

**THE PRESERVATION OF HISTORICALLY SIGNIFICAN BUILDINGS
BY-LAW
ANNUAL TOWN MEETING
ARTICLE 39
MAY 17, 2004**

Section 1. Intent and Purpose

This by-law is enacted for the purpose of preserving and protecting significant buildings within the Town of Somerset 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 on the character 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, streetscapes and neighborhoods, 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 Inspector of Buildings with respect to demolition permit applications. The issuance of demolition permits is regulated as provided in the 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 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 combination of materials forming a shelter for persons, animals, or property.

INSPECTOR OF BUILDINGS - The person occupying the office of Inspector of Buildings or otherwise authorized to issue demolition permits.

COMMISSION - The Somerset 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 building permit issued by the Inspector of Buildings for demolition of a building, excluding a 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 six month demolition delay period of this by-law.

SIGNIFICANT BUILDING - Any building within the town which is in whole or in part seventy-five years or more old and which has been determined by the Commissioner or its designee to be significant based on any of the following criteria:

- The Building is listed on, or is within an area listed on the National Register of Historic Places; or
- The Building has been found eligible for the National Register of Historic Places; or

- The Building is importantly associated with one or more historic persons
- or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
- The Building is historically or architecturally important (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.

Section 3. Procedure

No demolition permit for a building which is in whole or in part seventy-five years or more old shall be issued without following the provisions of this by-law. If a building is of unknown age, it shall be assumed that the building is over 75 years old for the purposes of this by-law.

An applicant proposing to demolish a building subject to this by-law shall file with the Inspector of Buildings an 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 photograph(s) of the building.

The Inspector of Buildings shall within seven days forward a copy of the application to the Commission. The Commission shall within fifteen days after receipt of the application, make a written determination of whether the building is significant.

Upon determination by the Commission that the building is not significant, the Commission shall so notify the Inspector of Buildings and applicant in writing. The Inspector of Buildings may then issue the demolition permit.

Upon determination by the Commission that the building is significant, the Commission shall so notify the Inspector of Buildings and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Inspector of Buildings within fifteen days of receipt of the application, the Inspector of Buildings may proceed to issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Inspector of Buildings. 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 seven days prior to the date of said hearing and the applicant and the Inspector of Buildings shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within fourteen days after 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 Inspector of Buildings and applicant in writing. The Inspector of Buildings may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Inspector of Buildings and applicant in writing. No demolition permit may then be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Inspector of Buildings in writing within twenty-one days of the public hearing, the Inspector of Buildings may issue the demolition permit.

Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of six months from the date of the determination unless otherwise agreed to by the Commission.

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Inspector of Buildings and have found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded prior to the issuance of a demolition permit under this section.

The Inspector of Buildings may issue a demolition permit or a building permit for a preferably preserved building within the six months if the Commission notifies the Inspector of Buildings in writing that the Commission finds that the intent and purpose of this by-law is served even with the issuance of the demolition permit or the building permit.

Following the six month delay period, the Inspector of Buildings may issue the demolition permit.

Section 4. Administration

The Commission may adopt such rules and regulations as are necessary to administer the terms of this by-law. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this by-law.

The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee.

The Commission may pro-actively develop a list of significant buildings that will be subject to this by-law.

Buildings proposed for the significant building list shall be added following a public hearing.

Section 5. Emergency Demolition

If after an inspection, the Inspector of Buildings finds that a building subject to the by-law is found to pose 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 or structure, then the Inspector of Buildings may issue an emergency demolition permit to the owner of the building or structure. The Inspector of Buildings shall then prepare a report explaining the condition of the building and the basis for his/her decision which shall be forwarded to the Commission.

Section 6. Enforcement and Remedies

The Commission and/or the Inspector of Buildings 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 by-law or to prevent a threatened violation thereof.

Any owner of a building subject to this by-law who demolishes the building without first obtaining a demolition permit in accordance with the provisions of this by-law shall be subject to a fine of not more than Three Hundred Dollars (\$300.00). Each day the violation exists shall constitute a separate offense

until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission.

If a building subject to this by-law is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless otherwise agreed to by the Commission.

Section 7. Historic District Act

Following a determination that the building is significant and preferably preserved, the Commission may recommend to town meeting that the building be protected through the provisions of Massachusetts General Laws, chapter 40C, the Historic Districts Act. The steps required under M.G.L. chapter 40C shall be followed prior to the establishment of a local historic district. Nothing in this by-law shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws chapter 40C. If any of the provisions of this by-law do so conflict, that act shall prevail.

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.

A True Copy Attest:

Dolores Berge, Town Clerk