



# TOWN OF PLYMOUTH

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## Chapter 90

### HISTORIC DISTRICT (Voted April 2024)

#### **§ 90-1. Statutory authority.**

#### **§ 90-2. Establishment.**

#### **§ 90-3. Historic District Commission.**

#### **§ 90-4. Powers and duties of Commission.**

#### **§ 90-5. Appeals.**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Plymouth 4-16-1974 by Art. 58 as Art. 14 of the 1974 Bylaws. Amendments noted where applicable.]**

#### **§ 90-1. Statutory authority.**

This chapter is adopted pursuant to the Historic District Act, MGL c. 40C, in consideration of the purposes set forth in Sections 2 and 7 of the Act.

#### **§ 90-2. Establishment.<sup>1</sup>**

There is hereby established in the Town of Plymouth an historic district as shown on a plan entitled "Proposed Historic District" prepared for the Historical District Study Commission, Town of Plymouth, Massachusetts, dated November 1, 2023, prepared by Office of Planning and Development, a copy of which is on file in the Town Clerk's office.

#### **§ 90-3. Historic District Commission. [Added 10-26-2005 ATM by Art. 26 (Changes to A and E)]**

- A. There is hereby established the Plymouth Historic District Commission, which shall consist of ~~five~~ seven members, including one member from two nominees submitted by the Society for the Preservation of New England Antiquities, one member from two nominees submitted by the Chapter of the American Institute of Architects covering the Town of Plymouth, one member from two nominees of the Board of Realtors, one property owner resident in the Plymouth Historic District, two registered voters of the Town of Plymouth and one Town of Plymouth resident

<sup>1</sup> Editor's Note: Under Art. 70 of the 1977 Annual Town Meeting, the town voted to extend the present historic district. See the town meeting records for a more detailed description of the action.

interested in the preservation and protection of places of significance in the history of the Town of Plymouth. The Board of Selectmen shall appoint two alternate members to the Commission. In the case of the absence, inability to act or unwillingness to act because of a conflict of interest on the part of a member of the commission, his/her place shall be

taken by an alternate member designated by the chairman of the Historic District Commission. Said alternate members shall be appointed initially for 2 year and 3 year terms, with subsequent terms to be for 3 years. **[Last Sentence Added 10/18/2014 ATM by Art. 32]**

- B. All members shall be appointed by the Board of Selectmen for the Town of Plymouth.
- C. If within 30 days after submission of a written request for nominees to any of the organizations herein named no such nominations have been made, the Selectmen may proceed to make their appointments without nominations by such organization.
- D. Wherever possible, all members shall be citizens of the Town of Plymouth.
- E. Each term shall be for three years, except for the terms for the original members, which shall be as follows:
  - (1) New England Antiquities nominee: three years.
  - (2) American Institute of Architects nominee: three years.
  - (3) Board of Realtors nominee: two years.
  - (4) Resident property owner: two years.
  - (5) Interested Plymouth resident: one year.
  - (6) One registered voter of Plymouth for two years, and one registered voter of Plymouth for three years.
- F. In the event that an appointment is made without nominations as aforesaid, the term of the member appointed shall be the same as if nominations had been made.

#### **§ 90-4. Powers and duties of Commission.**

The Plymouth Historic District Commission (Commission) established herein and as from time to time existing shall have the powers, authority and duties granted by MGL c. 40C and the powers, authority and duties provided by this chapter.

- A. The Commission may adopt and amend such rules and procedures not inconsistent with the provisions of MGL c. 40C as it deems necessary or desirable for the exercise of its power, authority and duties.

- B. It may employ clerical and technical assistants or consultants and incur other expenses appropriate to the carrying on of its work within the amounts from time to time appropriated to it by the town and may accept money gifts and expend the same for such purposes.
  - C. The Commission may administer, on behalf of the Town of Plymouth, any properties and/or easements, restrictions or other interests in real property which the town may have or may accept as gifts or otherwise and which the town may designate the Commission as the administrator thereof.
- B. The Commission shall have the powers and duties of an Historical Commission as provided in MGL c. 40, § 8D.

**E. The Preservation of Historically Significant Buildings**

**Section 1. Intent and Purpose**

The Demolition Delay Bylaw is enacted for the purpose of preserving and protecting significant buildings and other structures (barns or out-buildings which are generally associated with the significantly historic building) within the Town of Plymouth 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 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 Plymouth Historic District Commission is authorized to advise the Building Commissioner with respect to demolition zoning permit applications. The issuance of demolition zoning permits is regulated as provided by this Bylaw.

**Section 2. Definitions**

**2.1 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.

**2.2 APPLICATION** - An application for the demolition of a building.

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

**2.4 BUILDING COMMISSIONER** - The person occupying the office of Building Commissioner or otherwise authorized to issue demolition zoning, demolition and building permits.

**2.5 COMMISSION** – The Plymouth Historic District Commission.

**2.6 DEMOLITION** - Any act of pulling down, destroying, removing, dismantling or razing a building or a portion of a building or commencing the work of total or substantial destruction.

**2.7 DEMOLITION PERMIT** - Any permit issued by the Building Commissioner for a demolition of a building or portion thereof, excluding a building permit issued solely for the demolition of the interior of a building.

**2.8 SIGNIFICANT BUILDING** – Any building within the town that is in whole or in part seventy-five (75) years or more old and which has been determined by the Commission or its designee 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 Register of Historic Places; or
- (b) The Building has been found eligible by a majority vote of the Commission for the National 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.

**2.9. PREFERABLY PRESERVED BUILDING** – A building which the Commission has determined, after a public hearing as described herein, to be historically significant to the Town's architectural or historical resources, because of its construction, location or historical use, and which is in the public interest to preserve.

### Section 3. Procedure

**3.1** No demolition permit for a building which is in whole or in part seventy-five (75) years or more old may 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 75 years old for the purpose of this Bylaw.

**3.2** An applicant proposing to demolish a Significant Building subject to this Bylaw shall file with the Commission an application containing the following information:

- (a)** The address of the building to be demolished.
- (b)** The owner's name, address and telephone number.
- (c)** A description of the building.
- (d)** The reason for requesting a demolition permit.
- (e)** A brief description of the proposed reconstruction or replacement.
- (f)** A photograph or photographs of the building.

**3.3** Upon receipt of the application the Commission shall vote an Initial Determination within twenty-one days as to whether the Significant Building is Preferably Preserved or Not Preferably Preserved.

**3.4** Upon the Initial Determination by the Commission that the Significant Building is Not Preferably Preserved, the Commission shall so notify the Building Commissioner and the applicant in writing.

**3.5** Upon Initial Determination by the Commission that the Significant Building is Preferably Preserved, the Commission shall so notify the Building Commissioner and the applicant. The applicant shall be notified by Certified Mail of the right to appear to be heard at a subsequent hearing on a Final Determination of whether the building is to be

Preferably Preserved. No demolition permit shall be issued at this time.

3.6 If the Commission by an Initial Determination finds that the Building is Preferably Preserved, it shall hold a public hearing within (30) thirty days of the written notification to the applicant and the Building Commissioner to make a Final Determination as to whether the Significant Building is Preferably Preserved or is Not Preferably Preserved. The Commission shall give public notice of said hearing by publishing notice of the time, place, and purpose of the hearing in a newspaper of general circulation in the Town twice, the first notice to be published at least fourteen (14) days before the hearing and the second notice no more than seven (7) days before the hearing, and by mailing a copy of said notice to the applicant, to the owner of the premises on which the Significant Building is located (if other than the applicant) to the owners of all property within one hundred feet of the premises on which the Significant Building is located as appearing on the most recent tax list, and to such other persons as the Commission may deem entitled to notice.

3.7 The Commission shall make a Final Determination at the public hearing or within fourteen days thereafter the public hearing whether the Significant Building Preferably Preserved or Not Preferably Preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed for the convenience of the applicant or owner or for additional time necessary to obtain additional pertinent information.

3.8 If the Commission determines that the Significant Building is Not Preferably Preserved, the Commission shall so notify the Building Commissioner and applicant in writing. If the Commission fails to make such determination within fourteen days of the close of the public hearing, the building shall be deemed to be Not Preferably Preserved. The Building Commissioner may then issue the demolition permit.

3.9 Upon a Final Determination by the Commission that any building which is the subject of an application is Preferably Preserved, no demolition permit may be issued for a period of twelve months from the date of the Final Determination unless

prior to the expiration of twelve months, the Commission determines, and so informs the Building Commissioner, that, either 1. the applicant for the demolition permit has made a good faith, but unsuccessful, effort to locate a purchaser or developer for the building who is willing to commit to preserve, rehabilitate or restore the building, , or, 2. The applicant has agreed with the Commission to a modified scope of demolition or other conditions on a demolition permit..

3.10 No permit for demolition of a building determined to be a Preferably Preserved building may be granted until all plans for future use and development of the site have been filed with the Building Commissioner and has been found by the Building Commissioner to comply with all laws pertaining to the issuance of a building permit or other permits for that site. All approvals necessary for the issuance of such building permit or other permits including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a Demolition Permit under this section.

3.11 The Building Commissioner may issue a Demolition Permit or a building permit for a Preferably Preserved building within the twelve 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.

#### Section 4. Administration

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

4.2 The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this Bylaw.

4.3 The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission.

#### Section 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 or safety due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building, then the Building Commissioner may issue an Emergency Demolition Permit to the owner of the building. 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 with a copy to the owner of the building.

#### Section 6. Responsibility of Owners

Once a Significant Building is determined to be preferably preserved, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the

Building Commissioner. Should the owner fail to so secure the building, a subsequent destruction of the building at any time during the demolition delay period, which destruction could have been prevented by the required security measures, shall be deemed a demolition in violation of this Bylaw.

#### Section 7. Enforcement and Remedies

7.1 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 or appropriate to obtain compliance with the requirements of this Bylaw or to prevent a threatened violation thereof. In addition to any other remedy available at law, any owner who violates any provision of this Bylaw shall be subject to a penalty of up to \$300.00 dollars per day, each day of violation constituting a separate offense. When enforced pursuant to the provisions of so-called non-criminal prosecution pursuant to G. L. c. 40, §21D, the penalties for violation shall be as follows:

First day or violation:	\$100.00
Second day of violation:	\$200.00
Third and subsequent days of violation:	\$300.00,

7.2 If all or a portion of a building subject to this Bylaw is demolished without first obtaining a demolition permit, no building permit shall issue for a period of two years from the date of the demolition. Notwithstanding the foregoing, whenever the Commission may, on its own initiative, or on application of the owner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this Bylaw better serves the intent and purpose of this by-law, it may, prior to the

expiration of said period of two years authorize issuance of a building permit, upon such conditions as the

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Commission deems necessary or appropriate to effectuate the purposes of this bylaw.

#### Section 8. Historic District Act

Following a determination that the building is significant and preferably preserved, the Commission may recommend to town meeting that the building be protected through the provisions of G. L. c 40C, the Historic Districts Act. The steps required under G.L. c. 40C shall be followed prior to the establishment of a local historic district. Nothing in this Bylaw shall be deemed to conflict with the provisions of the Historic District Act, G. L. c. r 40C. If any of the provisions of this Bylaw do so conflict, that statute shall prevail.

#### Section 9. Appeals

No appeal may be taken from an Initial Determination that a building is Preferably Preserved. An appeal by the owner of any building determined to be Preferably Preserved is governed by the provisions of G. L. c. 249, §4, which provides for an appeal to Superior Court for review of the record of the determination by the Commission,

#### Section 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.

### **§ 90-5. Appeals. [Added 4-1-1997 STM by Art. 16]**

Any applicant aggrieved by a determination of the Commission may, within 20 days after the filing of the notice with the Town Clerk, file a written request with the Commission for review by a person or persons of competence and experience in such matters designated by the regional planning agency. The finding of the person or persons making such review shall be filed with the Town Clerk within 45 days after the request and shall be binding on the applicant and the Commission unless further appeal is sought in the Superior Court as provided in MGL c. 40C, § 12A.

A True Copy

Attest:



Kelly A. McElreath  
Town Clerk