

ARTICLE XVII

Historical Properties

XVII, 1-3

Section 17.1 Intent and Purpose

This bylaw is enacted to promote the public welfare and safeguard Medway's historical, cultural and architectural heritage by protecting historical resources that make the town a more interesting, attractive and desirable place in which to live. The bylaw aims to protect "preferably-preserved historically significant buildings" within the town by encouraging their owners to seek alternatives to their demolition and by providing the town an opportunity to work with owners of such properties in identifying alternatives to their demolition.

Section 17.2 Definitions

As used in this bylaw, the following words and terms, unless the context requires otherwise, shall have the following meanings

- 2.1 "APPLICANT" - any person or entity who files an application for a demolition permit.
- 2.2 "BUILDING" - any combination of materials forming a shelter for persons, animals or property.
- 2.3 "COMMISSION" - the Medway Historical Commission.
- 2.4 "DEMOLITION" - any act of destroying, eliminating, pulling down, razing or removing a building or substantial portion thereof, or starting the work of any such act with the intention of completing the same.
- 2.5 "PERSON" - any natural person, firm, partnership, association or corporation.
- 2.6 "HISTORICALLY SIGNIFICANT BUILDING" - any building or portion thereof that is over 100 years of age and which is determined by the Commission to be a historically significant building as provided by section 17.3.4 of the bylaw because:
 - (a) It is listed on the National Register of Historic Places or the Massachusetts Register of Historic Places;
 - (b) It is subject of a pending application for listing in the National Register of Historic Places;
 - (c) It is within any historic district
 - (d) It 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,
 - (e) It 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;

- 2.7 "PREFERABLY-PRESERVED HISTORICALLY SIGNIFICANT BUILDING" - any historically significant building which the Commission determines, as provided in section 17.3.6 of this bylaw, is in the public interest to be preserved or rehabilitated rather than to be demolished.

Section 17.3 Procedure

- 3.1 No permit for the demolition of a building which is a historically significant building as defined in section 17.2.6 herein shall be issued other than in conformity with the provisions of this bylaw as well as in conformity with the provisions of other laws applicable to the demolition of buildings and the issuance of permits thereof generally.

- 3.2 Any person who intends to file an application for a permit to demolish a building which

- (i) Is over 100 years of age, or,
- (ii) Has been listed or is the subject of a pending application for listing in the National Register of Historic Places or is listed in the Massachusetts Register of Historic Places,
- (iii) Is within any historic district shall first file a NOTICE OF INTENT TO DEMOLISH A HISTORICALLY SIGNIFICANT BUILDING ("Notice of Intent to Demolish") with the Town Clerk, and in addition, shall complete the review process established in sections 17.3.1 through 17.3.8 herein. The Town Clerk shall forthwith transmit copies of each duly filed Notice of Intent to Demolish to the Commission and the Inspector of Buildings/Building Commissioner for the Town of Medway (also referred to in this bylaw as "Building Inspector").

- 3.3 The Commission shall prepare and have available for distribution a Notice of Intent to Demolish a Historically Significant Building, which shall contain at least the following information:

- (i) The applicant's name, address and interest in such building,
- (ii) The owner's name and address, if different from that of the applicant,
- (iii) The address or location of such building,
- (iv) Assessors' map and parcel number,
- (v) A brief description of such building including its age, and,
- (iv) An explanation of the proposed use to be made of the site of such building.

- 3.4 Where an applicant has filed a Notice of Intent to Demolish a building that is over 100 years of age the Commission shall within sixty (60) days

of the filing of the Notice of Intent to Demolish, file with the Town Clerk an initial determination in writing as to whether or not the building is a historically significant building in accordance with any criterion set forth in section 17.2.6. A determination that a building is not a historically significant building shall be transmitted by the Commission to the applicant, to the Building Inspector and to the Town Clerk and the applicant shall not be required to take any further steps prior to filing for a demolition permit.

- 3.5.1 The Commission shall, unless the building is determined not to be historically significant, hold a public hearing on each such Notice of Intent to Demolish within sixty (60) days after the date it is filed with the Town Clerk. 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 (7) days prior to the date of said hearing. Notice of the hearing shall also be sent to the applicant by mail at least seven (7) days prior to the date of such hearing.

Within thirty (30) days from the close of the public hearing, the Commission shall file a written determination with the Town Clerk as to whether the demolition of the building will be detrimental to the historical, cultural, or architectural heritage or resources of the Town.

- 3.6 If the Commission determines that the demolition of the historically significant building would be detrimental to the historical, cultural, or architectural heritage or resources of the Town, such building shall be considered a preferably preserved historically significant building.

Upon a determination by the Commission that the historically significant building which is the subject of the application for a demolition permit is a preferably-preserved historically significant building, the Commission shall so advise the applicant, the Building Inspector and the Town Clerk and no demolition permit may be issued for at least nine (9) months after the date of such determination by the Commission.

- 3.7 Notwithstanding the preceding sentence, the Building Inspector may issue a demolition permit for a preferably-preserved historically significant building at any time after receipt of written advice from the Commission to the effect that either

- (i) The Commission is satisfied that there is no reasonably likelihood that either the owner or some other person or group is willing to purchase, rehabilitate and restore the subject building, or,
- (ii) The Commission is satisfied that for at least nine (9) months the owner had 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.

- 3.8 If the Commission determines that the demolition of the historically significant building would not be detrimental to the historical, cultural or architectural heritage or resources of the Town, the Commission shall so notify the applicant, the Building Inspector and the Town Clerk. Upon receipt of such notification, the Building Inspector may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.

Section 17.4 Responsibility of Owners

4.1 During the nine-month waiting period established above, the applicant shall make a good faith effort to find an alternative use for the building that will result in its preservation. Alternatives to demolition include, but are not limited to, incorporation of the building into the future development of the site; adaptive reuse of the building; utilization of financial incentives to rehabilitate the building; seeking a new owner willing to purchase and preserve, restore or rehabilitate the building; or moving or relocating the building.

4.2 the facilitation of the above process of this bylaw by providing information; for allowing access to the property; for securing the premises; for participating in the It shall be the responsibility of the applicant for a demolition permit to assist in investigation of preservation options; and for actively cooperating in seeking alternatives with the Commission and any interested parties.

4.3 Upon determination by the Commission that a building or structure is a preferably preserved historically significant building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Inspector. Should the owner fail to secure the building to the satisfaction of the Building Inspector, the subsequent destruction of such building through any cause, which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of this bylaw.

Section 17.5 Emergency Demolition

Nothing in this bylaw shall restrict the Building Inspector from ordering the demolition of a historically significant building determined by the Building Inspector to present a clear and present danger to the safety of the public which only demolition can prevent.

If the Building Inspector determines there is no reasonable alternative to an emergency demolition, the Building Inspector shall prepare a written report describing the basis of that decision. A copy of that report will be filed with the Commission.

Section 17.6 Non-Compliance

6.1 Any owner of a historically significant building who violates any provision of this bylaw shall be penalized by a fine of not more than three hundred (\$300.00) dollars.

6.2 The Commission and the Building Inspector are each authorized to

institute any and all proceedings in law or equity, as they deem necessary to obtain compliance with the requirements of this bylaw or to prevent a violation thereof.

- 6.3 No building permit shall be issued with respect to any premises upon which a historically significant building has been 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 all land within the property lines of said parcel of land upon which the demolished historically significant building was located.

Section 17.7 Severability

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