

## Chapter 106

### HISTORIC STRUCTURES

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**[HISTORY: Adopted as indicated in article histories. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Historic District – See Ch. 104.

### ARTICLE 1

#### **Demolition Delay Bylaw for Historically or Architecturally Significant Buildings [Adopted 5-10-2010 Annual Town Meeting, Art. 33]**

##### **§ 106-1. Intent and purpose.**

The Demolition Delay Bylaw is enacted for the purpose of preserving and protecting significant buildings within the Town of Halifax which are outside local historic districts. Such buildings reflect distinctive features of the architectural, cultural, economic, political or social history of the Town, and their preservation promotes the public welfare by making the Town a more attractive and desirable place to live and work. The intent of the bylaw is to provide an opportunity to develop preservation solutions for significant, preferably preserved properties threatened with demolition. The bylaw is intended to encourage owners and townspeople to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them, and to limit the detrimental effect of demolition on the historical architectural resources of the Town. To achieve these purposes, the Halifax Historical District Commission ("the Commission") is empowered to advise the Building Inspector with respect to the issuance of permits for demolition of significant buildings, and, where appropriate and consistent with the intent and purpose of this bylaw, to allow demolition under conditions designed to minimize the loss of distinctive features of significant buildings.

**§ 106-2. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**BUILDING** - A structure enclosed within exterior walls or firewalls, built, erected and framed of a combination of any materials to form a structure for the shelter of persons, animals or property.

**BUILDING INSPECTOR** - The administrative chief of the Building Department who is charged with the administration and enforcement of the State Building Code, 780 CMR, and is authorized to issue demolition permits.

**COMMISSION** - The Halifax Historic District Commission.

**DEMOLITION** - Any act of pulling down, destroying, removing, razing or moving a building or commencing the work of moving or of total or substantial destruction with the intent of completing the same.

**DEMOLITION PERMIT** - The permit issued by the Building Inspector as required by the State Building Code for a demolition, substantial demolition or removal of a building.

**HISTORICALLY OR ARCHITECTURALLY SIGNIFICANT BUILDING** - Any building, in whole or in part, which was built before 1900 and:

- A. Which is listed on, or is a contributing building within an area listed on, the National Register of Historic places, or which is the subject of a pending application for such listing, or is eligible for such listing; or
- B. Is included in the Cultural Resources Inventory prepared by the Commission; or
- C. Has been determined by vote of the Commission to be a significant building after a finding by the Commission that the building meets one or more of the following three criteria:
  - (1) Historical Importance. The building meets the criteria of historical importance if it:
    - (a) Has character, interest or value as part of the development, heritage or cultural characteristics of the Town of Halifax, the Commonwealth of Massachusetts or the nation; or
    - (b) Is the site of an historic event; or
    - (c) Is identified with a person or group of persons who has some influence on society; or

- (d) Exemplifies the cultural, political, economic, social or historic heritage of the community.
- (2) Architectural Importance. The structure meets the criteria of architectural importance if it:
- (a) Portrays the environment of a group of people in an era of history characterized by a distinctive architectural style; or
  - (b) Embodies those distinguishing characteristics of an architectural type, or;
  - (c) Is the work of an architect, master builder or craftsman whose individual work has influenced the development of the Town; or
  - (d) Contains elements of architectural design, detail, materials or craftsmanship, which represents a significant innovation.
- (3) Geographic Importance. The structure meets the criteria of geographic importance if:
- (a) The site is part of, or related to, a square, park, or other distinctive area; or
  - (b) The structure, as to its unique location or its physical characteristics, represents an established and familiar visual feature of the neighborhood, village center, or the community as a whole.

**§ 106-3. Procedure.**

- (A) No permit for the demolition of a significant structure or part thereof shall be issued except as provided in this bylaw, as well as in conformity with the provisions of other laws and ordinances applicable to the demolition of buildings and the issuance of permits generally.
- (B) Application contents: Every application for a demolition shall be filed with the Building Inspector and shall contain the following information:
- (1) The address of the building to be demolished;
  - (2) The owner's name, address and telephone number;
  - (3) A brief description of the type of building and the condition requiring issuance of the permit;
  - (4) Date of building as established by the Board of Assessors, deed or documentation verifying year of construction; and

- (5) A brief description of the proposed reuse, reconstruction or replacement on the premises upon which the building is located.
- (C) Within seven (7) working days from receipt of any application for a demolition permit, the Building Inspector shall forward a copy to the Commission. No demolition permit shall be issued during this time.
- (D) Within ten (10) working days after receipt of the application for demolition permit by the Commission, the Commission or its designee shall make a determination of architectural and/or historical significance. Upon determination by the Commission that the building is not architecturally and/or historically significant, the Commission shall so notify the Building Inspector in writing. Upon receipt of such notification, or after the expiration of fifteen (15) working days from the date of submission to the Commission, if the Building Inspector has not received notification from the Commission, the Building Inspector may issue the demolition permit.
- (E) Upon determination by the Commission that the building is historically and/or architecturally significant, the Building Inspector and applicant shall be so notified in writing and a demolition permit shall not be issued. The Commission shall hold a public hearing within thirty (30) days of the determination of significance to determine whether the building should be preferably preserved. Public notice of the time, place and purpose of the hearing shall be published by the Building Department at the expense of the applicant in a newspaper of general circulation in the Town not less than seven (7) days before the day of said hearing and shall be posted in a conspicuous place in the Town Hall for a period of not less than seven (7) days before the day of said hearing.
- (F) If after a public hearing the Commission determines that the significant building should not be preferably preserved, the Commission shall notify the Building Inspector, in writing within five (5) working days of the hearing, and the Building Inspector may issue a demolition permit upon receipt of the written decision.
- (G) If after a public hearing the Commission determines that the significant building should be preferably preserved, the Commission shall so notify the Building Inspector in writing within five (5) working days of the hearing, and no demolition permit may be issued until six (6) months after the date of the determination by the Commission.
- (H) Notwithstanding anything contained in Subsection G, the Building Inspector may issue a demolition permit for a preferably preserved building at any time after receipt of written advice from the Commission to the effect that either:
- (1) The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building; or

(2) The Commission is satisfied that for at least six (6) months the owner has made continuing, bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate or restore the subject building, and that such efforts have been unsuccessful.

(I) Any building or buildings which are located outside the Historical District which were built before the year 1900 are subject to the definition of “historically or architecturally significant building in § 106-2 of this bylaw. The owner of a building or buildings built before the year 1900 which are located outside the Historical District is required to obtain a determination from the Historical District Commission as to whether or not the building or buildings meet the criteria of the definition of “historically or architecturally significant building” in § 106-2 of the Demolition Bylaw before obtaining a demolition permit. The owner may seek this determination at any time by meeting with the Historic District Commission or submitting a request for determination in writing to the Historic District Commission. If the Historic District Commission determines that the building or buildings do not meet the criteria of the definition of “historically or architecturally significant building” in § 106-2, the owner may then register such determination for the building or buildings with the Building Inspector. In so registering, the Building Inspector may then issue a demolition permit at any time upon request by the owner for the building or buildings.

#### **§ 106-4. Responsibility of owners.**

Once a significant building is 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 so secure the building, a subsequent destruction of the building at any time during the six-month demolition delay period, which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of this bylaw.

#### **§ 106-5. 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 shall inspect the building 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 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 bylaw 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.

**§ 106-6. Enforcement and remedies.**

- A. The Commission is authorized to adopt rules and regulations to carry out its duties and functions under this bylaw.
- B. 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 bylaw or to prevent a threatened violation thereof.
- C. No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this bylaw 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 significant building was located and all adjoining parcels of land under common ownership or control.
- D. (Reserved)
- E. 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 bylaw better serves the intent and purpose of this bylaw, it may, prior to the expiration of said period of two years, authorize issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this bylaw, and may so notify the Building Inspector pursuant to § 106-3H of this bylaw.

**§ 106-7. Historic District Act.**

Nothing in this bylaw shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this bylaw do so conflict, that Act shall prevail.

**§ 106-8. Severability.**

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