

**DEMOLITION DELAY BYLAW  
FOR STRUCTURES OF HISTORICAL OR ARCHITECTURAL SIGNIFICANCE**

SECTION 1	POLICY
SECTION 2	PURPOSES
SECTION 3	DEFINITIONS
SECTION 4	PROCEDURE
SECTION 5	STANDARDS FOR DESIGNATION AS A SIGNIFICANT STRUCTURE
SECTION 6	DEMOLITION
SECTION 7	EMERGENCY DEMOLITION
SECTION 8	ENFORCEMENT AND REMEDIES
SECTION 9	SEVERABILITY

**SECTION 1 POLICY**

Finding that the economic, cultural and aesthetic standing of the Town of Rowley can best be maintained and enhanced by due regard for the historical and architectural heritage of the Town and by striving to discourage the destruction of such cultural assets, it is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of structures of historical and architectural significance, located within the Town of Rowley, is a public necessity, and is required in the interest of the prosperity, civic pride and general welfare of the people.

**SECTION 2 PURPOSES**

The purposes of this Bylaw are to:

- Designate, preserve, protect, enhance and perpetuate those structures and sites within the Town that reflect outstanding elements of the Town's cultural, artistic, social, economic, political, architectural, historic or other heritage;
- Foster civic pride in the vestiges and accomplishments of the past;
- Stabilize or improve the aesthetic and economic vitality and values of such structures and sites;
- Protect and enhance the Town's attraction to tourists and visitors;
- Promote the use of historical or architectural structures and sites for the education and welfare of the people of the Town;
- Promote good urban design including the perpetuation of related private open spaces;
- Promote and encourage continued private ownership and utilization of such structures and sites now so owned and used: and
- Provide owners of significant structures with time to consider alternatives to demolition.

**SECTION 3 DEFINITIONS**

The provisions of this bylaw shall be liberally construed to affect the purposes expressed or implied in Section 2. Definitions of the following words and phrases shall be construed and understood according to their common and usual meaning unless the contrary is clearly indicated:

- "*Commission*" - The Rowley Historical Commission
- "*Demolition*" - Any act of pulling down, destroying, removing or razing a structure or portion thereof, or commencing the work of total or substantial destruction with the intent of completing the same.

- "Demolition Permit" - A permit issued by the Building Inspector under the State Building Code for the demolition of a building or structure.
- "Historical Commission Demolition Permit" - A permit or determination issued by the Historical Commission pursuant to this by-law determining that a building or structure is or is not a significant structure and that a demolition permit may or may not be issued.
- "Significant Structure" - A structure or site found by the Rowley Historical Commission to contribute to the historical or architectural heritage or resources of the Town pursuant to Section 5 of this Bylaw.
- "Structure" - Any edifice, object or building of any kind that is constructed or erected and requires more or less permanent location on the ground or attachment to an object with permanent location on the ground, not including wheels.

#### SECTION 4 PROCEDURES

- 4.1 No permit for demolition of a significant structure shall be issued except as provided in this bylaw.
- 4.2 Every application for a demolition permit shall be preceded by an application for a Historical Commission Demolition Permit and submitted to the Historical Commission, on a form provided by the Historical Commission. The application shall be signed by the owner or the owner's agent under the power of attorney. Every application shall include such locational information, plans and narrative description and justification of the proposed demolition as shall be required under Historical Commission rules and regulations for such applications.
- 4.3 Within thirty-five (35) days of the Commission's receipt of a copy of the application for a Historical Commission Demolition Permit, the Commission shall hold a public hearing on such application, and shall make a determination as to whether the structure is a *significant structure* under one or more of the criteria set forth in Sections 5. The Commission shall give written notice of the time and place of the hearing, not less than seven (7) days prior to the hearing, to the owner by certified mail, to abutters and parties in interest by mail, and by posting and by publication once in a local newspaper. The Commission may conduct a site visit prior to the hearing.
- 4.4 If, within thirty-five (35) days of the Commission's receipt of a copy of an application for a permit, no public hearing has been held, or if within fourteen (14) days following the close of the public hearing no finding by the Commission has been filed with the Building Inspector, the applicant may submit a demolition application to the Building Inspector, who may, subject to the requirements of the Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.
- 4.5 If after holding a public hearing the Commission shall determine that the structure is not a *significant structure* because it fails to meet one or more of the criteria set forth in Section 5, or if the Commission shall determine that the structure is a *significant structure* meeting one or more of the criteria set forth in Section 5, but that the proposed demolition would not be detrimental to the historical or architectural heritage or resources of the Town of Rowley, then the Commission shall notify the applicant and the Building Inspector in writing of its findings within fourteen (14) days of said determination. Upon receipt of such notification, or upon expiration of said fourteen (14) days without such notice, the Applicant may submit an application for a demolition Permit to the Building Inspector, who may issue a demolition permit, subject to the requirements of the Building Code and any other applicable laws, bylaws, rules and regulations.



- 4.6 If, after such hearing, the Commission determines that the structure is a *significant structure* and that the proposed demolition would be detrimental to the historical or architectural heritage or resources of the Town, then it shall file written notice with findings, of its determination to the applicant and the applicant shall not file an application for a Demolition Permit and no Demolition Permit shall be issued until nine (9) months after the date of such determination by the Commission.

## SECTION 5 STANDARDS FOR DESIGNATION AS A SIGNIFICANT STRUCTURE

- 5.1 The Historical Commission shall determine that a structure will be designated as a *significant structure* if it meets one or more of the following criteria:

- It is listed on, or is within an area listed on, the National Register of Historic Places, or is the subject of a pending application for listing on said National Register, or; the Commission determines that the structure meets one or more of the following three criteria:

- a. **Historical Importance:** The structure meets the criteria of historical importance if it:

1. Has character, interest or value as part of the development, heritage or cultural characteristics of the Town of Rowley, the Commonwealth of Massachusetts or the Nation, or;
2. Is the site of an historic event, or;
3. Is identified with a person or group of persons who had some influence on society, or;
4. Exemplifies the cultural, political, social or historic heritage of the community,
5. Any structure, in whole or in part, which is at least 75 years old, or is of unknown age and is included in the Cultural Resources Inventory prepared by the Commission.

- b. **Architectural Importance.** The structure meets the criteria of architectural importance if it:

1. Portrays the environment of a group of people in an era of history characterized by a distinctive architectural style, or;
2. Embodies these distinguishing characteristics of an architectural type, or;
3. Is the work of an architect, master builder or craftsmen whose individual work has influenced the development of the town of Rowley, or;
4. Contains elements of architecture design, detail, materials of craftsmanship which represents a significant innovation.

- c. **Geographic Importance.** The structure meets the criteria of geographic importance if:

1. The site is part of, or related to, a square, park, or other distinctive area, or;
2. 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.

## SECTION 6 DEMOLITION

Notwithstanding the provisions of Section 4, the Building Inspector may issue a demolition permit for a *significant structure* under any of the following circumstances:

General Bylaws of the Town of Rowley, MA  
With revisions through May 18, 2009 ATM

- 6.1 If at any time, after inspection, the Building Inspector shall determine that the structure poses an imminent threat to the public health or safety of the community under Section 7, and so advises the Commission in writing, or;
- 6.2 The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is or will be willing to purchase, preserve, rehabilitate or restore such structure, and so advises the Building Inspector in writing, or;
- 6.3 The Commission is satisfied that the owner has made continuing bona fide and reasonable efforts to locate a purchaser who would be willing to preserve, rehabilitate and restore the subject structure but that such efforts have been and will continue to be unsuccessful, and so advises the Building Inspector in writing.

## **SECTION 7 EMERGENCY DEMOLITION**

- 7.1 If a structure poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such structure may request issuance of an emergency demolition permit from the Building Inspector.
- 7.2 Upon receipt of any application for an emergency demolition permit, the Building Inspector shall immediately transmit a copy thereof to the Rowley Historical Commission.
- 7.3 The Building Inspector shall inspect the structure with a team consisting of the Inspector, Fire Chief, Historical Commission Chair and two (2) other members of the Commission selected by the Chair, or the designees of said officials.
- 7.4 Within 5 days after inspection of the structure, and after consultation with other members of the inspection team, the Building Inspector shall determine: 1) whether the condition of the structure represents a serious and imminent threat to public health and safety, and; 2) whether there is any reasonable alternative to the immediate demolition of the structure which would protect public health and safety.
  - (a) If the Building Inspector finds:
    - 1) that the condition of the structure poses a serious and imminent threat to public health and safety, and;
    - 2) that there is no reasonable alternative to the immediate demolition of the structure, then the Building Inspector may issue an emergency demolition permit to the owner of the structure.
  - (b) If the Building Inspector finds:
    - (1) that the condition of the structure does not pose a serious and imminent threat to public health and safety, and/or;
    - (2) that there are reasonable alternatives to the immediate demolition of the structure which would protect public health and safety, then the Building Inspector may refuse to issue an emergency demolition permit to the owner of the structure.
- 7.5 Upon issuing an emergency demolition permit under the provisions of this section, the Building Inspector shall submit a brief written report to the Commission describing the condition of the structure and the basis for his/her decision to issue an emergency demolition permit. Nothing in this section shall be inconsistent with the procedure for demolition and/or securing buildings and structures established by the Building Code or G.L.c. 143, Sections 6-11.

## **SECTION 8 ENFORCEMENT AND REMEDIES**

The following enforcement and remedies shall apply under this bylaw:



8.1 The Historical Commission is authorized to adopt rules and regulations to carry out its duties and functions under this bylaw.

8.2 The Commission and the Building Inspector are each authorized to institute any and all proceedings in law or equity that shall deem necessary and appropriate to obtain compliance with the requirements of this bylaw, or to prevent a violation thereof.

(a) Any owner of a structure subject to this Bylaw who knowingly acts to demolish said structure, or damage a portion of a structure in a way which increases its likelihood of total failure, without first obtaining a demolition permit in accordance with the provisions of this Bylaw, or who likewise by some causative action contributes to the deterioration of said structure during the demolition review period, shall be in violation of this Bylaw.

(b) The fine for any violation of this bylaw shall be Three Hundred dollars (\$300.00) for each offense. Each day the violation exists shall constitute a separate offense until the demolished structure is rebuilt or re-created as directed by the Historical Commission, or unless otherwise agreed to by the Commission.

(c) Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town of Rowley may elect to utilize the non-criminal disposition procedure set forth in G.L. c. 40, Section 21D in which case the Historical Commission or an authorized agent shall be the enforcing person. The penalty for the first violation shall be \$200.00, the second and all subsequent violations shall be \$300.00 per violation. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

8.3 No building permit shall be issued with respect to any premises upon which a significant structure has been demolished in violation of this bylaw for a period of three (3) years from the date of the completion of such demolition.

## SECTION 9 SEVERABILITY

*If any section, paragraph or part of this bylaw for any reason is declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect to the extent that the overall purposes of this bylaw can still be met.*

*Demolition Delay Bylaw (Art # 15) was accepted at 5/19/08 Special Town Meeting, approved by Attorney General on July 8, 2008, and posted according to law.*