



# Town of Ware Demolition Delay Bylaw

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## ***Introduction***

*This information is included for convenience only and is not a part of the Demolition Delay Bylaw.*

A Historical Commission is an important part of municipal government. Historical Commissions are responsible for community-wide historic preservation planning.

The Ware Historical Commission is the town's agency responsible for identifying, evaluating and protecting the historic, architectural and archaeological assets within the town. The Historical Commission maintains a link to the Massachusetts Historical Commission, which in turn is linked to the National Park Service and the United States Department of the Interior.

A Historical Commission may seek to create or change local bylaws to better protect historic resources.

With a demolition delay bylaw, a Historical Commission can delay the demolitions of historically significant property in the hopes of finding an alternative to the demolition.

## *Demolition Delay Bylaw*

### **Article 1 - Intent & Purpose**

This bylaw is enacted for the purpose of:

- 1.) Preserving and protecting significant buildings within Ware which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town; and
- 2.) To limit the detrimental effect of demolition on the character of the town.

Through this bylaw, 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 bylaw 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 Ware Historical Commission is authorized to advise the Building Commissioner with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this bylaw.

### **Article 2 - Definitions**

In this bylaw, the following terms, unless a contrary meaning is specifically given, shall have the following meanings.

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. If the property is sold during the delay process, and the new owner also seeks demolition, the new owner will apply and the process begin anew.

Application - an application for the demolition of a building.

Building - any combination of materials assembled in a fixed location to give support or shelter for persons, animals, or property such as a building, framework, or the like and/or walls, statues, monuments, bridge or other combination of building materials. The word "structure" shall be construed, where the context requires, as though followed by the words, "or part or parts thereof".

Building Commissioner - The person occupying the office of Building Commissioner or Building Inspector or otherwise authorized to issue demolition permits.

Commission - The Ware Historical Commission or its designee. All other mention of "commission" or "commissioner" will be qualified; such as Building Commissioner.

Demolition – Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total substantial destruction with the intent of completing the same.

Demolition by Neglect – A process of ongoing damage to the fabric, viability and/or functionality of an unoccupied building leading towards and/or causing its eventual demolition due to decay and/or structure failure and/or severe degradation over a period of time as a result of a general lack of maintenance, and/or failure to secure the building from pests or vandals, and/or failure to take reasonable measures to prevent the ingress of water, snow, ice and wind through the roof, walls or apertures.

Demolition Permit – The building permit issued by the Building Commissioner for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building. A Demolition Permit is “attached” to an applicant, not the building.

Preferably Preserved – Any significant building which the Historical 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 nine (9) month demolition delay of this bylaw.

Significant Building – Any building within Ware which is, in whole or in part, seventy-five (75) years old or older and which has been determined by the Historical Commission 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 Ware 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.

### **Article 3 – Procedure**

1. No demolition permit for a building which is in whole or in part seventy-five (75) years old or older shall be issued without following the provisions of this bylaw. If a building is of unknown age, it shall be assumed that the building is over seventy-five (75) years old for the purposes of this bylaw.
2. An applicant proposing to demolish a building subject to this bylaw shall use the Permit Sign-off Sheet available from the Building Department and then contact the Historical Commission.
3. The Historical Commission shall within fifteen (15) days after receipt of the application, make a written determination, in the form of a Certificate of Historic Review, whether the building is significant. The Historical Commission shall within seven (7) days of the determination, shall forward a copy of the Certificate of Historic Review to the Building Commissioner.
4. If the Historical Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Building Commissioner. 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 Building Commissioner shall be notified in writing of the meeting time and place.
5. Upon determination by the Historical Commission that the building is significant, the Historical Commission shall so notify the Building Commissioner and the applicant in writing. No demolition permit may be issued at this time. If the Historical Commission does not notify the Building Commissioner within fifteen days of receipt of the application, the Building Commissioner may proceed to issue the demolition permit.
6. The Historical 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 Historical Commission may be postponed.
7. If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.
8. If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing. No demolition permit may then be issued for a period of nine months from the date

of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Commissioner in writing within twenty one days of the public hearing, the Building Commissioner may issue the demolition permit

9. During the nine month delay period, the Applicant or the owner shall work with the Commission to develop plans or locate a purchaser to preserve, rehabilitate or restore the subject building.
10. Notwithstanding anything contained in this by law, the Building Commissioner may issue a demolition permit for a preferably preserved building during the nine month delay period if the Commission notifies the Building Commissioner and the applicant in writing 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.
11. The Building Commissioner may issue a demolition permit or a building permit for a preferably preserved building within the nine months if the Commission notifies the Building Commissioner in writing that the Commission finds that the intent and purpose of this bylaw is served even with the issuance of the demolition permit or the building permit.
12. Following the nine month delay period, the Building Commissioner may issue the demolition permit.

#### **Article 4 - Administration**

The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw. The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee.

#### **Article 5 - Emergency Demolition**

If, after an inspection, the Building Commissioner finds that a building subject to this bylaw is found to pose an immediate threat to public health and/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 Building Commissioner may issue an emergency demolition permit to the owner of the building or structure. The Building Commissioner shall then prepare a report explaining the condition of the building and

the basis for his decision which shall be forwarded to the Commission. Nothing in this section shall be inconsistent with the procedure for the demolition and/or securing of buildings and structures established by MGL Chapter 143 as amended.

### **Article 6 - Enforcement and Remedies**

The Building Commissioner is specifically authorized to institute any and all actions and proceedings, in law or equity, as he may deem necessary and appropriate to obtain compliance with the requirements of this bylaw or to prevent a threatened violation thereof.

Any owner of a building subject to this Bylaw who demolishes, or allows to be demolished, the building without first obtaining a demolition permit in accordance with the provisions of this Bylaw shall be subject to a fine, established by the Building Commissioner and Historical Commission, of 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. Such violations may be enforced by the non-criminal procedure authorized by M.G.L. c. 40, §21D.

If a building subject to this bylaw 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 the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

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.

### **Article 7 - Historic District Act**

Nothing in this bylaw shall be deemed to conflict with the provisions of the Historic District Act, MGL Chapter 40C as amended. If any of the provisions of this bylaw do so conflict, that Act shall prevail.