

Final

Scituate Historical Commission

Demolition Review By-Law

I. Intent and purpose.

The Demolition Review By-Law is enacted for the purpose of preserving and protecting significant historical buildings within the Town of Scituate that 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.

The intent of this By-Law is not to permanently prevent demolition, but rather to provide an opportunity to develop preservation solutions for properties threatened with demolition.

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, 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 Scituate Historical Commission is authorized to advise the Building Inspector with respect to the issuance of demolition permits that are regulated as provided by this By Law.

II. Definitions.

APPLICANT - Any person or entity who 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, BUILDING PERMIT for DEMOLITION- An application submitted to the Building Inspector for the demolition of a building.

APPLICATION, DEMOLITION PERMIT REVIEW – An application submitted to the Historical Commission for Demolition Permit Review of a building 100 years of age or older.

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 Scituate Historical Commission or its designee.

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

DEMOLITION PERMIT - The permit issued by the Building Inspector for a demolition, substantial demolition or removal of a building, excluding a demolition permit issued solely for the demolition of the interior of a building.

SIGNIFICANT BUILDING - A building determined by the Commission or its designee to be significant based on any of the following criteria:

- A. The Building is listed on the National Register of Historic Places.
- B. The Building has been found eligible for the National Register of Historic Places.
- 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 of Scituate or the Commonwealth of Massachusetts or the nation.

PREFERABLY PRESERVED SIGNIFICANT BUILDING - Any significant building that the Commission determines, following a public hearing, is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the twelve-month demolition delay period.

III. Procedure.

A. No demolition permit for a building that is in whole or in part 100 or more years old shall be issued without following the provisions of this chapter. If a building is of unknown age, it shall be assumed that the building is over 100 years old for the purposes of this By Law. Buildings identified by FEMA (Federal Emergency Management Agency) in the FIRM Velocity Zone in the Town of Scituate shall be exempt from this By-Law.

B. After reviewing an application for a Building Permit for demolition, if the Building Inspector determines the building in whole or in part is 100 years of age or older, he shall provide the applicant with a Demolition Review Application.

C. The applicant shall submit the completed Demolition Review Application to the Historical Commission.

D. The Commission shall, within 15 business days after receipt of the application, make a determination of whether the building is significant.

E. Upon determination by the Commission that the building is not significant, the Commission shall so notify the Building Inspector and applicant in writing within seven (7) days. The Building Inspector may then issue the demolition permit.

F. Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Inspector and applicant in writing with reasons for the determination. No demolition permit

may be issued at this time. If the Commission does not notify the Building Inspector within the specified time period, the Building Inspector may issue the demolition permit.

G. If within seven days (7) the Commission finds that the building is significant; it shall hold a public hearing within 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 days prior to the date of said hearing, and the applicant and Building Inspector shall be notified in writing of the meeting time and place.

H. The Commission shall decide at the public hearing or within 14 days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed. If agreed to in writing by the applicant, the public hearing may be continued at a later date.

I. If the Commission determines that the building should not be preferably preserved, the Commission shall so notify the Building Inspector and applicant in writing within seven (7) days. The Building Inspector may then issue the demolition permit.

J. If the Commission determines that the building should be preferably preserved, the Commission shall notify the Building Inspector and applicant in writing. No demolition permit may be issued for a period of 12 months from the date of the filing unless otherwise agreed to by the Commission. If the Commission does not notify the Building Inspector within 21 days of the public hearing, the Building Inspector may issue the demolition permit.

K. No permit for demolition of a building determined to be preferably preserved shall be granted until all plans for future use and development of the site have been filed with the Building Inspector and have been found to comply with all laws pertaining to the issuance of a building permit a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this By Law.

L. The Building Inspector may issue a demolition permit or building permit for a preferably preserved building within 12 months if the Commission notifies the Building Inspector in writing that the commission finds that the intent and purpose of this chapter is served even with the issuance of the demolition permit or the building permit.

M. Following the twelve-month delay period, the Building Inspector may issue the demolition permit.

IV. Administration.

A. The Commission may adopt procedures necessary to administer the terms of this By-Law.

B. The Commission shall recommend to the Board of Selectmen a schedule of reasonable fees to cover the costs associated with the administration and review of any application that is filed under this By Law.

C. The Commission may delegate authority to one or more members of the Commission and/or may delegate authority to municipal staff, initial determination of preferable preserved, however final determination as to whether the building shall be designated as preferably preserved shall rest with the Commission.

D. The Commission may pro-actively develop a list of significant buildings that will be subject to this chapter. Buildings proposed for the significant building list shall be added following a public hearing.

V. Responsibility of owners.

A. It shall be the responsibility of the owner of record or his designee to assist in the facilitation of the above process by providing information, allowing access to the property, and securing the premises; to participate in the investigation of preservation options and to actively cooperate in seeking alternatives with the Commission and any interested parties.

VI. Emergency demolition.

A. Nothing in this chapter shall restrict the Building Inspector from immediately ordering the demolition of unsafe structures in accordance with the provisions of Massachusetts General Laws Chapter 143.

B. Whenever the Building Inspector issues an emergency demolition permit under this Section he shall prepare a report describing the condition of said building or structure and the basis of the decision to issue an emergency demolition permit and provide a copy thereof to the Commission.

C. If after an inspection, the Building Commissioner finds that the building subject to this bylaw is found to be unsafe, as provided under Massachusetts State Building Code, the Building Commissioner may issue a demolition permit or take whatever other action deemed necessary to protect the public safety. The Building Commissioner shall inform the Commission forthwith of the issuance of any such emergency demolition permits.

VII. Enforcement and remedies.

A. 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.

B. Any owner of a building demolished without first obtaining a demolition permit in accordance with the provisions of this By-Law shall be subject to a fine of \$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.

C. If a building is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two 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 otherwise agreed to by the Commission.

VIII. Historic District Act.

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, that act shall prevail.

IX. Severability.

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

X. Economic Hardship

A. Any owner may submit information regarding economic hardship in cases where the application of the By-Law would cause significant economic hardship to the owner. This information will be used in determining the preferably preserved status of a historic structure.