

## Chapter 88

### BUILDING DEMOLITION

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**[HISTORY: Adopted by the Town Meeting of the Town of Foxborough as Art. V, § 10, of the General Bylaws. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Historic districts — See Ch. 145.

Zoning — See Ch. 275.

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#### § 88-1. Purpose.

This bylaw is proposed for the purpose of preserving and protecting significant buildings within the Town of Foxborough and to encourage owners of such buildings to seek out persons who might be willing to preserve, rehabilitate or restore such buildings rather than demolish them. To achieve these purposes, the Foxborough Historical Commission (the "Commission") is empowered to advise the Building Commissioner with respect to the issuance of permits for the demolition of significant buildings. The issuance of demolition permits for significant buildings is regulated as provided in this bylaw.

#### § 88-2. Definitions.

As used in this bylaw, the following terms shall have the meanings indicated:

**BUILDING** — Any combination of materials forming a shelter for persons, animals, or property.

**COMMISSION** — The Foxborough Historical Commission.

**DEMOLITION** — Any act of pulling down, destroying, removing or razing a building or any portion thereof, or commencing the work of total or substantial destruction with the intent of completion.

**DEMOLITION PERMIT** — The permit issued by the Building Commissioner as required by the State Building Code for the demolition or removal of a building or structure. This permit must also indicate the location of the facility at which the debris is to be disposed, in accordance with MGL c. 40, § 54, as amended in 1987.

**PREFERABLY PRESERVED SIGNIFICANT BUILDING** — Any significant building which the Commission determines is in the public interest to be preserved or rehabilitated rather than demolished.

**SIGNIFICANT BUILDING** — Any building or portion thereof which is over 75 years old and is not included in an historic district but which:**[Amended 12-5-2016 STM by Art. 12]**

- A. Is listed on, or is the subject of, a pending application or listing on the National Register of Historic Places; or
- B. Is included on the Cultural Resources Inventory prepared by the Commission, including buildings for

which complete surveys may be pending.

**§ 88-3. Procedure.**

- A. Upon receipt of an application for a demolition permit for a building over 75 years old, as determined by the Building Commissioner in reliance upon Assessors' records and other pertinent documents, the Building Commissioner shall forward a copy thereof to the Commission. No demolition permit shall be issued at that time. **[Amended 12-5-2016 STM by Art. 12]**
- B. After the Commission has received a copy of the demolition application, it shall within 30 days submit a preliminary recommendation regarding the granting of a demolition permit. The Commission shall be allowed to tour the building, if necessary, to inform the preliminary recommendation. If the Commission issues a recommendation in favor of the granting of such permit, a demolition permit will be issued by the Building Commissioner. If the Commission issues a recommendation in opposition to the granting of such a permit for demolition, no permit shall be issued until a more thorough investigation and a public hearing is undertaken and a final recommendation is provided by the Commission. Such investigation, public hearing and recommendation shall be completed within 90 days of the original submission to the Historical Commission. **[Amended 12-5-2016 STM by Art. 12]**
- C. After the Commission issues a preliminary recommendation in opposition to the granting of such permit for demolition, the Commission shall fix a reasonable time for the public hearing on the application in question. The Commission shall publish notice of time, place and purpose of the hearing in a local newspaper at least 14 days before said hearing and also, within seven days of said hearing, mail a copy of said notice to the applicant, to the owners of all property deemed to be affected thereby as they appear on the most recent tax list, and to such other persons as the Commission shall deem entitled to notice.
- D. 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 the Town, the Commission shall so notify the Building Commissioner of such determination. Upon receipt of such notification, or after the expiration of 90 days from the date the Commission received a copy of the demolition application, the Building Commissioner may, subject to requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.
- E. 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."
- F. 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 shall so advise the applicant and the Building Commissioner, and no demolition permit may be issued at least six months after the date of such determination by the Commission.
- G. Notwithstanding Subsection F herein, 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:
  - (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 for at least six months, with monthly reviews, the owner has made a continuing and reasonable effort by advertising in local, regional, state and national publications to find a buyer, tenant or restorer to preserve, rehabilitate and restore the subject building and that such efforts have been unsuccessful; or
- (3) Six months have passed since a determination under Subsection F had been made by the Commission.

**§ 88-4. Enforcement and remedies.**

- A. The Commission and the Building Commissioner 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 bylaw, or to prevent a violation thereof.
- 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 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.

**§ 88-5. 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.