

## Title 7 **Preservation of Historically Significant Buildings**

### **Intent and Purpose**

This bylaw is enacted for the purpose of preserving and protecting significant buildings within the Town of Upton that constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and limiting the detrimental effect of demolition on the character of the town. Through this bylaw, owners of preferably preserved buildings are encouraged to seek alternative options that will preserve, rehabilitate or restore such buildings, and residents of the town are alerted to impending demolition of significant buildings. By preserving and protecting significant buildings, 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 Commissioner with respect to demolition permits. The issuance of demolition permits is regulated as provided by this bylaw.

### **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 or her assent to the filing of the application.

**APPLICATION** – An application for the demolition of the building.

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

**BUILDING COMMISSIONER** – The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.

**COMMISSION** – The Upton 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 the intent of completing the same.

**DEMOLITION PERMIT** – The permit issued by the Building Commissioner for a demolition, substantial demolition or removal of a building, excluding a demolition permit issued solely for the demolition of the interior of a building.

**PREFERABLY PRESERVED** – Any significant building that the Commission determines, following a public hearing, is in the public interest to be preserved rather than demolished. A preferably preserved building is subject to the 12-month demolition review period of this bylaw.

**SIGNIFICANT BUILDING** – A building determined by the Commission or its designee to be significant based on any of the following criteria:

- The building is listed on the National Register of Historic Places
- The building has been found eligible for the National Register of Historic Places.

The building, in whole or in part, was built 75 or more years prior to the date of the application for the demolition permit. If a building is of unknown age, it shall be assumed that the building is over 75 years old for the purposes of this bylaw.

### **Procedure**

No demolition permit for a significant building shall be issued without following the provisions of this bylaw.

An applicant proposing to demolish a building subject to this bylaw shall file with the Building Commissioner 2 copies of a demolition permit 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 photographs of the building

The Building Commissioner shall within 7 days following receipt of the completed application forward a copy of the application to the Commission. The Commission shall, within 15 days after its receipt of the application, make a determination of whether the building is significant.

Upon determination by the Commission that the building is *not* significant, the Commission shall so notify the Building Commissioner and applicant in writing. Upon receipt of such notification from the Commission, the Building Commissioner may then issue the demolition permit in accordance with applicable law.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Building Commissioner and applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building Commissioner within 22 days following receipt of the application by the Commission, the Building Commissioner may then issue the demolition permit in accordance with applicable law.

If the Commission determines that the building is significant, it shall hold a public hearing within 30 days of the written notification to the Building Commissioner. 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 7 days prior to the date of said hearing.

The Commission shall determine at the public hearing or within 14 days after close of 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 Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit in accordance with applicable law.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing. No demolition permit may be issued for a period of 12 months from the date of the notification unless otherwise agreed to by the Commission. If the Commission does not notify the Building Commissioner within 14 days after close of the public hearing, the Building Commissioner may issue the demolition permit in accordance with applicable law.

During the 12-month review period, the Commission will work with the property owner; national, state and local historical preservation organizations; and any other interested party in an effort to preserve the significant building.

The Building Commissioner may issue a demolition permit in accordance with applicable law for a preferably preserved building within the 12-month review period if the Commission notifies the Building Commissioner in writing that the Commission finds that it is in the public interest to issue the demolition permit.

Following the 12-month review period, the Building Commissioner may issue the demolition permit in accordance with applicable law.

### **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 one or more members of the Commission.

The Commission may delegate authority to municipal staff under this bylaw.

The Commission may proactively 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.

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 7 days prior to the date of said hearing.

### **Emergency Demolition**

If a building poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building may request issuance of an emergency demolition permit from the Building Commissioner. The Building Commissioner shall notify the Commission in writing of this request. If, after a site inspection of the building, the Building Commissioner finds that the condition of the building poses a serious and imminent threat to public health and safety 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 prepare a report explaining the condition of the building and the basis for her or his decision. This report shall be forwarded to the Commission.

No provision of this bylaw is intended to conflict with or abridge any obligations or rights conferred by G.L. c. 143 regarding removal or demolition of dangerous or abandoned buildings or structures. In the event of a conflict, the applicable provisions of Chapter 143 shall control.

### **Enforcement and Remedies**

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. Any owner of a building demolished without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of no more than \$300. Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed.

If a building is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of 2 years from the date of the demolition on the subject parcel of land or any adjoining parcels of and under common ownership and control.

### **Historic District Act**

If any of the provisions of this bylaw conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C, with respect to requirements of notice, hearing and issuance by the Commission of a Certificate of Appropriateness, a Certificate of Non-applicability or a Certificate of Hardship prior to demolition of any building or structure in a historic district, the Act shall prevail.

### **Severability**

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