Chapter 107: DEMOLITION

[HISTORY: Adopted by the Town of Falmouth as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES
Building construction — See Ch. 95.
Damage to property — See Ch. 164.


§ 107-1. Intent and purpose.

This bylaw is enacted for the purpose of preserving and protecting significant buildings within the Town 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 bylaw, owners of significant buildings are encouraged to seek out alternatives to demolition 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, and the streetscapes and neighborhoods they form, this bylaw makes the Town a more attractive and desirable place in which to live and work. To achieve these purposes and thereby promote the public welfare, the 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.

§ 107-2. Definitions.

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

APPLICANT — Any person or entity who files an application for, or a request for review of demolition relative to, 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.

BUILDING COMMISSIONER — The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.

COMMISSION — The Falmouth 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 Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

LETTER OF CERTIFICATION — A letter from the Town Clerk noting the date on which a request for review of demolition has been recorded and indicating whether the building is on the List of Significant Buildings. The Town Clerk shall send this letter to the Building Commissioner.
and the Historical Commission with a copy of the request for review of demolition.

LIST OF SIGNIFICANT BUILDINGS — A list, to be created by the Historical Commission and kept by the Town Clerk, of significant buildings as determined according to the provisions of this article. (See "significant building."

SIGNIFICANT BUILDING — Any building within the Town, but not within a Local Historic District, which has been determined by the Commission, according to the provisions of this article, to be significant based on any of the following criteria:

A. The building is listed on, or is within an area listed on, the National or State Register of Historic Places; or

B. The building has been found eligible for the National or State Register of Historic Places; or

C. 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

D. 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, a streetscape, or a neighborhood.

REQUEST FOR REVIEW OF DEMOLITION — A request from an applicant to the Town Clerk, and through the Clerk to the Historical Commission, for a certification by the Town Clerk of whether a building is on the List of Significant Buildings, and if the building is so listed, for an advisory review by the Historical Commission of the proposed demolition.


A. No demolition permit shall be issued without following the provisions of this bylaw. Prior to applying for a demolition permit at the Building Department, the applicant shall file with the Town Clerk a request for review of demolition containing the following information:

   (1) The address of the building to be demolished.

   (2) The owner's name, address and telephone number.

   (3) A description of the building.

   (4) The reason for requesting a demolition permit.

   (5) A brief description of the proposed reuse, reconstruction or replacement.

   (6) A photograph or photograph(s) of the building.

B. Upon receipt of such request for review of demolition, the Town Clerk shall record the request and draft a letter of certification noting the date on which the request was recorded and indicating whether the building is on the List of Significant Buildings described in § 107-6 of this article. The Town Clerk shall send this letter to the Building Commissioner and the Historical Commission with a copy of the request for review of demolition.

C. The Building Commissioner shall not accept or act on any application for a demolition permit without a letter of certification from the Town Clerk. If such letter indicates that the building is not on the List of Significant Buildings, the Building Commissioner may accept and act upon an application for a demolition permit for the building without delay.

D. If such letter indicates that the building is on the List, the date on which the request is recorded by the Town Clerk shall be the commencement of a six-month delay period, during which time the Building Commissioner shall not accept or act on any application for a demolition permit except as provided for under § 107-4 of this article entitled "Waiver of delay."
E. The Historical Commission, upon receipt of a letter of certification indicating that a building is on the List of Significant Buildings, shall schedule a time to meet with the applicant or his authorized representative to perform an advisory review. The applicant must attend or send an authorized representative to such a review. At this time the Historical Commission shall assist and encourage the applicant to seek out alternatives to demolition that will preserve, rehabilitate or restore the building, or if demolition is to proceed to provide suitable documentation of the building for the permanent records of the Commission. The Commission may also request access to the building for a site visit to further the purposes of this review, which access shall be at the discretion of the applicant.

F. Upon performance of such a review, the Commission shall notify the Building Commissioner in writing that the applicant has fulfilled the requirement to attend. The Building Commissioner shall not accept or act on any application for a demolition permit for a building on the List of Significant Buildings without such written notification from the Historical Commission, regardless of whether the six-month delay period has ended. If the Building Commissioner has received such written notification, and if following the six-month delay period the applicant still chooses to apply for a demolition permit, the Building Commissioner may then issue a demolition permit for the building.

§ 107-4. Waiver of delay.

Upon request of the applicant, the Historical Commission may issue a waiver of delay allowing demolition to proceed immediately, or at a specified time, or upon the fulfillment of specified conditions by the applicant, if the Commission deems that such waiver is in the best interest of the Town and in pursuit of the purposes of this article. Before issuing such a waiver, the Commission shall hold a public hearing to receive information and comment from abutters to the property and the general public. Upon receipt of such a waiver, and of written notice from the Historical Commission that the conditions of the waiver, if any, have been fulfilled, the Building Commissioner may issue a demolition permit for the building.

§ 107-5. Administration.

A. The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw.

B. The Board of Selectmen is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw.

§ 107-6. List of significant buildings.

The Commission shall develop a List of Significant Buildings that will be subject to this bylaw. Buildings proposed for the List shall be added following a public hearing. 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 and the owner shall be notified in writing of the meeting time and place.


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 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
§ 107-8. Enforcement and remedies.

A. The Commission and/or the Building Commissioner 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.

B. Any owner of a building subject to this bylaw that demolishes the building without first obtaining a demolition permit in accordance with the provisions of this bylaw shall be subject to a fine of not more than three hundred dollars ($300.). 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.

C. 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 (2) 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.

§ 107-9. Transition from Current Bylaw.

This bylaw shall take effect January 1, 2008. The terms of the previous Demolition Delay Bylaw will continue to be in effect for demolition permit applications delivered to the Town Clerk on or before December 31, 2007. Editor's Note: A copy of the previous Demolition Delay Bylaw is on file in the Town offices. Upon approval of this article by the Office of the Attorney General, the Historical Commission shall have the authority to begin development of a List of Significant Buildings in accordance with the provisions of §§ 107-2 and 107-5 of this article.

§ 107-10. Severability.

In case 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.