

The Preservation of Historically Significant Buildings

ARTICLE 23

Section 1. Intent and Purpose

The Demolition Delay Bylaw is enacted for the purpose of preserving and protecting significant buildings and other structures (barns or out-buildings which are generally associated with the significantly historic building) within the Town of Plymouth which 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. Through this bylaw, 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, streetscapes, and neighborhoods, this bylaw 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 Plymouth Historic Commission is authorized to advise the Building Commissioner with respect to demolition zoning permit applications.

Section 2. Definitions

2.1 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.

2.2 APPLICATION - An application for the demolition of a building and/or structure.

2.3 BUILDING - Any combination of materials forming a shelter for persons, animals, or property.

2.4 BUILDING COMMISSIONER - The person occupying the office of Building Commissioner or otherwise authorized to issue demolition zoning, demolition, and building permits.

2.5 COMMISSION – The Plymouth Historic District Commission.

2.6 DEMOLITION - Any act of pulling down, destroying, removing, dismantling, or razing a building or a portion of a building or commencing the work of total or substantial destruction.

2.7 DEMOLITION PERMIT - Any permit issued by the Building Commissioner for the demolition of a building or portion thereof, excluding a building permit issued solely for the demolition of the interior of a building.

2.8 SIGNIFICANT BUILDING – Any building within the town that is in whole or in part seventy-Five (75) years or older; and, has been determined by the Commission or its designee to be significant based on any of the following criteria:

- (a) The Building is listed on, or is within an area listed on the National Register of Historic Places; or
- (b) The Building has been found eligible for the National Register of Historic Places; or
- (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 or the Commonwealth; or
- (d) The Building is historically or architecturally important (in terms of period, style, method of building construction, or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

Section 3. Procedure

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

3.2 An applicant proposing to demolish a Significant Building is subject to this Bylaw and shall file an application with the Commission containing the following information:

- (a) The address of the building to be demolished.
- (b) The owner's name, address, and telephone number.
- (c) A description of the building.
- (d) The reason for requesting a demolition permit.
- (e) A brief description of the proposed reconstruction or replacement.
- (f) A photograph or photographs of the building.

3.3 Upon receipt of the application the Commission shall provide an initial determination within (14) fourteen days as to whether the Significant Building is or is not Preferably Preserved.

3.4 Upon an initial determination by the Commission that the Significant Building **is not** Preferably Preserved, the Commission shall so notify the Building Commissioner and the applicant in writing.

3.5 Upon an initial determination by the Commission that the Significant Building **is** Preferably Preserved, the Commission shall so notify the Building Commissioner and the applicant in writing. No demolition permit shall be issued at this time.

3.6 If the Commission by an initial determination finds that the Building is Preferably Preserved, it shall hold a public hearing within (30) thirty days of the written notification to the applicant and the Building Commissioner to make a final determination as to whether the Significant Building is or is not Preferably Preserved. The Commission shall give public notice of said hearing by publishing notice of the time, place, and purpose of the hearing in a newspaper of general circulation in the Town twice, the first notice to be published at least (14) fourteen days before the hearing and the second notice no more than seven (7) seven days before the hearing, and by mailing a copy of said notice to the applicant, to the owner of the premises on which the Significant Building is located (if other than the applicant), to the owners of all property within one hundred feet of the premises on which the Significant Building is located as appearing on the most recent tax list, and to such other persons as the Commission shall deem entitled to notice.

3.7 The Commission shall make a final determination at the public hearing or within (14) fourteen days thereafter whether the Significant Building is or is not Preferably Preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

3.8 If the Commission determines that the Significant Building is not Preferably Preserved, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.

3.9 Upon a determination by the Commission that any building which is the subject of an application is a Preferably Preserved building, no demolition permits shall be issued for a period of twelve months from the date of the determination unless otherwise agreed to by the Commission.

3.10 No permit for demolition of a building determined to be a Preferably Preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Commissioner and has been found by the Building Commissioner to comply with all laws pertaining to the issuance of building permits or other permits for that site. All approvals necessary for the issuance of such building permits or other permits 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.

3.11 The Building Commissioner may issue a demolition permit or a building permit for a Preferably Preserved building within the twelve months if the Commission notifies the Building Commissioner in writing that the Commission finds that the intent and purpose of this Bylaw is served even with the issuance of the demolition permit or the building permit.

Section 4. Administration

4.1 The Commission may adopt such rules and regulations as are necessary to administer the terms of this Bylaw.

4.2 The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this Bylaw.

4.3 The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission.

Section 5. Emergency Demolition

If after an inspection, the Building Commissioner finds that a building subject to this Bylaw is found to pose an immediate threat to public health or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building, then the Building Commissioner may issue an emergency demolition permit to the owner of the building. The Building Commissioner shall then prepare a report explaining the condition of the building and the basis for his decision which shall be forwarded to the Commission.

Section 6. Responsibility of Owners

Once a Significant Building is determined to be Preferably Preserved, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Inspector. Should the owner fail to so secure the building, a subsequent destruction of the building at any time during the demolition delay period, which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of this Bylaw.

Section 7. Enforcement and Remedies

7.1 The Commission and/or the Building Commissioner 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 Bylaw or to prevent a threatened violation thereof.

7.2 If all or a portion of a building subject to this Bylaw 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. Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this by-law better serves the intent and purpose of this by-law, it may, prior to the expiration of said period of two years authorize issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the purposes of this bylaw.

Section 8. Historic District Act

Following a determination that the building is Significant and Preferably Preserved, the Commission may recommend to Town Meeting that the building 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 Bylaw 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 Bylaw do so conflict, that act shall prevail.

Section 9. Severability

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