any Building in the Town of Dennis which is, in whole or in part (at least 25%) of indeterminate age or is 75 years old or more, and which meets one or more of the following criteria:
  - a. The Building is listed on, or is within an area listed on, or has been determined to be eligible for listing on the National Register of Historic Places.
  - b. The Building is listed on, or is within an area listed on, or has been determined to be eligible for listing on the State Register of Historic Places.
  - c. The Commission has determined by a majority vote, that 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 of Dennis or the Commonwealth of Massachusetts.
  - d. The Commission has determined by a majority vote, that the Building is historically or architecturally important in terms of period, style, method of building construction or association with a recognized architect or builder.

### **§ 61-3. Procedure.**

1. No Demolition Permit for a Building or any portion thereof, which is in whole or in part of indeterminate age or is 75 years old or more shall be issued without following the provisions of this bylaw. If a Building is of unknown age it shall be assumed to be over 75 years old.

2. An Applicant proposing to demolish a Building, or any portion thereof, subject to this bylaw shall file an Application containing the following information:
  - a. the address of the Building proposed to be demolished;
  - b. the owner's name, address and telephone number;
  - c. the building owner's assent to the filing of the Application if the Applicant is not the Building owner;
  - d. a description of the Building;
  - e. a written history of the property if known;
  - f. the reason for requesting a Demolition Permit;
  - g. a brief description of the proposed reuse, reconstruction or replacement of the Building, or portion thereof; and,
  - h. a photograph or photographs of the Building.
  
3. If an Application for Demolition is received by the Commission for a Building located within either the South Dennis Historical District or the Old King's Highway Regional Historic District, then the Commission shall first refer the Application to the South Dennis Historic District Commission or the Old King's Highway Regional Historic Committee. If the Application for Demolition is refused by one of these entities, no further review is necessary. If the Application to demolish is approved, the provisions of this bylaw shall then be followed.
  
4. After receiving an Application for a Demolition permit which may be covered by this bylaw, or having received an approval to Demolish from the South Dennis Historic District or the Old King's Highway Regional Historic District:
  - a. The Commission shall within twenty (20) business days of the receipt of the Application inform the Applicant, the Building Commissioner, and the Town Clerk whether the Building or structure in question is a Significant Building and therefore subject to the hearing process for a determination of whether the Building is Preferably Preserved.
  
  - b. If the Commission's initial determination is in the negative, or if the Commission fails to notify the Applicant, the Building Commissioner and the Town Clerk of its initial determination within the said twenty (20) business days, the Building Commissioner may, subject to the State Building Code and any other applicable law, rules and regulations, issue a Demolition Permit.

- c. If the Commission's initial determination is positive (i.e., that the Building is a Significant Building) and the Commission conforms to the notice requirements set forth above, no Demolition Permit may be issued at this time; and the Commission shall proceed under subparagraph d to notice and conduct a public hearing to determine whether the Significant Building is Preferably Preserved.
- d. The Commission shall, within thirty (30) days of its initial determination that a Building is a Significant Building, conduct a public hearing to determine whether the Significant Building is Preferably Preserved. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in the Town Office and published in a local newspaper not less than ten (10) business days prior to the date of said hearing. Said notice shall identify the street address of the subject Building. A copy of said notice shall be mailed to the Applicant and to the record owner if different from the Applicant, the Building Commissioner and Town Clerk
- e. At the public hearing the Commission shall:
  - i. Take testimony and other evidence regarding whether the proposed Demolition would result in a detrimental loss to the historic or architectural heritage or resources of the Town.
  - ii. Determine, based on the evidence, whether the Significant Building is Preferably Preserved.
  - iii. Determine whether the work to be done will materially diminish the historical or architectural significance of the Significant Building, if less than a complete Demolition or exterior alteration is proposed.
- iv. Explore alternatives to the proposed Demolition.
- f. The Commission shall close the public hearing and make a decision as to whether the Significant Building is Preferably Preserved within fourteen (14) business days of the close of the public hearing, unless the Commission and the Applicant mutually agree, in writing, that the time between the closing the public hearing and making the determination may be extended.
- g. If the Commission determines that the Significant Building is one that is not Preferably Preserved, the Commission shall so notify the Applicant, the Building Commissioner, and the Town Clerk in writing no later than seven (7) business days following the date of the determination. The Building Commissioner may then issue a Demolition Permit.

- h. If the Commission determines that the building is Preferably Preserved, the Commission shall notify the Applicant, the Building Commissioner, and the Town Clerk in writing no later than seven (7) business days after making the determination. No Demolition Permit may then be issued for a period of twelve (12) months from the date the application was received by the Commission, unless otherwise agreed to by the Commission in writing or unless the Commission fails to provide the required notice, and subject to emergency conditions that may be determined to exist by the Building Commissioner under state law.
- i. If the Commission fails to provide the required notice of its determination, within the time period specified then the Building Commissioner may issue a Demolition Permit.
- j. The Building Commissioner may issue a Demolition Permit for a Preferably Preserved Significant Building at any time after receipt of written notice from the Commission stating that the Commission is satisfied that the Applicant has made a reasonable, good faith and continuing but unsuccessful effort to find a way to preserve, rehabilitate, remove or restore the subject Building, including efforts to find a person or entity willing to purchase the Building or structure and undertake rehabilitation, adaptive reuse, preservation, restoration or moving of the Building; and that there is no reasonable likelihood that such a person or entity will be found; or that the Applicant has agreed to accept a Demolition Permit with specific conditions approved by the Commission.
- k. Any person aggrieved by a decision of the Commission under this bylaw may appeal the determination to the Board of Selectmen by filing a written request for review with the Board of Selectmen. The request for review shall be received by the Board of Selectmen and the Town Clerk's Office within seven (7) business days of the date of said Commission's determination and a copy of the request shall be provided to the Applicant, Building Commissioner and the Commission.

The Board of Selectmen shall hold a public hearing and issue its determination within forty-five (45) business days from the date of said Commission's determination. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place at Town Office and published in a local newspaper not less than ten (10) business days prior to the date of the scheduled public hearing. Said notice shall identify the street address of the subject Building. A copy of the public hearing notice shall be mailed to the Applicant and record owner if different from the Applicant, the Building Commissioner and Commission.

#### **§ 61-4. Administration.**

The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw.

#### **§ 61-5. Emergency Demolition.**

No provision of this By-law shall be interpreted or applied so as to conflict with the provisions set forth under G. L. c.143 and the State Building Code, regarding emergency Demolition procedures. The Commission may request the Applicant to provide the Building Commissioner with an independent evaluation from a structural engineer, qualified in evaluating historic structures, as to the structural soundness of the subject Building.

#### **§ 61-6. Enforcement and Remedies.**

1. The Town, by and through the Commission and/or the Building Commissioner shall have the authority to enforce this bylaw.
2. Any person who violates this bylaw by demolishing a Building without first obtaining a Demolition Permit in accordance with the provisions of this bylaw shall be punished by a fine of three hundred dollars (\$300.00). Each day the violation exists shall constitute a separate offense until restoration of the demolished building is completed.
3. If a Significant Building that is unoccupied and not properly secured to the satisfaction of the Building Commissioner is destroyed by fire or other causes, it may be considered voluntary Demolition, in violation of this bylaw.
4. If a Significant Building subject to this bylaw is demolished without first obtaining a Demolition Permit, no Building Permit shall be issued for a period of twelve (12) months from the date of the Demolition on the subject parcel of land unless the building permit is for the reconstruction of the original structure.

**§ 61-7. Historic Districts Act.**

Nothing in this bylaw shall be deemed to conflict with the provisions of the Historic Districts Act, Massachusetts General Law Chapter 40C. If any of the provisions of this law so conflict, that act will prevail.

**§ 61-8. Severability.**

If any section, paragraph or part of this bylaw be for any reason declared invalid or unconstitutional by a court of competent jurisdiction, every other section, paragraph and part shall continue in full force and effect.

**§ 61-9. Authority to Grant Extensions.**

For good cause shown, the Building Commissioner shall have the authority to grant a written extension of the time limits established by this bylaw.