

DEMOLITION DELAY BYLAW

Adopted: Annual Town Meeting May 5, 2014

Effective: July 2, 2014

ARTICLE 26: To see if the Town will vote to adopt the following General Bylaw, or take any other action relative thereto:

Section 1: Intent and Purpose. This bylaw is adopted for the purpose of protecting and preserving significant structures which constitute or reflect distinctive features of the history, architecture, and/or the character of the Town of Sheffield. Through this bylaw the Town desires to encourage owners, and others, to preserve, rehabilitate, or restore such significant structures rather than demolishing, removing or altering them.

Section 2: Definitions. For the purpose of this bylaw, the following words and phrases shall have the following meanings:

A. Structure: any edifice, object or building of any kind that is constructed or erected and requires permanent location on the ground, or attachment to an object with permanent location on the ground, not including wheels.

B. Commission: the Sheffield Historical Commission.

C. Demolition: any act of pulling down, destroying, removing or razing a structure, or portion thereof, or commencing the work of destruction with the intent of completing the same.

D. Demolition Permit: the permit issued by the Building Commissioner, (herein after Building Inspector), as required by the State Building Code for the demolition or partial demolition or removal of a structure from its lot, or moving the structure on its lot.

E. Preferably Preserved: any significant structure which the Commission determines is in the public interest, (architectural, cultural or economic), to be preserved or rehabilitated rather than demolished. A preferably preserved structure is subject to the demolition delay period of this bylaw.

F. Permit: written authorization from the Building Inspector that will allow or disallow a particular action with respect to construction and/or demolition.

G. Significant Structure: The Commission shall determine that a structure be designated as a significant structure if it meets one or more of the following:

1. *National Register of Historic Places*: the structure is listed on, is within an area listed on or is the subject of a pending application for listing on the National

Register of Historic Places.

2. *Historical Importance*: the structure meets the criteria of historical importance if it meets one or more of the following:
 - a. has character, interest or value as part of the development, heritage or cultural characteristics of the town of Sheffield, the Commonwealth of Massachusetts or the nation;
 - b. is the site of an historic event;
 - c. is identified with a person or group of persons who had some influence on society;
 - d. exemplifies the cultural, political, economic, social or historic heritage of the community.
3. *Architectural Importance*: the structure meets the criteria of architectural importance if it meets one or more of the following:
 - a. portrays the environment of a group of people in an era of history characterized by a distinctive architectural style;
 - b. embodies those distinguishing characteristics of an architectural type; is the work of an architect, master builder or craftsman whose individual work has influenced the development of the Town; contains elements of architectural design, detail, materials or craftsmanship which represent a significant innovation.
4. *Geographic Importance*: the structure or site meets the criteria of geographic importance if either:
 - a. the site is part of, or related to, a square, park or historically 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.
5. *Age*: the structure is known or estimated by the Commission to be at least one hundred, (100), years old in whole or in part.

Section 3: Required Review Procedure

No permits for demolition of a significant structure, as determined under Section 2, Definitions, shall be issued without following the provisions of this bylaw.

An applicant proposing to demolish a structure subject to this bylaw shall file with the

Building Inspector an application containing the following information:

- a. address of the structure to be demolished.
- b. owner's name, address and telephone number.
- c. description of the structure.
- d. reason(s) for requesting a demolition permit,
- e. brief description of the proposed reuse, reconstruction or replacement.
- f. photograph(s) of the structure.

The Building Inspector, upon receipt of an application for demolition of a structure subject to this bylaw, shall within the next seven (7) business days forward a copy of each such application for a demolition permit to (or shall satisfy himself that a duplicate of such application has been submitted to) the Historical Commission. No demolition permit shall be issued at that time.

Within the next ten (10) business days from receipt of the application for a permit from the Building Inspector, the Commission shall make a determination as to whether the structure is significant. The Commission shall make its determination either in a public meeting of members or through use of a predetermined Significant Structures List developed and maintained through processes determined by the Commission. If the Commission determines the structure to not be significant, the Commission shall notify the Building Inspector in writing within five (5) business days and the permit may be granted. If the Commission determines the structure to be significant, the permit will be held in abeyance until the Commission holds a public hearing and determines if the significant structure is preferably preserved.

Within thirty (30) days of determination by the Commission that a structure for which a demolition permit has been requested is a significant structure, a public hearing shall be held by the Commission to determine if the structure is preferably preserved. Notice of the public hearing shall be published in a local newspaper two (2) weeks in advance of the hearing and all abutters notified in writing at the same time.

If, after such hearing, the Commission determines that the demolition of the structure would not be detrimental to the historical, geographical or architectural heritage or resources of the Town, the Commission shall so notify the Building Inspector within ten (10) business days of such determination. Upon receipt of such notification, or after the expiration of ten (10) business days from the date of the conclusion of the hearing if he has not received notification from the Commission, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.

If the Commission determines that the demolition of the structure would be detrimental to the historical, geographical or architectural heritage or resources of the Town, such structure shall be considered a preferably preserved significant structure Upon such

determination by the Commission, no permit for demolition, new construction or alterations to the subject structure shall be issued for a period of twelve (12) months from the date of receipt of the permit request by the Building Inspector unless otherwise agreed to by the Commission.

No permit for demolition of a structure determined to be a preferably preserved structure in order to build a new structure(s) shall be granted until all approvals necessary for the issuance of permits for new structure(s), including any necessary zoning variances or special permits, are granted and all appeals concluded.

The Building Inspector may issue a demolition permit for a preferably preserved structure within the twelve (12) months delay only if the Commission notifies the Building Inspector in writing that the Commission finds the intent and purpose of this bylaw is served even with the issuance of the demolition permit.

Following the twelve (12) month delay period, the Building Inspector may issue the demolition permit. If demolition does not occur within twenty-four (24) months of the permitted date, the permit will expire.

Section 4: Administration.

The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw. The Commission may delegate authority to make initial determinations of significance to no fewer than 2 members of the Commission or to a municipal employee. The Commission may develop a list of significant structures that will be subject to this bylaw. Structures proposed for the significant structure list shall be added following a public hearing.

Section 5: Emergency Demolition:

If after an inspection, the Building Inspector finds a structure subject to this bylaw to pose 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 structure, the Building Inspector may issue an emergency demolition permit to the owner of the 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 within seven (7) days.

Section 6: Enforcement and Remedies:

The Commission and/or the Building Inspector each are specifically authorized as enforcing persons 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, including, but not limited to non-criminal disposition pursuant to MGL c.40 §21D and Articles of the General Bylaw.

Any owner of a structure subject to this bylaw who demolishes a structure without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of Three Hundred Dollars (\$300.00). Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished structure is completed, or unless otherwise agreed to by the Commission.

If a structure subject to this bylaw 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 unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

Section 7: Historic District Act:

Following a determination that a structure is significant and preferably preserved, the Commission may recommend to Town meeting that the structure 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 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. Structures included within the boundaries of a local historic district established under M.G.L Chapter 40C shall not be subject to this bylaw so long as the proposed demolition is regulated by the local historic district bylaw.

Section 8: Appeal:

Appeals from decisions or determinations of the Commission following a Public Hearing may be made by the applicant(s) or the abutter(s) to the courts under the certiorari statute, MGL c.249, Section 4.

Section 9: 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.