

Appendix C

Demolition Policy

Demolition of Structures: Except as otherwise provided herein, no Certificate of Appropriateness shall be issued for the demolition of any protected structure or any portion thereof.

INTENT: The intent of this policy is to avoid the unnecessary demolition of architecturally, historically or culturally significant structures by providing a suitable period of time during which the building owner or agent and interested persons may explore reasonable alternatives to demolition and make appropriate arrangements for the preservation of such structures; and by providing a process whereby determinations can be made between the rights of the public to continue to enjoy the structure and those of the owner to enjoy the use of the property.

DEFINITIONS: As used in this policy, the following terms shall have the meaning ascribed herein:

"Contributing structure": A structure which adds to the District's sense of time, place and historic development.

"Historic District": The island of Nantucket, so designated in 1971.

"Historic structure": A structure listed on the National Register of Historic Places, or determined potentially eligible for listing.

"Intrusion": A structure which detracts from a historic district's significance because of its incompatibility with the district's sense of time, place and historical development.

"Non-contributing": A structure which is not an intrusion but does not

add to a historic district's sense of time, place, and historic development.

"Protected structures": Any significant structure which the Commission determines is in the public interest to preserve or rehabilitate rather than demolish.

"Significant structures": Any structure within the Historic District of Nantucket Island which is in whole or in part fifty years or more old and which is or has been designated by the Commission to be a significant structure after a finding by the Commission that the building is either:

(a) importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Island or the Commonwealth; or,

(b) historically or architecturally significant (in terms of period, style, method of building construction, or association with a famous architect or builder) either by itself or in the context of a group of buildings.

APPROVAL OF THE COMMISSION REQUIRED: A permit to demolish a protected structure or any portion thereof shall not be issued unless approved by the Commission. The Commission shall not approve any such demolition until after it has conducted a public hearing. The public hearing shall be held not less than sixty days after the date of receiving the completed application and upon notice substantially in compliance with the provisions specified under the section headed NOTICES.

STANDARDS FOR APPROVAL: The Commission shall not grant approval of a request for demolition of a protected structure or any portion thereof unless the Commission determines, upon clear and convincing evidence, that one of the following circumstances applies:

(a) the structure is not a significant structure; or,

(b) the structure is a protected structure only by reason of its presence within the Historic District and is non-contributing to the District.

APPLICANT TO STUDY NECESSARY EVIDENCE: In determining the existence of the circumstances specified under "Standards for Approval", the Commission may require such additional information, documentation, or evidence as it determines to be necessary. The Commission may continue a proceeding for such additional time as it reasonably takes an applicant or agent to comply with the additional relevant documentation or evidence. The Commission will make its decision based upon all of the evidence presented to it at the public hearing or hearings.

PRESERVATION OF PROTECTED STRUCTURES: In addition to taking measures to protect the public, the owner of a protected structure shall take reasonable measures to prevent destruction or substantial deterioration to the structure when ordered to do so by the Commission, whether a demolition application is pending or not. Any such order may be appealed to the board of selectmen by the owner. The board shall reverse such an order only if it finds that the Commission had no substantial justification for requiring action to be taken or that the measures required were not reasonable under all of the circumstances. The taking of an appeal to the board of selectmen shall not operate to stay any order requiring property to be secured or requiring temporary support to prevent collapse.

NOTICES: A Commission official shall notify any persons interested in historic preservation who registers in writing with him or her by promptly giving notice of the application to each such

person and to all owners of property within five hundred (500) feet of the property. Additionally, he or she shall give notice of the public hearing thereon in accordance with the rules of the Commission, the cost of all such notices to be paid by the applicant. The building official shall require that the owner immediately place a notice, to be supplied by the building official, in a prominent place on the protected structure and to maintain it there at all times during the time pending of the demolition application. The notice shall be substantially in the following terms:

THIS PROTECTED STRUCTURE HAS BEEN PROPOSED TO BE DEMOLISHED BY ITS OWNER. FOR FURTHER INFORMATION, CONTACT THE OFFICE OF THE HISTORIC DISTRICT COMMISSION, TOWN OF NANTUCKET.

The failure to give any notice required hereunder shall not affect the validity of any action taken by the Commission.

EXCEPTION FOR DANGEROUS BUILDINGS: This section shall not apply to any structure which has been ordered demolished by the building inspector or a court in accordance with Massachusetts State Building Code 780 CMR, Section 123 or its equivalent, as it may be amended from time to time, or any structure which has been partially destroyed and is determined by the building official to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures, specified by the building authority, including without limitation securing apertures and/or erecting fencing. To the extent that the condition of the structure is claimed to prevent any reasonable use, the applicant shall establish that such condition is not the result of acts of neglect by the owner or his predecessors in title.

Approved, 1992