

## ARTICLE XXVIII

### DEMOLITION DELAY OF HISTORICALLY SIGNIFICANT BUILDINGS, STRUCTURES OR SITES

[ATM 4/14/2004](#)

#### SECTION 1. INTENT AND PURPOSE

This Bylaw is adopted for the purpose of protecting the historic and aesthetic qualities of the Town of Sudbury by preserving, rehabilitating or restoring, whenever possible, buildings, structures or archeology sites which constitute or reflect distinctive features of the architectural or historic resources of the Town, thereby promoting the public welfare and preserving the cultural heritage and character of the Town of Sudbury.

The intent of this Bylaw is to provide an opportunity to develop preservation solutions for properties threatened with demolition; and to allow the owner, the Sudbury Historical Commission and other appropriate Town departments time to find grants or some person or group willing to purchase, preserve, rehabilitate or restore the building or structure.

#### SECTION 2. DEFINITIONS

For the purposes of this Bylaw the following words and phrases have the following meanings:

SHC – the Sudbury Historical Commission

Demolition Permit – the permit issued by the Building Inspector as required by the state building code for the demolition, partial demolition or removal of a building or structure.

Historically Significant Building, Structure or Archeology Site - one which is (1) importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town, the Commonwealth of Massachusetts or the United States of America; or (2) is historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures.

#### SECTION 3. REGULATED BUILDINGS AND STRUCTURES

The provisions of this Bylaw shall apply only to the following buildings or portion thereof or structures: (1) a building or portion thereof, structure or archeology site listed on the National Register of Historic Places or the State Register of Historic Places, or the subject of a pending application or listing on either of said Registers; or (2) a building or portion thereof, structure or archeology site located within 200 feet of the boundary line of any federal, state or local historic district; or (3) a building or portion thereof, structure or archeology site included in the Inventory of the Historic and Prehistoric Assets of the Commonwealth, or designated by the SHC for inclusion in said Inventory; homes listed in the "Old Homes Survey" of the SHC plus those structures or portion thereof constructed prior to January 1, 1940 town-wide or any building or portion thereof or structure of indeterminate age. Notwithstanding the preceding sentence, the provisions of this Bylaw shall not apply to any building or portion thereof or

structure located in a local historic district and subject to regulation under the provisions of Chapter 40C of the Massachusetts General Laws.

#### SECTION 4. PROCEDURE

- (1) The Building Inspector shall forward a copy of each demolition permit application for a building or structure identified in SECTION 3 of this Bylaw to the SHC within five (5) business days after the filing of such application, and shall notify the applicant in writing of this action. No demolition permit shall be issued at this time.
- (2) Within thirty (30) business days after its receipt of such application, the SHC shall schedule with the applicant a site inspection for the SHC to assist in its determination if a building or portion thereof, or structure is historically significant.
- (3) If the SHC determines that the building or structure is not historically significant, it shall so notify the Building Inspector and the applicant in writing and the Building Inspector may issue a demolition permit. If the SHC determines that the building or structure is historically significant, it shall notify the Building Inspector and the applicant in writing that a demolition plan review must be made prior to the issuance of a demolition permit. If the SHC fails to notify the Building Inspector of its determination within thirty (30) business days of the site inspection, then the building or structure shall be deemed not historically significant and the Building Inspector may issue a demolition permit.
- (4) Within sixty (60) days after the applicant is notified that the Commission has determined that a building or structure is historically significant, the applicant for the permit shall submit to the SHC 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 with reference to lot lines and the neighboring buildings and structures; (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 (v) a brief description of the proposed reuse of the parcel on which the building or structure to be demolished is located.
- (5) Not later than thirty (30) business days of receipt of such plan, the SHC shall hold a public hearing with respect to the application of a demolition permit, and shall give public notice of the time, place and purposes thereof at least fourteen (14) days before the said hearing in the local newspaper and by mailing, postage prepaid, a copy of such notice to the applicant, to the owners of all adjoining property and other property deemed by the SHC to be materially affected, to the Selectmen, Planning Board, Zoning Board and to such other persons as the SHC shall deem entitled to notice. The Commission shall determine that a building or structure should preferably be preserved only if it finds that the building or structure is an historically significant building or structure which, because of the importance made by such building or structure to the Town's historical and/or architectural resources, it is in the public interest to preserve, rehabilitate or restore (as defined in SECTION 3).
- (6) If, after the public hearing, the SHC determines that demolition of the property or any

part thereof, would be detrimental to the historical or architectural heritage or resources of the Town, such building or structure shall be considered to be a preferably preserved building, and the SHC shall file with the Building Inspector and the applicant within thirty (30) days of the hearing thereon a written report on the demolition plan which shall include the following: (i) a description of the age, architectural style, historic association and importance of the building or structure to be demolished; (ii) a determination as to whether or not the building or structure should preferably be preserved and no demolition permit shall be issued until six (6) months after the date of such determination by the Commission.

- (7) The SHC shall also notify the Massachusetts Historical Commission, Town Planner, Town Manager, 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 SHC 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.
- (8) Once a building or portion thereof or a structure has been designated to a preferably preserved status, the owner shall be responsible for properly securing the building or structure to the satisfaction of the Building Inspector. Should the owner fail to secure the building or structure, the loss of such through fire or other cause shall be considered voluntary demolition and all non-compliance penalties shall pertain .

#### SECTION 5. 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 or structure 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 SHC 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 the 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 or 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 the provision of this SECTION 5, 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 SHC. Nothing in this SECTION 5 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 3 of this Bylaw, the Building Inspector shall request the Chairman of the SHC or his designee to accompany that Board of Survey during its

inspection. A copy of the written report prepared as a result of such inspection shall be filed with the SHC.

#### SECTION 6. NON COMPLIANCE

Anyone who demolishes a building or structure identified in SECTION 3 of this Bylaw without first obtaining, and complying fully with the provision of, a demolition permit, shall be subject to a fine of three hundred dollars (\$300.00). In addition, unless a demolition permit was obtained for such demolition, and unless such a permit was fully complied with, the Building Inspector shall not issue a building permit pertaining to any parcel on which a building or structure identified in SECTION 3 of this Bylaw has been demolished for a period of five (5) years after the date of demolition.

As determined by the SHC, a building permit may be issued at any time for new construction after the six months delay, but within the 5-year period as described in Section 6, which would replicate the exterior of the demolished significant structure, including but not limited to use of materials, design, dimensions, massing, arrangement of architectural features and execution of decorative details.

#### SECTION 7. APPEALS TO SUPERIOR COURT

Any person aggrieved by a determination of the SHC may, within sixty days, in accordance with M.G.L. c.249, s.4, after the filing of the notice of such determination with the Building Inspector, appeal to the superior court for the Middlesex County. The court shall hear all pertinent evidence and shall annul the determination of the SHC if it finds the decision of the Commission to be unsupported by the evidence or exceed the authority of the Commission or may remand the case for further action by the SHC or make such other decree as justice and equity require.

#### SECTION 8. SEVERABILITY

In case any section, paragraph or part of this Bylaw is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part of this Bylaw shall continue in full force and effect.