

DEMOLITION DELAY ORDINANCE FOR THE PRESERVATION OF HISTORICALLY SIGNIFICANT STRUCTURES

PURPOSE AND INTENT

This ordinance is enacted for the purpose of preserving and protecting historically significant structures within the City of Pittsfield which reflect distinctive features of the architectural, cultural, economic, political or social history of the city, and to encourage owners of such buildings or others to seek out ways to preserve, rehabilitate or restore them rather than demolish or alter them in a detrimental way, thereby promoting the public welfare and preserving the heritage of the City.

To achieve these purposes, the Pittsfield Historical Commission ("the Commission") and the Community Development Board (the "CDB") are empowered to advise the Building Inspector with respect to the issuance of permits for the demolition of significant structures, as regulated within this chapter.

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 structure is situated, the owner must indicate on the application his/her assent to the filing of the application.

Application - An application for the demolition of a structure.

Building Inspector- The person occupying the position of Building Commissioner or Inspector, or those otherwise authorized to issue demolition permits.

Community Development Board (CDB) – Members and, or personnel as defined in the Pittsfield City Code, Article XIV.

Commission – The Pittsfield Historical Commission or its designee.

Demolition - Any act of pulling down, destroying, removing, dismantling or razing a structure, or commencing the work of total or substantial destruction with the intent of completing the same. "Substantial" herein shall mean either half the volume of the structure or half its assessed value, as determined by the Building Inspector.

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 structure excluding a permit issued solely for the demolition of the interior of a structure.

Historic Resources List - A list of Pittsfield buildings which are on the National Register of Historic Places, the State Register of Historic Places or the Local Inventory of Historic Resources. Any structures on the Historic Resources List shall be considered to be a Significant Structure.

Preferably Preserved - Any significant structure which the CDB determines by simple majority vote, following a public hearing, that it is in the public interest to be preserved, rehabilitated or restored rather than demolished. A preferably preserved structure is subject to the six (6) month demolition delay period of this ordinance.

Significant Structure – Any structure within the city which is in whole or in part seventy five (75) years or more old, and which has been determined by the Commission to be significant based on one or more of the following criteria:

- The structure is listed on, or is within an area listed on, or eligible for, the State or National Register of Historic Places the Inventory of the Historic and Prehistoric Assets of the Commonwealth or the Historic Resources List;
- The structure is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the city, the Commonwealth of Massachusetts or the United States of America; or
- The structure is historically 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, structure or sites

Structure - Any combination of materials assembled at a fixed location to give support or shelter for persons, animals, or property, such as a building, framework, or the like and/or walls, statues, monuments, bridges, or other combinations of building materials. The word “structure” shall be construed, where the context requires, as though followed by the words, “or part or parts therefore.”

PROCEDURE

No demolition permit for a structure which is in whole or in part seventy five (75) years or more old shall be issued without following the provisions of this ordinance. If a structure is of unknown age, it shall be assumed that the structure is over seventy five (75) years old for the purposes of this ordinance.

An applicant proposing to demolish a structure subject to this ordinance shall file with the Building Inspector an application containing the following information:

- The address and City Assessor’s Map, Block and Lot designation of the structure to be demolished;
- The owner's name, address and telephone number;
- A description of the structure including items such as architectural elements, style and type of construction;
- The date of structure establishment as determined by the Pittsfield Board of Assessors, deed or other documentation verifying year of construction;
- The reason for requesting a demolition permit;
- A brief description of the proposed reuse, reconstruction or replacement, if the applicant feels such will contribute to the justification for the demolition; and
- A photograph or photograph(s) of the structure.

The Building Inspector shall within seven (7) days forward a copy of the application to the Commission and the CDB. Within thirty (30) days after receipt of the application, the Commission shall make a written determination of whether the structure is significant. No demolition permit shall be issued during this time. Should the Commission fail to notify the Building Inspector of its determination within thirty (30) days of receipt of the application, the Building Inspector may issue a demolition permit.

Should the Commission deem that the structure is not significant, the Building Inspector may issue the demolition permit upon receipt of the Commission’s written determination.

If the Commission determines that the structure is significant, it shall notify the Building Inspector, the CDB and the applicant in writing that a demolition plan review must be made by the CDB prior to the issuance of a demolition permit.

Within sixty (60) days after the determination of significance by the Commission, the applicant shall submit five (5) copies of a demolition plan to the Commission and ten (10) copies to the CDB, which shall include the following information:

- A map showing the location of any structure to be demolished, with reference to lot lines and abutting structures;
- Photographs of any street façade elevations;
- A description of the structure to be demolished;
- The reason for the proposed demolition and data supporting said reason, including where applicable, data sufficient to establish any economic justification for demolition; and
- A brief description of the proposed reuse and development of the property, if the applicant feels such will contribute to the justification for the demolition.

Not later than thirty (30) days of receipt of such plan, the CDB shall hold a public hearing with respect to the demolition plan. Public notice of the time, place and purpose of the hearing shall be given by the CDB or its designee, at the expense of the applicant, not less than fourteen (14) days before the said hearing. Such notice shall be posted in a conspicuous place in the City Hall, published in a newspaper of general circulation in the city and mailed to the applicant, the legal abutters and to such other persons as the Commission and the CDB shall deem entitled. Within fifteen (15) days of receipt of the demolition plan the Commission shall submit in writing, their recommendation and any comments to the CDB. The CDB shall decide by a simple majority vote at the public hearing whether the structure should be preferably preserved upon finding that the structure is significant as defined above. If agreed to in writing by the applicant, the determination of the CDB may be postponed. Should the CDB fail to notify the Building Inspector in writing within fourteen (14) days of the public hearing, the Building Inspector may issue the demolition permit.

If the CDB determines that the structure should not be preferably preserved, the CDB shall so notify the Building Inspector, the Commission and applicant in writing, no later than fourteen (14) days after the close of the public hearing. The Building Inspector may then issue the demolition permit.

Should the CDB determine that the proposed demolition would be detrimental to the historical or architectural heritage or resources of the city, such structure shall be considered to be preferably preserved and the CDB shall file with the Building Inspector, the Commission and the applicant within fourteen (14) days after the close of the hearing, a written report on the demolition plan which shall include the following:

- A description of the age, architectural style, historic association and importance of the structure to be demolished;
- The determination as to why the structure should be preferably preserved; and
- An invitation to the owner of record of the structure to participate in an investigation of alternatives to demolition including but not limited to incorporation of the structure into future development of the property, adaptive re-use, seeking a new owner willing to purchase and preserve, restore or rehabilitate the structure or moving the structure.

The CDB shall also notify the Massachusetts Historical Commission and any other interested parties in an effort to obtain assistance in preservation funding or in finding an adaptive re-use of the structure which will result in its preservation.

Once a structure has been designated to a preferably preserved status, the owner shall be responsible for properly securing the structure if vacant, to the satisfaction of the Building Inspector. Should the owner fail to secure the structure at any time during the six (6) month demolition delay period, any subsequent destruction or loss of the structure through fire or other cause, of which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of this ordinance and all non-compliance penalties shall pertain.

No demolition permit shall be issued until six (6) months after the date of such determination of significance unless otherwise agreed to by the CDB. All approvals necessary for the issuance of such demolition permit, 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 section.

Upon application by the owner, the CDB may, after following the same public hearing and recommendation process above for a demolition plan review, determine by a simple majority vote that:

(a) the owner has made continuing bona fide and reasonable efforts to locate a purchaser willing and reasonably able to preserve, rehabilitate or restore the subject structure and that such efforts have been unsuccessful. For the purposes of this paragraph, the term "Continuing, bona fide and reasonable efforts to locate a purchaser" shall mean retaining a licensed broker to market the property in the usual manner over a substantial period, obtaining an appraisal from a reputable appraiser and providing evidence of good faith negotiations with potential buyers of the property. These efforts to sell the property shall be deemed unsuccessful only upon a finding that either there were no offers to purchase the property, that no offer from a willing and reasonably able buyer was for at least the reasonable appraised value of the property, or that no agreement to sell the property pursuant to an offer of at least the reasonable appraised value of the property could be reached despite good faith efforts to do so; and

(b) there is no reasonable likelihood that any person or group is willing to purchase, preserve, rehabilitate or restore such structure.

Such finding shall be issued in writing by the CDB to the Building Inspector and the Commission within seven (7) days of the close of the hearing, at which time the Building Inspector may issue a demolition permit for the preferably preserved structure.

ADMINISTRATION

The Commission and CDB may adopt such rules and regulations as are necessary to administer the terms of this ordinance. The Commission and CDB are authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this ordinance. The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee. The Commission may pro-actively develop a list of significant structures (to be known as the Historic Resources List) that will be subject to this ordinance.

EMERGENCY DEMOLITION

Notwithstanding the above provisions, the Building Inspector may issue a demolition permit at any time in the event of imminent and substantial danger to the health or safety of the public due to deteriorating conditions. The Building Inspector shall document in writing the findings and reasons requiring an emergency demolition

and shall forward a copy immediately to the Commission and the CDB. No provision of this ordinance is intended to conflict with or abridge any obligations or rights conferred by Massachusetts General Laws, Chapter 143 regarding removal or demolition of dangerous or abandoned structures. In the event of a conflict, the applicable provisions of Chapter 143 shall control.

NON-COMPLIANCE

Anyone who demolishes a structure determined to be preferably preserved under this Ordinance 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). 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 simple majority vote of the CDB following the same public hearing and recommendation process as listed above for a demolition plan review. If a structure subject to this ordinance 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 of the structure, including but not limited to use of materials, design, dimensions, massing, arrangement of architectural features and execution of decorative details, or as otherwise agreed to by the CDB.

ENFORCEMENT AND REMEDIES

The Commission, the CDB and/or the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity including injunctive relief, as they may deem necessary and appropriate to obtain compliance with the requirements of this ordinance or to prevent a violation thereof.

HISTORIC DISTRICT ACT

Following a determination that the structure is significant and preferably preserved, the Commission may recommend to City Council 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 ordinance 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 ordinance do so conflict, that act shall prevail.

PRE-DETERMINATION

Any property owner or their designee may submit a pre-determination request directly to the Commission, in order to determine significance of their property prior to initiating a demolition permit application with the Building Inspector. Once a determination is made by the Commission, they shall submit their decision in writing to the Building Inspector's Department, the CDB and the applicant. Such determination shall be attached to the applicant's demolition application with the intent of allowing the application to proceed promptly through the above processes in the case of a determination that the structure is not significant. Such written pre-determinations shall be considered valid for one (1) year, barring any relevant changes to the Acts regarding historic structures, or any new substantial findings on the property in question.

As of September 26, 2007 all structures older than 75 years of age are subject to a review by the Pittsfield Historical Commission. The intention of this review is to determine if the structure is of Historical significance and should therefore be delayed from demolition and/or preserved in some way.

Instructions for Demolition of Structures Older than 75 Years of Age

1 - Please complete the **Memorandum** cover sheet.

2 - Please complete the **Form B**. Attached is a list of local historical consultants who are qualified to generate this information. It is not required that an outside consultant complete the **Form B**, however it is recommended. The City is not affiliated with these consultants; we are merely offering their contact information.

3 - Submit two (2) copies of the **Memorandum** and the **Form B**, with supporting information to the City Planner in the Department of Community Development. Staff will forward copies to the Pittsfield Historical Commission (PHC) for their review of the property. The commission has 30 days to provide a determination. The ordinance that governs demolition delay can be found at the City Clerk's office, the Building Inspections Department, and the Department of Community Development. For full Building Department Demolition forms visit:

One and Two Family Dwellings:

<http://www.pittsfield.com/images/downloads/Demo%20Package%201%20or%202%20Family.pdf>

Anything other than One and Two Family Dwellings:

<http://www.pittsfield.com/images/downloads/Demo%20Package%20Other%20than%201%20or%202.pdf>

* While the PHC is administering their review, it is recommended that you proceed with acquiring the signoffs required by the signoff sheet. Simultaneously pursuing these signatures while the PHC reviews the proposed demolition will ultimately save you time!

DIRECTORY OF LOCAL HISTORY RESEARCHERS

The individuals listed below have indicated a willingness to perform research for a fee. The Pittsfield Historical Commission does not assume responsibility for the accuracy of the work of the individuals listed. Persons wishing to contract work should contact the researchers directly. Researchers are listed alphabetically.

Susan Denault

268 Williamstown Road
New Ashford, MA 01237
Sdenault@capital.net

Donna M. Kasuba

11 Hull Avenue, Ste. A
Pittsfield, MA 01201
DmKasuba@aol.com
(413) 443-5201

Norene Roberts

119 Cape Street
Williamsburg, MA 01096
robertshistory@verizon.net
(413) 268-7562

State Consultant List

<http://www.preservationmass.org/consultants.shtml>

FORM B – BUILDING

MASSACHUSETTS HISTORICAL COMMISSION
MASSACHUSETTS ARCHIVES BUILDING
220 MORRISSEY BOULEVARD
BOSTON, MASSACHUSETTS 02125

Assessor's Number USGS Quad Area(s) Form Number

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Photograph

Insert here or on a Continuation Sheet a digital photograph (either color or black and white).

*A paper photographic print (3½x5¼" or 4x6" must **also** be attached to the form in this space or to a Continuation Sheet. Prints, from a photo-quality inkjet printer, must use brand name paper and inks approved by MHC. Attached photographs should be clearly identified with town name and property address. See MHC's Guidelines for Inventory Form Photographs.*

Topographic or Assessor's Map

Insert here or on a Continuation Sheet a map clearly showing the location of the property including the name of the nearest road or street and at least one other intersecting road or feature.

Assessor's maps are preferred, but other forms of detailed plans such as an excerpt from a USGS topographic map or an aerial or satellite photo clearly marked are also acceptable. See MHC's Guidelines for Inventory Form Locational Information.

Town:

Place: (*neighborhood or village*)

Address:

Historic Name:

Uses: Present:

Original:

Date of Construction:

Source:

Style/Form:

Architect/Builder:

Exterior Material:

Foundation:

Wall/Trim:

Roof:

Outbuildings/Secondary Structures:

Major Alterations (*with dates*):

Condition:

Moved: no | | yes | | **Date** _____

Acreage:

Setting:

Recorded by:

Organization:

Date (*month / year*):

INVENTORY FORM B CONTINUATION SHEET

[TOWN]

[ADDRESS]

MASSACHUSETTS HISTORICAL COMMISSION

220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

Area(s) Form No.

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___ Recommended for listing in the National Register of Historic Places.

If checked, you must attach a completed National Register Criteria Statement form.

Use as much space as necessary to complete the following entries, allowing text to flow onto additional continuation sheets.

ARCHITECTURAL DESCRIPTION:

Describe architectural features. Evaluate the characteristics of this building in terms of other buildings within the community.

HISTORICAL NARRATIVE

Discuss the history of the building. Explain its associations with local (or state) history. Include uses of the building, and the role(s) the owners/occupants played within the community.

BIBLIOGRAPHY and/or REFERENCES