

Title of Bylaw

The Preservation of Historically Significant Buildings

Intent and Purpose

This by-law is enacted for the purpose of preserving and protecting significant buildings within the Town 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 Historical Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this by-law.

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

APPLICATION-An application for the demolition of a building.

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

DIRECTOR OF INSPECTIONAL SERVICES - The person occupying the office of Director of Inspectional Services or otherwise authorized to issue demolition permits.

COMMISSION – The Wareham Historical Commission or its designee.

DEMOLITION-Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with substantial destruction so that the Building will no longer exist as it has customarily.

DEMOLITION PERMIT - The building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

PREFERABLY PRESERVED - Any significant building which the Commission determines, following a public hearing, that it is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the twelve month demolition delay period of this Bylaw.

SIGNIFICANT BUILDING – Any building within the Town which is in whole or in part seven-five years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
- The Building has been found eligible for the National Register of Historic Places; or
- 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
- 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.

Procedure

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

An applicant proposing to demolish a building subject to this bylaw shall file with the Director of Inspectional Services an application containing the following information:

- The address of the building to be demolished.

- The owner's name, address and telephone number.
- A description of the building.
- The reason for requesting a demolition permit.
- A brief description of the proposed reuse, reconstruction or replacement.
- A photograph or photograph(s) of the building.

The Director of Inspectional Services shall within seven days forward a copy of the application to the Commission. The Commission shall within fifteen days after receipt of the application, make a written determination of whether the building is significant.

Upon determination by the Commission that the building is not significant, the Commission shall so notify the Director of Inspectional Services and applicant in writing. The Director of Inspectional Services may then issue the demolition permit.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Director of Inspectional Services and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Director of Inspectional Services within thirty (30) days of receipt of the application, the Director of Inspectional Services may proceed to issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Director of Inspectional Services. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within fourteen days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Director of Inspectional Services and applicant in writing. The Director of Inspectional Services may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Director of Inspectional Services and applicant in writing. No demolition permit may then be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Director of Inspectional Services in writing within twenty one days of the public hearing, the Director of Inspectional Services may issue the demolition permit.

Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission.

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 Director of Inspectional Services and have found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy 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.

The Director of Inspectional Services may issue a demolition permit or a building permit for a preferably preserved building within the six months if the Commission notifies the Director of Inspectional Services 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.

Following the six (6) month delay period, the Director of Inspectional Services may issue the demolition permit.

Administration

The Commission may adopt such rules and regulations as are necessary to administer the terms of this Bylaw. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this Bylaw.

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

The Commission may pro-actively develop a list of significant buildings that will be subject to this Bylaw. Buildings proposed for the significant building list shall be added following a public hearing.

Emergency Demolition

No provision of this Bylaw shall be interpreted or applied so as to conflict with the provisions set forth under G.L. c.143 and the State Building Code, regarding emergency demolition procedures. The Commission may request the Applicant to provide the Director of Inspectional Services or any Board of Survey convened under 780 CMR 121.4-5 with an independent evaluation from a qualified structural engineer as to the structural soundness of the subject Building.

Enforcement and Remedies

Any person who violates this Bylaw by demolishing a building without first obtaining a demolition permit in accordance with the provisions of this Bylaw shall be punished by a fine of \$300 or in accordance with the Town's Non-Criminal Disposition Bylaw, Division X, Article I. The enforcing person for non-criminal disposition under this Bylaw shall be the Commissioner, the Director of Inspectional Services or a police officer of the Town. Each day that the violation exists shall constitute a separate offense until restoration of the demolished building is completed.

If 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 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 referred to above or unless otherwise agreed to by the Commission.

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 by-law 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 by-law do so conflict, that act shall prevail.

Severability

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