

Demolition Delay and Historic Rehabilitation Tax Credits



The John Perkins House, Wenham, demolished 2011



WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH
CHAIRMAN, MASSACHUSETTS HISTORICAL COMMISSION

Massachusetts Historical Commission
Jennifer B. Doherty
Local Government Programs Coordinator
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What is demolition delay?



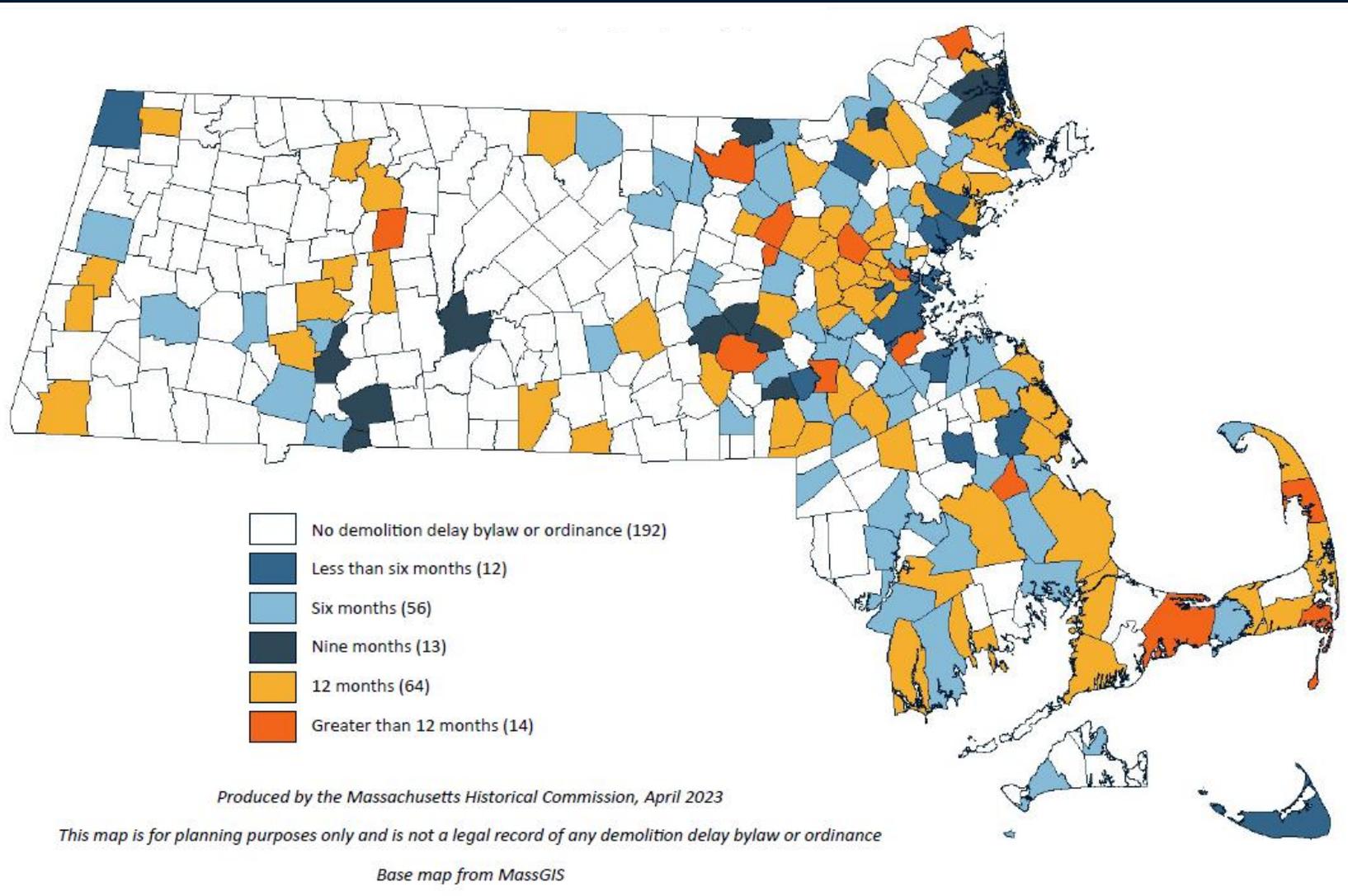
Exactly that – a delay!

- Demolition delay does not prevent demolition
- It allows for a pause in the demolition process to consider alternatives
 - It is what a community (and the applicant) make it
- It is one of many tools a community should have in its preservation toolbox
- The local historical commission can choose to delay – but will they always?



The 1805 House in Dudley was demolished in 2005 after a demolition delay.

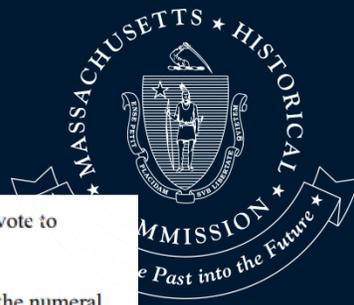
Communities with Demolition Delay



How is demolition delay adopted?

- Under the Home Rule amendment of the state constitution
 - There is no enabling legislation, like there is for local historic districts (MGL Chapter 40C)
- MHC has a sample bylaw/ordinance
- Usually adopted as a general bylaw/ordinance following the usual local legislative process
- Demolition delay does not apply in local historic districts
 - Local historic district commissions can deny a proposed demolition

Hopkinton amended their demolition delay bylaw at 2019 Annual Town Meeting, extending their delay from six to 18 months



ARTICLE 47: Historic Preservation Bylaw Amendment: To see if the Town will vote to amend Chapter 125, Historic Preservation, of the General Bylaws, as follows:

1. By deleting the word “six” from §125-3.A(7), and inserting, in place thereof, the numeral “18,” so that §125-3.A(7) will read as follows:

If the Commission determines the structure is worthy of classification as a preferably preserved significant structure, no further demolition permits may be applied for or issued with respect to such structure, for a period of 18 months from the date of such written determination.

2. By deleting the word “six” from §125-3.A(8), and inserting, in place thereof, the numeral “18,” so that §125-3.A(8) will read as follows:

During such 18-month period, the Commission will invite the applicant (and the owner of record, if different from the applicant) to participate in an investigation of alternatives to demolition. If acceptable alternatives are agreed upon by the Commission and the applicant, the Commission will file a copy of said agreement with the Building Inspector and Town Clerk and the applicant may apply for necessary permits to begin work. Work shall only be done in accordance with the terms of the agreement unless and until new permit applications are filed and processed hereunder.

3. By deleting the word “six” from §125-3.A(9), and inserting, in place thereof, the numeral “18,” so that §125-3.A(9) will read as follows:

If the Commission is satisfied that there is no feasible alternative to demolition, the Commission may so advise the applicant, the Building Inspector, and the Town Clerk in writing, at any time during this 18-month period, and the Building Inspector may issue a permit to demolish the structure in accordance with all applicable codes and regulations.

And

4. By inserting a new §125-6.C, as follows:

C. Any amendment to this Chapter that extends a period of demolition delay shall apply to any demolition delay period pending at the time that the amendment takes effect pursuant to *M.G.L. c.40, §32*.

Pass any vote or take any action thereto

The Demolition Delay Process



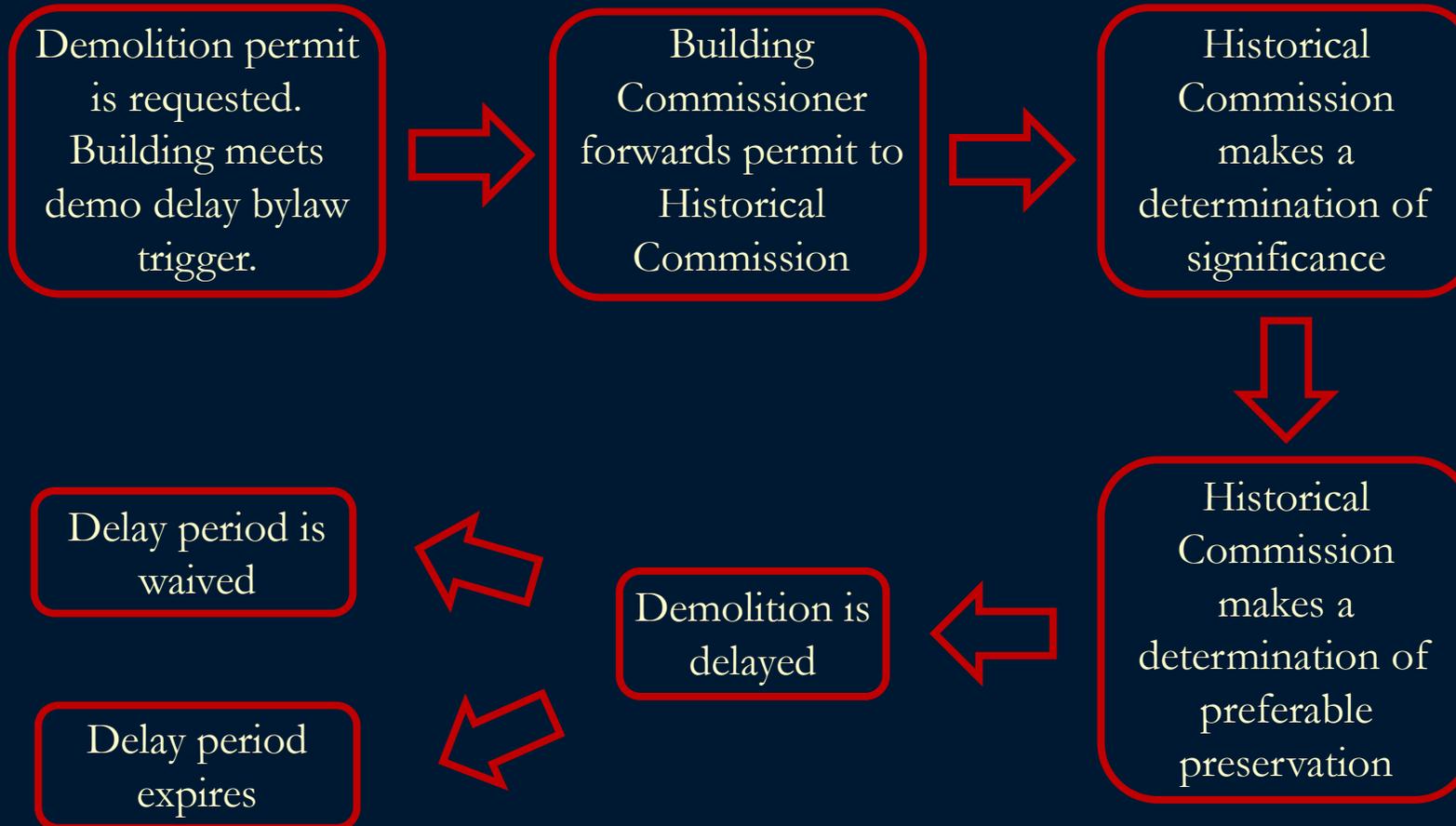
- Most common is a two-decision process – significance and preferably preserved
- Trigger or threshold for review established locally; MHC recommends 50 years
- If at any point the historical commission says “no,” the building commissioner can issue a demolition permit
 - And demolition can proceed the day after the delay expires
- Enforcement provisions in bylaw
 - \$300/day fine until violation is rectified
 - No-build order for a period of time
- Building commissioner can require emergency demolitions without review

B. Anyone who engages in Demolition in violation of this By-Law may be subject to a fine of not more than three hundred (\$300) dollars. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished Regulated Building or Structure or architectural element is completed or unless otherwise agreed to by the Commission.

C. No building permit shall be issued with respect to any premises upon which Demolition has occurred in violation of this By-Law for a period of three (3) years after the date of such violation. As used herein, "premises" refers to the parcel of land upon which the Regulated Building or Structure (or architectural element thereof) was located and all adjoining parcels of land under common ownership or control.

Hingham’s bylaw includes both a daily fine and a no-build provision

The Demolition Delay Process



A Demolition was Delayed – Now What?



Demolition delay is what the local historical commission (and the applicant) make it!

- This is their opportunity to work with the applicant to find alternatives to demolition
 - Are they willing to rework their proposal?
 - Are they willing to sell the property to a different owner?
 - Can the lot be subdivided in a way to preserve the historic structure?
- Is the building so significant that it should be protected with a local historic district?

But ultimately, demolition delay is only a delay – the house can legally be demolished the day after the delay expires



The demolition of this 1830s house in Hanover was delayed by the local historical commission in 2021. They are working with the property owners and North Bennet Street School to dismantle and reassemble the building elsewhere.

During the work, it was discovered that the house likely dates to the mid or late 18th century.

Historic Rehabilitation Tax Credits



After damage from the 2011 tornado closed the Elias Brookings School in Springfield, it sat vacant for many years. Using state and federal historic rehabilitation tax credits, it was rehabilitated into affordable housing.

Massachusetts Historic Rehabilitation Tax Credit Program



- Administered by the MHC under 830 CMR 63.38R.1
- Annual credit cap of \$55 million is regularly hit – high demand
- Still considered by the Legislature and Governor to be a Pilot Program, which will expire in 2027
- The property must be “income producing”
- The property must be listed in or eligible for listing in the National Register of Historic Places
- The rehabilitation must be “substantial”



Building 16 at the South Boston Naval Annex used state and federal historic tax credits to rehabilitate the building and continue its use as a manufacturing facility.

Massachusetts Historic Rehabilitation Tax Credit Program



- All work must meet the Secretary of the Interior's Standards for Rehabilitation
 - Demolition of contributing buildings does **not** meet the Standards
- Nine criteria in the Regulations that are used to evaluate applications
 - Affordable Housing, Preservation, Potential for Loss, Statement of Need, Geographic Distribution, Feasibility, Public Support, State of Utility, and Economic Impact
- Up to 20% of the Qualified Rehabilitation Expenditures

The Convent of the Sisters of Notre Dame de Lourdes in Holyoke was converted to housing using tax credits.



Federal Historic Tax Incentives

- Administered by the National Park Service
- No annual cap
- 20% of Qualified Rehabilitation Expenditures
- The property must be “income producing”
- The property must be listed in the National Register of Historic Places or be listed within 30 months of completion
- The rehabilitation must be “substantial”



The Arcade Building in Westborough was rehabilitated with both tax credits. Storefronts were refurbished with operable awning and the missing parapet was restored based on historic photographs.



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Thank you for coming!

For more information or additional questions:

Jennifer.Doherty@sec.state.ma.us

(617) 807-0685



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