

## TOWN OF MAYNARD

### BY-LAWS

#### CHAPTER 26

#### **THE PRESERVATION OF HISTORICALLY SIGNIFICANT BUILDINGS**

**Section 1:** Intent and Purpose. This By-law is enacted for the purpose of preserving and protecting significant buildings within the Town of Maynard 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 of such buildings on the character and value of real property resources of the Town. Through this By-law, 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, this By-law 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 permit applications. The issuance of demolition permits is regulated as provided by this By-law.

#### **Section 2:** 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 subject 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 structure assembled in a fixed location, having a roof supported by columns or walls, to form a shelter for persons, animals or property.

**BUILDING COMMISSIONER** - The person occupying the office of Building Commissioner or the person otherwise authorized to issue demolition permits in the Town of Maynard.

**COMMISSION** - The Maynard Historical Commission.

**DAYS** - Calendar days.

**DEMOLITION** - Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work that results in total or substantial destruction with the intent of completing the same. A substantial destruction of a building is defined as 50% or more of the Total Gross Floor Area of the building as determined by the Building Commissioner.

**DEMOLITION PERMIT** - The building permit issued by the Building Commissioner 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 (12) month demolition delay period of this By-law unless an earlier demolition permit is allowed under provisions of section 3-L of this By-law, unless the building is on the National Register of Historic Places where it subject to an eighteen (18) month demolition delay period.

**SIGNIFICANT BUILDING** - Any building or portion thereof which appears on the List of Historically Significant Buildings generated by the Historical Commission. This list is maintained by the Commission, is supplied to the Building Commissioner for purposes of this By-law and is part of the public record.

Included on this list may be any building or portion thereof which:

- a. Is listed on, or is within an area listed on, the National Register of Historic Places; or is the subject of a pending application on said National Register; or
- b. Is included in the Historical Resources Inventory prepared by the Commission including those buildings listed for which complete surveys may be pending; or
- c. Has previously been determined by vote of the Commission to be historically or architecturally significant in terms of period, style, method of building construction or association with a recognized architect or builder or by reason of its association with a person or event of importance to the Town's history.

### **Section 3: Procedure**

- A. No demolition of a Significant Building shall be permitted except in conformance with the provisions of this By-law.
- B. Upon receipt of an application for a Demolition Permit for a Significant Building the Building Commissioner shall forward a copy thereof to the Commission. No demolition permit shall be issued at that time.
- C. An Applicant proposing to demolish a building subject to this By-law shall file with the Building Commissioner an application containing the following information:
  1. The address containing the building to be demolished.
  2. The owner's name, address and telephone number.
  3. A description of the building.
  4. The reason for requesting a demolition permit.
  5. A brief description of the proposed reuse, reconstruction or replacement.
  6. A photograph or photograph(s) of the building.
- D. The Building Commissioner shall within seven (7) days forward a copy of the application to the Commission. The Commission shall, within fifteen (15) days after receipt of the application, make a written confirmation of whether the building is still considered significant.
- E. Upon determination by the Commission that the building is no longer considered significant, due to its present condition or status, the Commission shall so notify the Building Commissioner and Applicant in writing. The Building Commissioner may then issue the Demolition Permit. The subject building shall be removed from the List of Historically Significant Buildings and no further action taken under provisions of this By-law.
- F. Upon determination by the Commission that the building remains significant, the Commission shall so notify the Building Commissioner and the Applicant in writing. No

Demolition Permit may be issued at this time. If the Commission does not notify the Building Commissioner within fifteen (15) days of receipt of the application, the Building Commissioner may then issue the demolition permit.

- G. If the Commission confirms that the building is significant, it shall hold a public hearing within thirty (30) days of the written notification to the Building Commissioner. The Commission shall hold a public hearing and shall give public notice thereof by publishing notice of the time, place and purpose of the hearing in a local newspaper at least fourteen (14) days prior to said hearing. Also the Commission shall, within fourteen (14) days prior to the date of said hearing, mail a copy of the notice to the Applicant and to the Building Commissioner.
- H. The Commission shall decide at the public hearing or within fourteen (14) days after the public hearing whether the building should be determined Preferably Preserved. If agreed to in writing by the Applicant, the determination of the Commission may be postponed.
- I. 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.
- J. 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 then be issued for a period of twelve (12) months from the date of the determination (eighteen (18) months for National Historic Register Properties) unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Commissioner in writing within twenty-one (21) days of the public hearing, the Building Commissioner may then issue the demolition permit.
- K. Upon a determination by the Commission that any building which is the subject of an application is Preferably Preserved, no building permit for new construction or alterations on the premises shall be issued for a period of twelve (12) months from the date of the determination (eighteen [18] months for National Historic Register properties) unless otherwise agreed to by the Commission.
- L. Notwithstanding the preceding sections, the Building Commissioner may issue a Demolition Permit for a Preferably Preserved building at any time after receipt of written advice from the Commission to the effect that:
  - 1. The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate or restore such building, or
  - 2. The Commission is satisfied that the owner's actions do not detract from the historical character of the property.
- M. Following the twelve (12) month (eighteen [18] month for National Historic Register properties) delay period, the Building Commissioner may issue the demolition permit.

#### **Section 4: Emergency Demolition**

- A. Notwithstanding the foregoing provisions, if after an inspection, the Building Commissioner finds that a building subject to this By-law poses 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 the decision, which shall be forwarded to the Commission in a timely manner.

- B. No provision of this By-law is intended to conflict with any obligations or rights under MGL Ch. 143 (see sections 8-10) regarding removal or demolition of dangerous or abandoned structures.

#### **Section 5: Enforcement and Remedies**

- A. The Commission and/or the Building Commissioner may enforce the requirements of this By-law.
- B. No building permit shall be issued with respect to any premises upon which a Significant Building has been voluntarily demolished in violation of this By-law for a period of two (2) years from the date of such demolition. As used herein “premises” includes the parcel of land upon which the demolished Significant Building was located.
- C. Upon the determination by the Commission that a building is Preferably Preserved, the owner shall be responsible for properly securing the building to the satisfaction of the Building Commissioner. Should the owner fail to secure said building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of section 5-B.

#### **Section 6: Administration**

- A. The Commission may adopt such rules and regulations as are necessary to administer the terms of this By-law.
- B. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this By-law.
- C. Consistent with authority given the Commission in Section 3, the Commission will periodically review the List of Historically Significant Buildings and vote on additions or deletions from said list following a public hearing, notice of which shall be provided by mail at least fourteen (14) days in advance to the owner(s) of building(s) affected thereby. A revised list will be provided to the Building Commissioner promptly following such review.
- D. An owner of a building may petition the Historical Commission for a determination of the building as historically significant. Within sixty (60) days after the receipt of such application, the Commission shall determine whether the building is a Significant Building. The Applicant for the permit shall be entitled to make a presentation to the Commission if he or she makes a timely request in writing to the Commission. The determination by the Commission of whether a building is a Significant Building shall be made in writing, signed by the Commission, and shall be binding on the Commission for a period of 3 years from the date thereof.

#### **Section 7: 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.