

Article XXII
Historic Preservation and Demolition Delay

Section 1. Purpose

This Article is adopted for the purpose of protecting and preserving significant historic buildings within the Town and encouraging owners of such buildings to seek out alternative options to preserve, rehabilitate or restore such buildings rather than to demolish them or to alter them in a detrimental way, thereby promoting the public welfare and preserving the heritage of the Town. To achieve these purposes, the Stockbridge Planning Board and the Stockbridge Historic Preservation Commission are authorized as provided herein to advise the Building Inspector with respect to the issuance of permits for the demolition or alteration of significant buildings. The issuance of permits for demolition or alteration of any Significant Historic Building is regulated as provided by this Article.

Section 2. Definitions

2.1 Building – Any structure having a roof intended for shelter, housing, or enclosure of any person, process, equipment, animals or goods.

2.2 Commission – The Town of Stockbridge Historic Preservation Commission.

2.3 Demolition – Any 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.

2.4 Demolition/Alteration Permit – The permit issued by the Building Inspector as required by the State Building Code for a demolition, substantial demolition, alteration, renovation or removal of a building.

2.5 Planning Board – The Town of Stockbridge Planning Board.

2.6 Significant Historic Building – Any Building that, in whole or in part, is at least fifty (50) years old and:

2.6.1 is listed on, or is a contributing Building within an area listed on the National Register of Historic Places, or is the subject of a pending application for such listing, or is eligible for such listing; or

2.6.2 has been determined by recommendation of the Commission and vote of the Planning Board to be a Building either:

- (a) importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history or character of the Town, or the Commonwealth, or
- (b) historically or architecturally significant (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.

If a Building is of unknown age, it shall be presumed to be at least fifty (50) years old.

2.7 Substantial Alteration – Any alteration of a Significant Historic Building that (a) requires a building permit, (b) alters 500 square feet or more of the Building exterior or increases the square footage of the Building by 500 square feet or more, and (c) materially compromises the historic or architectural significance of the Significant Historic Building, considering such factors as the extent to which the original architectural or historic features of the Building will be preserved or enhanced, the relation between those features and the design of any new construction, and the sensitivity to context, the compatibility and the scale of the proposed alteration.

2.8 Town of Stockbridge Historic Preservation Commission – The Commission shall consist of seven members, to be appointed by the Board of Selectmen, three members initially to be appointed for one year, two for two years, and two for three years, and each successive appointment to be made for three years. The Commission shall include, if possible, a member of the local historical commission; a realtor; an architect and a building contractor familiar with historic rehabilitation. Each member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed. Meetings of the Commission shall be held at the call of the Chairperson. Four members of the Commission shall constitute a quorum.

Section 3. Procedure

3.1 No person shall cause any Building that is, in whole or in part, at least fifty (50) years old to be demolished or altered except as authorized pursuant to this Article, as well as in conformity with the provision of other laws and Bylaws applicable to the demolition/alteration of buildings and the issuance of permits generally.

3.2 Application contents: Every application for a Demolition/Alteration Permit for a Building that is, in whole or in part, at least fifty (50) years old shall be filed with the Building Inspector and shall contain the following information: (a) the address of the Building to be demolished or altered; (b) the owner's name, address and telephone number; (c) a brief description of the type of Building and the condition requiring issuance of the permit; (d) the date of the Building, established by the Board of Assessors, deed or documentation verifying the year of construction; and (e) a brief

description of the proposed reuse, reconstruction or replacement on the premises upon which the Building is located accompanied by any relevant floor plans, elevations or site plans.

In addition to the foregoing, an applicant who requires a Special Permit from the Planning Board or from the Board of Selectmen in order to perform any activity subject to the requirements of this Article may, at the time of filing an application for said Special Permit, file with the Building Inspector a Notice of intention to apply for a Demolition/Alteration Permit. Such Notice shall be filed in the same manner, and contain the same materials, as an application for a Demolition/Alteration Permit for a Building that is, in whole or in part, at least fifty (50) years old. The purpose of such Notice is to allow, if necessary, the applicable boards to hear and decide historic preservation and Special Permit matters contemporaneously, and, once filed, such Notice shall be treated, for the purpose of Historic Preservation review by the Historic Preservation Commission and the Planning Board, as an Application filed pursuant to this Subsection. In the event that the required Special Permit issues to the applicant, the Building Inspector may treat such Notice as an Application for a Demolition/Alteration Permit.

3.3 Within seven (7) business days from receipt of an application for a Demolition/Alteration Permit of a Building that is, in whole or in part, at least fifty (50) years old and, if an alteration is proposed, seeks authorization to alter 500 square feet or more of the Building exterior or to increase the square footage of the Building by 500 square feet or more, the Building Inspector shall forward a copy to the Commission. No Demolition/Alteration Permit shall be issued during this time.

3.4 Within thirty (30) business days after receipt by the Commission of the application for a Demolition/Alteration permit, the Commission shall make a written recommendation as to whether the Building is a Significant Historic Building. In the event of a proposed alteration of a Significant Historic Building, the Commission also shall make a written recommendation as to whether the proposed alteration is a Substantial Alteration. Upon a written recommendation by the Commission that the Building is not a Significant Historic Building, or that any proposed alteration is not a Substantial Alteration, the Commission shall so notify the Building Inspector in writing. Upon receipt of such notification, or after the expiration of thirty (30) business days from the date of submission to the Commission, if the Building Inspector has not received notification from the Commission, the Building Inspector may issue the Demolition/Alteration Permit.

3.5 Upon a recommendation by the Commission that the Building is a Significant Historic Building, and, in the event of a proposed alteration to a Significant Historic Building, that the proposed alteration is a Substantial Alteration, the Building Inspector and Applicant shall be so notified in writing, and a Demolition/Alteration Permit shall not be issued pending a public hearing before the Planning Board and a decision by such Board. The Planning Board shall hold a public hearing within 90 business days of the foregoing recommendation by the Commission to assist the Planning Board in making a final determination whether the Building is a Significant

Historic Building, and, in the event of a proposed alteration to a Significant Historic Building, whether the proposed alteration is a Substantial Alteration. Public notice of the time, place and purpose of the hearing shall be published by the Planning Board at the expense of the applicant in a newspaper of general circulation in the Town not less than seven (7) days before the day of said hearing and shall be posted in a conspicuous place in the Town Hall for a period of not less than seven (7) days before the day of said hearing.

3.6 If, after a public hearing, the Planning Board makes a determination that the Building is not a Significant Historic Building, or, in the event of a proposed alteration, that the proposed alteration is not a Substantial Alteration, the Planning Board shall notify the Building Inspector in writing within five (5) business days of the hearing and the Building Inspector may issue the Demolition/Alteration Permit upon receipt of the written decision.

3.7 If, after a public hearing, the Planning Board makes a determination that the Building is a Significant Historic Building, and, in the event of a proposed alteration, that the proposed alteration is a Substantial Alteration, the Planning Board shall so notify the Building Inspector in writing within five (5) business days of the hearing, and the Building Inspector may issue the Demolition/Alteration Permit upon receipt of written determination from the Planning Board pursuant to Paragraph 3.8 of this Article.

3.8 Upon application by the owner, made at any time after the Planning Board has made a determination that the Building is a Significant Historic Building, and, in the event of a proposed alteration, that the proposed alteration is a Substantial Alteration, the Planning Board may, after a public hearing determine that (a) there is no reasonable likelihood that any person or group is willing to purchase, preserve, rehabilitate or restore such Building, or (b) for at least twelve (12) months, the owner has made continuing, bona fide and reasonable efforts to locate a purchaser willing and reasonably able to preserve, rehabilitate or restore the subject Building and that such efforts have been unsuccessful. For the purposes of this Paragraph, the term "Continuing, bona fide and reasonable efforts to locate a purchaser" shall mean retaining a licensed broker to market the property in the usual manner over substantially all of the 12-month period, obtaining an appraisal from a reputable appraiser and providing evidence of good faith negotiations with potential buyers of the property. These efforts to sell the property shall be deemed unsuccessful only upon a finding that either there were no offers to purchase the property, that no offer from a willing and reasonably able buyer was for at least the reasonable appraised value of the property, or that no agreement to sell the property pursuant to an offer of at least the reasonable appraised value of the property could be reached despite good faith efforts to do so.

In the event that the Planning Board declines to make a requested determination pursuant to this Paragraph, the owner may make a further application showing materially new circumstances, including material revisions to any proposed Substantial Alteration.

Section 4. Responsibility of Owners

If requested by the Planning Board or the Commission, it shall be the responsibility of the owner of record or any designee thereof to assist in the facilitation of the implementation of the requirements of this Article by providing information and any architectural plans readily available to such owner or designee, allowing access to the property and securing the premises, by participating in the investigation of preservation options, and by actively cooperating in seeking alternatives with the Planning Board, the Commission and any persons designated by the Planning Board or the Commission.

Section 5. Emergency Demolition

Nothing in this Article shall restrict the Building Inspector from ordering the immediate demolition of any Building in the event of imminent danger to the safety of the public.

Section 6. Enforcement and Remedies

Any person who violates any provision of this Article shall be punished by a fine of not more than \$100 for each offense. Each continuing day of such violation may be considered a separate offense.

In accordance with *M.G.L. c.40, §§21 and 21D*, the Commission, the Planning Board and the Building Inspector are each specifically authorized to impose any penalties, 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 Article or to prevent a threatened violation thereof or to punish any actual violation thereof.

Section 7. Severability

If any provision of this Article shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible and the balance of the Article shall be deemed to be amended to the minimum extent necessary to provide the Town substantially the benefits set forth in this Article.