

Chapter 15.12

DEMOLITION OF HISTORIC BUILDINGS

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15.12.010 Purpose.

This bylaw is adopted to preserve and protect significant buildings within the Town which reflect distinctive features of the architectural, cultural, political, economic or social history of the Town; to encourage property owners of significant buildings to seek ways to preserve, rehabilitate or restore such buildings rather than demolish them; and by furthering these purposes, to preserve the resources of the Town and to promote the public welfare and to make the town a more attractive and desirable place in which to live. (Art. 21 (part), STM 1995)

15.12.020 Definitions.

As used in this chapter:

1. "Building" shall mean a combination of any materials, having a roof, to form a structure for the shelter of person, property or animals.
2. "Commission" shall mean the Tewksbury Historic Commission, created by vote of Tewksbury Town Meeting pursuant to Massachusetts General Law, c. 40A, sec. 8D.
3. "Demolition" shall mean any act of pulling down, destroying, removing or razing a building or commencing the work of total destruction.
4. "Permit" shall mean a permit issued by the Building Commissioner for the demolition of a building pursuant to an application.
5. "Significant building" shall mean any building or portion thereof which the Commission determines, as provided in Section 3 of this bylaw, to be in the public interest to be preserved or rehabilitated, and whose demolition would be detrimental to the historical and/or architectural heritage and resources of the Town. (Art. 21 (part), STM 1995)

15.12.030 Procedures.

1. An application to the Building Commissioner for a demolition permit shall be made or co signed by the owner of record at the time of application. The Building Commissioner shall provide each applicant for a demolition permit with a copy of this bylaw and require each applicant to acknowledge receipt of the bylaw.
2. Upon receipt of an application for a demolition permit for a building, the Building Commissioner shall forward a copy thereof to the chairperson of the Commission. No demolition permit shall be issued at that time.
3. The chairperson or a designee of the Commission shall make an initial determination whether the subject of the application is a significant building. The categories shall be as follows:
 - i. The building is located within any local historic district;
 - ii. The building is listed on or is within an area listed on the National or State Registers of Historic Places; is eligible for listing on the National or State Registers of Historic Places; or is a building for which a preliminary determination of eligibility has been made by the Massachusetts Historical Commission; or
 - iii. The building is associated with one or more significant historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the Town or Commonwealth; or

- iv. The building is historically or architecturally significant in terms of its period, style, method of building construction, or its association with a significant architect or builder, either by itself or as a part of a group of buildings; or
 - v. The building is already on a list established by vote of the Historic Commission using the criteria contained in paragraphs i through iv above.
4. If the Chairman makes an initial determination that the building is a significant building, the chairperson shall notify the Building Commissioner in writing within fifteen (15) days of receipt of the copy of the application that this bylaw does apply to the building and that no demolition permit may be issued at that time. After the expiration of fifteen (15) days from the date the chairperson received the copy of the application, if the Building Commissioner has not received notification that the building is a significant building, the Building Commissioner may, subject to the requirements of the State Building Code and other applicable law, issue the demolition permit.
 5. The Commission shall hold a hearing on an application for demolition of a significant building within thirty (30) days of receipt of the copy of the application unless the Commission and the applicant shall jointly agree to extend the period. The Commission shall give public notice of the hearing by publishing notice of the time, place and purpose of the hearing in a local news paper at least seven days before such hearing. At least seven days before such hearing, the Commission shall mail a copy of such notice to the applicant, to the owners of property abutting the property which is the subject of the hearing, and to other parties deemed by the Commission to be affected thereby.
 6. If, after such hearing, the Commission determines that the demolition of the significant building would not be detrimental to the historical or architectural heritage or resources of Tewksbury, the Commission shall notify the Building Commissioner within ten (10) days of such determination. Upon receipt of such determination, or after the expiration of fifteen (15) days from the date of the hearing, if the Building Commissioner has not received notification from the Commission, the Building Commissioner may, subject to the requirements of the State Building Code and other applicable law, issue the demolition permit.
 7. If the Commission determines that the demolition of the significant building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered a preferably preserved significant building.
 8. Upon determination by the Commission that the significant building which is the subject of the application for a demolition permit is a preferably preserved significant building, the Commission within ten days shall so advise the applicant and the Building Commissioner and no demolition permit may be issued until two hundred and seventy (270) days after the date of the application for a demolition permit.
 9. Within ten days of the determination, the Commission shall in writing invite the owner of record of a preferably preserved significant building and any other persons deemed appropriate to participate in an investigation of alternatives to demolition including but not limited to: incorporation of the building into the future development of the site; adaptive reuse of the building; utilization of financial incentives to rehabilitate the building; rezoning; or seeking a new owner willing to purchase and preserve, restore or rehabilitate the building.
 10. Notwithstanding the provisions of section 3.6, the Building Commissioner may issue a demolition permit for a preferably preserved significant building at any time after receipt of written advice from the Commission to the effect that either:
 - (a) 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
 - (b) The Commission is satisfied that for at least two hundred and seventy (270) days the owner has made continuing bona fide and reasonable efforts to locate a purchaser to preserve, rehabilitate and restore the subject building, and that such efforts have been successful.

11. Notwithstanding the provisions of section 3.6, the Building Commissioner may issue a demolition permit subject to conditions agreed to by the Commission and the applicant for a preferably preserved significant building at any time after receipt of written advice from the Commission and the applicant to the effect that the Commission is satisfied that demolition of the preferably preserved significant building subject to the conditions specified is the outcome most likely to secure the intent of this bylaw and that the applicant agrees to abide by the conditions specified.
12. An appeal from a determination by the Historical Commission that the subject of a demolition permit application is a preferably preserved significant building may be taken to the Board of Appeals. (Art. 21 (part), STM 1995) (Art. 32 ATM May 2011)

15.12.040 Enforcement and remedies.

1. The Building Commissioner is authorized to institute any and all proceedings in law or equity as the Building Commissioner deems necessary and appropriate to obtain compliance with the requirement of this bylaw, or to prevent a violation thereof.
2. No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this bylaw for a period of two years after the date of the completion of such demolition. As used herein “premises” includes the parcel of land upon which the demolished significant building was located. The demolition of a significant building pursuant to a demolition permit issued on the basis of incorrect information shall be considered to be voluntary demolition in violation of this bylaw.
3. Upon a determination by the Commission that a building is a preferably preserved significant building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Commissioner. Should the owner fail so to secure the building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of section 4.2. (Art. 21 (part), STM 1995)

15.12.050 Severability. If 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. (Art. 21 (part), STM 1995)