

To see if the Town will vote to adopt the following Demolition Delay Bylaw, which will become Chapter 46 of the General Bylaws of the Town of Abington:

Chapter 46 DEMOLITION DELAY BYLAW

46-1 Intent and Purpose

This by-law is adopted for the purpose of preserving and protecting significant buildings within the Town of Abington which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the Town; and to encourage the preservation and restoration rather than the demolition of such buildings.

46-2 Definitions

The following definitions shall apply to the provisions of this bylaw:

BUILDING - any combination of materials forming a shelter for persons or property.

BUILDING INSPECTOR – the person occupying the office of Building Inspector or the person otherwise authorized to issue demolition permits.

COMMISSION – the Abington Historical Commission

DEMOLITION – the act of pulling down, destroying, removing or razing a building, or commencing the work of total or substantial destruction with the intent of completing the same. For the purpose of this ordinance, the term demolition shall not include routine maintenance and or renovations for which the Commission’s approval is generally not required.

PREFERABLY PRESERVED – any significant building or structure that the Commission determines, following a public hearing, is in the public interest to be preserved rather than demolished.

SIGNIFICANT BUILDING OR STRUCTURE

A. any building or structure that is 75 years old or older, in whole or in part, and which meets one of the following criteria:

(1) is determined by the Commission to be importantly associated with one or more historic persons or events, or with a broad architectural, cultural, political, economic or social history of the Town of Abington or the Commonwealth of Massachusetts or the United States of America;

or

(2) is determined by the Commission to be historically or architecturally significant in the terms of period, style, method of building construction, or by its association with a famous architect or builder either by itself or in the context of a group of buildings;

or

B. any building or structure which is listed on the National Register of Historic Places or the State Register of Historic Places or is subject of pending application for listing on said National or State Register. (hereinafter also referred to as a “significant building or structure” on a list created and maintained by the Historical Commission)

STRUCTURE – any edifice, object or building of any kind that is constructed or erected and requires a permanent location on the ground or is an attachment to an object with permanent location on the ground.

46-3 Procedure

A The Building Inspector, upon receipt of an application for demolition of any building or structure that is seventy five (75) years old or older or is a listed significant building or structure shall within five (5) days transmit a copy thereof to the Commission, together with the address of the building to be demolished and its known or unknown approximate age: the owners name(s), address and telephone number, a brief description of the type of building, and the owner’s reason for applying for the demolition permit. No demolition permit shall be issued at that time.

B The Commission or its designated member, upon receipt of an application for demolition of a building or structure, shall view the structure and may conduct other research into its significance. The Commission shall within 15 days of the receipt of an application, notify the Building Inspector and applicant in writing of its preliminary determination as to whether the building or structure is found to be historically or architecturally significant. If the building or structure is not considered to be significant, the Commission will notify the Building Inspector and applicant in writing within said 15 days and a demolition permit may thereafter be granted.

C. Upon providing notice of the Commission’s preliminary positive determination of historical or architectural significance, the Commission shall schedule a public hearing to review the demolition permit application within thirty (30) days of said preliminary determination notice. The Commission shall give public notice thereof by posting a notice of the time, place and purpose of the hearing at the Town Offices at least fourteen (14) days prior to said hearing date and by publishing said notice in a local newspaper at least seven (7) days before but no more than twenty-one (21) days prior to the hearing date. The cost of publication shall be paid by the applicant. The applicant shall also deliver a copy of the public hearing notice by certified mail to all abutters, to owners of land directly opposite on any public or private street or way and to

abutters to abutters within three hundred feet of the property line of the subject property, all as they appear on the abutters list certified by the Assessors Office, with the exception that the owners of the land situated in a town other than Abington shall not be entitled to receive said notice. The applicant shall be required to produce proof of payment for the required publication and proof of mailing of the required abutter notices at the time of the public hearing.

D. At least seven (7) days before said hearing the applicant for the demolition permit shall submit to the Commission five (5) copies of the demolition plan that includes the following information:

- (1) An assessor's map or plot plan or sketch sufficient to show location of the building or structure to be demolished in relation to its property lines, and to other buildings on the property
- (2) Photographs of all sides of the building/structure
- (3) A brief narrative of the reasons or the purpose of the proposed demolition

E. If, after such hearing, the Commission determines by a majority vote that the demolition of the significant building or structure would be detrimental to the historical or architectural heritage or resources of the Town, the significant building or structure shall be classified as a "preferably preserved" significant building or structure.

F. Upon a vote by the Commission that the significant building or structure is to be preferably preserved, the Commission shall so advise the applicant and the Building Inspector in writing within five (5) business days of such vote, and no demolition permit may be issued until at least six months after the date of the application for demolition, unless otherwise allowed by the provisions of this bylaw.

G. Notwithstanding the preceding section, the Building Inspector may issue a demolition permit for a preferably preserved significant building at any time after the receipt of written assent from the Commission in the following circumstances:

1. The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or entity is willing to purchase, preserve, rehabilitate or restore the subject building, or that such efforts have been unsuccessful notwithstanding the fact that the six month demolition delay period has not yet expired.
2. The Commission is satisfied that for at least six (6) months 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 unsuccessful.
3. If the Commission has voted to impose a demolition delay pursuant to this bylaw and/or if alternatives to demolition are developed during or after

the public hearing which are acceptable to the Commission and applicant and/or owner, the Commission may enter into an agreement with said applicant and/or owner providing for such alternatives and a time period for implementation of the same. A copy of the agreement shall be filed with the Building Inspector and any other applicable Town agency, and thereafter no work shall be done to building or structure except in accordance with the terms of the said agreement unless and until a new application for a demolition permit is filed and processed hereunder.

H. The Commission may agree to the immediate demolition of any significant building of structure and or a waiver of any or all provisions of this bylaw for any good cause to be determined by a majority vote of the Commission.

46-4 Emergency Demolition

If the condition of a building or structure poses a serious and imminent threat to public safety due to its deteriorated condition or otherwise, the owner of such building may request the issuance of a demolition permit from the Building Inspector and a waiver of the requirement to so notify the Commission of the proposed demolition. The Building Inspector shall note his/her decision to waive compliance with this bylaw on the demolition permit and shall allow demolition to proceed forthwith. The Building Inspector shall use reasonable efforts to notify the Chairperson of the Commission of the grant of said waiver in a timely manner.

Nothing in this article shall be construed to conflict or derogate in any way from the authority of the Building Inspector derived from State Building Code, Chapter 143 of the Massachusetts General Law, or under any other applicable statute or regulation. In cases where this bylaw exceeds, competes or conflicts with any statute or regulation, said statute or regulation shall apply.

46-5 Enforcement and Remedies

A. The Commission and Building Inspector are each authorized to institute any and all proceedings in law or equity as they deem necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent the violation thereof.

B. No building permit shall be issued for any premises for a period of two (2) years after the voluntary demolition of any significant building or structure on said premises in violation of this bylaw, unless otherwise voted by a majority of the Commission at a public meeting. As used herein, "premises" includes the parcel of land upon which the demolished significant building was located. Any person or entity who knowingly or intentionally demolishes an integral part or the entirety of any significant building or structure without prior consent from the Commission and Building Inspector shall be subject to a fine up to three hundred dollars (\$300) for each offense. Each additional day the violation exists shall constitute a separate

offense until the faithful restoration of said building or structure is completed as directed by the Historical Commission, or unless otherwise voted to by the Commission.

46-6 Responsibility of Owners

Upon the determination that the significant building or structure is considered a preferably preserved building or structure, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Inspector. If the Commission determines that the owner failed to so properly secure the building, and if said failure is found to have caused or allowed a subsequent destruction of the building any time during the six (6) month demolition delay period, and that said damage could have been prevented by the required security measures said destruction shall be considered a demolition and a violation of this bylaw.

The provision of this section shall not apply to those significant buildings or structures that were demolished due to fire, collapse, storm or other natural disaster, provided that fire damage was not the result of arson or other intentional destruction by the owner or its agents, as determined by the Fire Chief or his/ her designee.

46-7 Severability

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

or take any other action related thereto.

BY THE HISTORICAL COMMISSION