

ARTICLE:

To see if the Town will vote to amend the General By-laws by adding a Demolition Delay By-law. This By-law is enacted for the purpose of preserving and protecting significant buildings within the Town, which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town.

Chapter __ Demolition Delay

Section 1. Intent and Purpose.

This by-law is enacted for the purpose of preserving and protecting significant buildings within the Town, which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town. Through this by-law, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the town are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this by-law promotes the public welfare by making the town a more attractive and desirable place in which to live and work. To achieve these purposes the Historic Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this by-law.

Section 2. Definitions.

APPLICANT – Any person or entity that files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

APPLICATION – An application for the demolition of a building.

BUILDING – Any combination of materials forming a shelter for persons, animals, or property.

BUILDING INSPECTOR - The person occupying the office of Building Inspector or otherwise authorized to issue demolition permits.

COMMISSION – The Manchester-by-the-Sea Historic Commission or its designee.

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

DEMOLITION PERMIT – The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

PREFERABLY PRESERVED – Any significant building, which the Commission determines, following a public hearing that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the nine (9) month demolition delay period of this by-law.

SIGNIFICANT BUILDING – Any building within the town which is in whole or in part at least seventy-five (75) years old and/or which has been previously determined by the Commission or its designee to be significant based on any of the following criteria:

- a. The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
- b. The Building has been found eligible for the National Register of Historic Places; or
- c. 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 or the Commonwealth; or
- d. The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

Section 3. Procedures.

No demolition permit for a significant building shall be issued without following the provisions of this by-law. If it cannot be determined with reasonable certainty that the building or any part thereof is less than seventy-five (75) years old, it shall be presumed that the building is at least seventy-five (75) years old for the purpose of this by-law.

An applicant proposing to demolish a building subject to this by-law shall file with the Building Inspector an application in duplicate containing the following information:

- a. The address of the building to be demolished.
- b. The owner's name, address and telephone number.
- c. A description of the building, including the known date or dates of construction.
- d. The reason for requesting a demolition permit.
- e. A brief description of the proposed reuse, reconstruction or replacement.
- f. A photograph or photographs of the building.

The Building Inspector shall within seven (7) days forward a copy of the application to the Commission. The Commission shall within thirty (30) days after receipt of the application, make a written determination of whether the building is historically significant.

Upon determination by the Commission that the building is not historically significant, the Commission shall so notify the Building Inspector and applicant in writing. The Building Inspector may then issue the demolition permit.

Upon determination by the Commission that the building is historically significant, the Commission shall so notify the Building Inspector and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building Inspector within thirty (30) days of receipt of the application, the Building Inspector may proceed to issue the demolition permit.

If the Commission finds that the building is historically significant, it shall hold a public hearing within thirty (30) days of the written notification to the Building Inspector. Public notice of the time, place and purpose of the hearing shall be posted in a

conspicuous place in town hall for a period of not less than seven (7) days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within fourteen (14) days after the close of the public hearing whether the building should be preferably preserved. The Commission may continue the public hearing as is reasonably necessary to acquire information relevant to its decision. If agreed to in writing by the applicant, the Commission may extend the fourteen (14) day period for issuing a decision.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Inspector and applicant in writing. The Building Inspector may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Inspector and applicant in writing. No demolition permit may then be issued for a period of nine (9) months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Inspector in writing within twenty-one (21) days of the close of the public hearing, the Building Inspector may issue the demolition permit.

Upon a determination by the Commission that any building that is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of nine (9) months from the date of the determination unless otherwise agreed to by the Commission.

The Building Inspector may issue a demolition permit or a building permit for a preferably preserved building within the nine (9) months if the Commission notifies the Building Inspector in writing that the Commission finds that the intent and purpose of this by-law is served even with the issuance of the demolition permit or the building permit.

Following the nine (9) month delay period, the Building Inspector shall issue the demolition permit.

Section 4. Administration.

The Commission may adopt such rules and regulations as are necessary to administer the terms of this by-law. The commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this by-law. The Commission may proactively develop a list of significant buildings that will be subject to this by-law. Buildings proposed for the significant building list shall be added or subtracted following a public hearing and a simple majority vote by the Commission.

If after an inspection, the Building Inspector finds that a building subject to this by-law poses an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building or

structure, then the Building Inspector may issue an emergency demolition permit to the owner of the building or structure. The Building Inspector shall then prepare a report explaining the condition of the building and the basis for his decision, which shall be forwarded to the Commission.

Section 5. Enforcement and Remedies.

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 person who demolishes or authorizes the demolition of a building subject to this by-law without first obtaining a demolition permit in accordance with the provisions of this by-law shall be subject to a fine of not more than Three Hundred Dollars (\$300). Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission.

If a building subject to this by-law is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two (2) years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

Section 6. Historic District Act.

Following a determination that the building is significant and preferably preserved, the Commission may recommend to town meeting that the building be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic Districts Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a local historic district. Nothing in this by-law 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 by-law do so conflict, the act shall prevail.

Section 7. Severability.

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

Per petition of the Historic District Commission/Historic Commission