

TOWN OF HOPKINTON  
GENERAL BYLAW

**Chapter 125**

**HISTORIC PRESERVATION**

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**[HISTORY: Adopted by the Annual Town Meeting of the Town of Hopkinton 5-6-2002, Art. 36. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Zoning -- See Ch. 210.**

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**~ 125-1. Intent and purpose.**

The purpose of this chapter is to establish a procedure for reviewing requests to demolish significant structures in order to record and, if appropriate, preserve the historical, cultural, and architectural heritage and character of Hopkinton.

**~ 125-2. Definitions.**

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

**APPLICANT** -- Any person or entity who files an application for review under this chapter. If the applicant is not the owner of the premises upon which the structure is situated, the owner must indicate on or with the application his/her assent to the filing of the notice or application.

**BUILDING INSPECTOR** -- The Hopkinton Director of Municipal Inspections, Local Inspector, or person(s) otherwise authorized to issue demolition permits.

**COMMISSION** -- The Hopkinton Historical Commission.

**DAY** -- Any calendar day, including Saturdays, Sundays, and holidays.

**DEMOLITION** -- Any voluntary act involving the pulling down, destroying, burning, removing, or razing in any manner whatsoever, of a structure, in whole or in part; commencing any work involving the partial, substantial or total destruction of a structure; or allowing the same to be done by others.

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**DEMOLITION PERMIT** -- Any permit, including, without limitation, a demolition, alteration or building permit issued by the Building Inspector, as required by the State Building Code, which authorizes the demolition of a structure, but excluding, however, the demolition of only the nonstructural portions of the interior of the structure.

**PREFERABLY PRESERVED SIGNIFICANT STRUCTURE** -- Any structure which, after hearing by the Commission, is determined to be a significant structure and in the public's interest to preserve or rehabilitate under this chapter.

**SIGNIFICANT STRUCTURE** -- Any structure which may be worthy of preservation by reason of the fact it may have been constructed, in whole or in part, 75 or more years prior to the application date, and it is determined by the Commission to be either:

- A. Associated in some material respect with a person or event which has contributed to the cultural, political, economic, social, or architectural history of the Town, the Commonwealth, or the United States of America; or
- B. Historically or architecturally important (in terms of period, style, construction, or material association with an architect or builder), either by itself or in the context of a group of structures.

**STRUCTURE** -- Any combination of materials giving support or forming a shelter for persons, animals, or property, and/or including, without limitation, such other buildings, signs, walls, fences, statues, monuments, bridges, burial markers or other combinations of building materials. The word "structure" shall be construed, where appropriate, as though followed by the words "or part or parts thereof."

**~ 125-3. Procedure.**

- A. No demolition permit for the demolition of any structure shall be issued without the prior compliance with the provisions of this chapter.
- B. Upon receipt of an application for a demolition permit for any structure, the Building Inspector shall transmit a copy of the application to the Commission.
- C. Within 14 days of receipt of the application, the Commission shall determine if the structure is a significant structure. The Commission shall notify the Building Inspector and the applicant in writing of this initial determination. If the structure is not determined to be a significant structure, the Building Inspector may proceed to issue a demolition permit in accordance with all applicable codes and regulations.
- D. If the structure is determined to be a significant structure, the Commission shall hold a public hearing within 30 days of this initial determination to determine whether the structure should be preserved. Notice of the time, place and purpose of the hearing shall be given once in a local newspaper, at least seven days before such hearing and by posting a notice in the Town Hall for a period of at least seven days before such hearing, and by mailing a notice of hearing to the applicant and all immediate abutters to the property upon which the structure is situated.

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- E. The Commission shall make a determination as to whether the structure should be classified as a preferably preserved significant structure within 10 days of the close of the public hearing. The applicant, the Building Inspector, and the Town Clerk shall be provided with a copy of the written determination.
- F. If the Commission determines the structure is not worthy of classification as a preferably preserved significant structure, the applicant may apply for the necessary permits to begin demolition.
- G. If the Commission determines the structure is worthy of classification as a preferably preserved significant structure, no further demolition permits may be applied for or issued with respect to such structure, for a period of six months from the date of such written determination.
- H. During such six-month period, the Commission will invite the applicant (and the owner of record, if different from the applicant) to participate in an investigation of alternatives to demolition. If acceptable alternatives are agreed upon by the Commission and the applicant, the Commission will file a copy of said agreement with the Building Inspector and Town Clerk and the applicant may apply for necessary permits to begin work. Work shall only be done in accordance with the terms of the agreement unless and until new permit applications are filed and processed hereunder.
- I. If the Commission is satisfied that there is no feasible alternative to demolition, the Commission may so advise the applicant, the Building Inspector, and the Town Clerk in writing, at any time during this six-month period, and the Building Inspector may issue a permit to demolish the structure in accordance with all applicable codes and regulations.
- J. In the event that the structure will be demolished, the applicant is encouraged to allow a representative or agent of the Commission to enter upon the premises for the purpose of documenting the historically significant features of the structure. Such documentation could include photographs, videotape recording, or making measurements of the structure.
- K. An applicant may submit a request for a determination from the Commission as to whether a structure is a preferably preserved significant structure without filing an application for a demolition permit with the Building Inspector. The Commission shall follow the procedures set forth in ~ 125-3C through G in this chapter in making such determination. The determination and agreement, if any, shall be valid for a period of two years, during which time the application for a demolition permit may be submitted to the Building Inspector, and a demolition permit issued without reapplication to the Commission, so long as such permit is consistent with the determination and/or agreement.

**~ 125-4. Emergency demolitions.**

Nothing in this chapter shall restrict the demolition of a significant structure which the Building Inspector shall have determined presents a danger to the public health, welfare or safety and which only demolition can abate. Such a determination shall be made in accordance with the applicable provisions of the State Building Code and after consultation with the Commission Chairperson or designee. Whenever an emergency demolition permit is issued under the

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provisions of this section, the Building Inspector must file a written report with the Commission describing the condition of the structure and the basis for the determination.

**~ 125-5. Enforcement and remedies.**

- A. The Commission and the Building Inspector are both authorized to enforce the provisions of this chapter.
- B. The Building Inspector shall not issue a permit of any type pertaining to any property on which a significant structure has been demolished without first fully complying with the provisions of this chapter for a period of two years from the date of demolition.
- C. The provisions of this chapter may be enforced by a noncriminal disposition pursuant to Chapter 1, Article II, Noncriminal Disposition, of the Bylaws of the Town of Hopkinton.
- D. Any person who violates any provision of this chapter, or of any regulation, permit or agreement issued thereunder, shall be liable for a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized demolition occurs, shall constitute a separate offense, and each provision of this chapter, or any regulation, permit or agreement which shall have been violated, shall constitute a separate offense.
- E. Appeals. Any person aggrieved by the final decision of the Building Inspector or the Commission may make an appeal to the Zoning Board of Appeals in accordance with MGL c.40A within 30 days after the written administrative decision or action is made. [5-3-2004 ATM, Art. 55]

**~ 125-6. Administration.**

- A. The Commission may adopt such rules and regulations as are necessary to administer the terms of this chapter.
- B. The Commission is authorized to adopt a schedule of fees to cover the costs associated with the administration and review of any application which is filed under this chapter.

**~ 125-7. Severability.**

If any provision of this chapter is determined to be invalid or unconstitutional by any court or other tribunal of appropriate jurisdiction, then notwithstanding such invalidity, every other section of this chapter shall continue in full force and effect.