

**ARTICLE #:**

To see if the Town of Egremont will vote to adopt the following General Bylaw or take any other action relative thereto:

**Section 1: Intent and Purpose**

This bylaw is adopted for the purpose of protecting and preserving Significant Structures which constitute or reflect distinctive features of the history, architecture, and/or the character of the Town of Egremont. Through this bylaw the Town desires to work with and encourage owners, and others, to preserve, rehabilitate, or restore such Significant Structures rather than demolishing, removing or materially altering them.

**Section 2: Definitions**

1. **Structure**: any object or building of any kind that is constructed, erected or assembled to be maintained at a property either on or in the ground or attached to something on or in the ground. For the purposes of this bylaw, this includes but is not limited to structures intended for shelter, housing or enclosure of any person, process, equipment, animals or goods.
2. **Commission**: The Egremont Historical Commission.
3. **Demolition**: any act of pulling down, destroying, removing, dismantling or razing a Structure, or portion thereof. Interior demolition and renovation work is excluded.
4. **Building Permit**: written authorization from the Building Commissioner as required by the State Building Code that will authorize proposed work to a Structure for demolition, alteration, renovation or removal of a building from a property.
5. **Preferably Preserved**: any Significant Structure (as defined herein) which the Commission determines is in the public interest to preserve or rehabilitate in whole or in part rather than to demolish or substantially alter. Including, but not limited to structures with architectural or cultural characteristics.
6. **Significant Structure**: the Commission shall determine that a Structure or portion thereof which the Commission shall identify, may be designated as a Significant Structure if it meets one or more of the following:
  - a. ***Age***: the Structure is known or estimated by the Commission to be at least (100) years old in whole or in part. If a Structure is of unknown age, its shall be presumed to be at least (100) years old.
  - b. ***National Register of Historic Places***: the Structure is listed on, is a contributing Structure within an area listed on or is the subject of a pending application for listing on the National Register of Historic Places.

- c. *Historical Importance*: the Structure meets the criteria of Historical Importance if it meets one or more of the following:
    - i. Has character, interest or value as part of the development, heritage or cultural characteristics of the town of Egremont, the Commonwealth of Massachusetts or the nation;
    - ii. Is identified with a person or group of persons who had some significant influence on society;
    - iii. Exemplifies the cultural, political, economic, social or historic heritage of the community.
  - d. *Architectural Importance*: the Structure meets the criteria of Architectural Importance if it meets one or more of the following:
    - i. Portrays an era of history characterized by a distinctive architectural style;
    - ii. Itself or in the context of a group of buildings, embodies the distinguishing characteristics of an architectural type; is the work of an architect, master builder or craftsman whose individual work has influenced the development of the Town; contains elements of architectural design, detail materials or craftsmanship which represent a significant innovation or architectural movement.
  - e. *Geographic Importance*: the Structure or site meets the criteria of Geographic Importance if either:
    - i. The site is part of or related to a historically distinctive area or,
    - ii. The Structure, because of its unique location or its physical characteristics, represents an established and familiar visual feature of the neighborhood, village center, or the community as a whole.
7. **Substantial Alteration**: any alteration to the exterior of a Significant Structure (as defined herein) that requires a building permit and materially compromises the historic or architectural significance of said Structure considering such factors as the extent to which the original architectural or historic features may be modified and the relation between those features and the design of any proposed new construction or addition to the existing Structure.

### **Section 3: Review Procedure**

1. Any work to a Structure that requires a Building Permit as described by the Massachusetts State Building Code 780 CMR Section 105, is subject to the requirements of this bylaw. For the purposes of this bylaw, no building permit may be issued for Demolition or Substantial Alteration (as defined herein) to a Structure that is in whole or part (100) years old without following the provisions of this bylaw.

- a. Applicants are encouraged to consult the Historical Commission on their proposed project prior to their submission for a Building Permit at a regularly posted monthly meeting. This consultation is for information purposes only and does not constitute approval of final plans submitted to the Building Inspector for Permit or meet the requirements of this bylaw.
2. Within **(7)** business days from receipt of an application for building permit, which meets the requirements of this bylaw, the Building Commissioner shall forward a copy of each such application to the Commission and confirm with the Commission that it has been received.
3. Within **(10)** business days from the receipt of the application for a Building Permit, the Commission shall make a determination as to whether the Structure involved is a Significant Structure as defined herein.
  - a. If the Commission determines that the Structure is **not** a Significant Structure, the Commission shall notify the Building Commissioner in writing within **(10)** business days and the Building Permit may be granted.
  - b. If the Commission determines the Structure **is** a Significant Structure the Commission shall notify the Building Commissioner in writing within **(10)** business days and the Building Permit will be held in abeyance until the Commission holds a public hearing.
4. Within **(30)** business days of the written notification to the Building Commissioner that a building is a Significant Structure, the Commission shall hold a public hearing to determine if the Structure is Preferably Preserved. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the Town once in each of (2) successive weeks, the first publication to be not less than (14) days before the day of the hearing, and by posting such notice in a conspicuous place in the Town Hall for a period of not less than (14) days before the day of such hearing. The applicant, the owners of all abutting property, the Building Commissioner and the Board of Selectmen shall be sent a copy of the notice.
  - a. Prior to the Public Hearing, the Commission may require and request additional information from the applicant including, but not limited to:
    - i. The reason for requesting a demolition / alteration permit.
    - ii. A description of the proposed work to be done as applicable.
    - iii. Any relevant floor plans, elevation or site plans of the proposed work.
  - b. If, after such hearing, the Commission determines that the demolition or substantial alteration of the Structure **would not** be detrimental to the historical, geographical, or architectural heritage or resources of the Town, the Commission shall so notify the Building Commissioner in writing within **(10)** business days of such determination that the Structure is *not* Preferably

Preserved. Upon receipt of such notification, or after the expiration of **(10)** business days from the date of the conclusion of the hearing, if the Building Commissioner has not received written notification from the Commission, the Building Commissioner may, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations, issue the Building Permit.

- c. If, after such hearing, the Commission determines that the demolition of the Structure **would be** detrimental to the historical, geographical, or architectural heritage or resources of the Town, such Structure shall be deemed a Preferably Preserved Structure. Upon such determination by the Commission, unless otherwise agreed to by the Commission, the Commission shall notify the Building Commissioner in writing and no Permit for demolition, alterations, or new construction to the subject Structure shall be issued for a period of **(12)** months from the date of the determination.
5. If the Commission determines that a Structure is Preferably Preserved, the applicant may meet again with the Commission during a publicly posted meeting with the Town at any time to present alternative preservation, rehabilitation or restoration options that would justify the issuance of a Building Permit. If the Commission approves the proposed plans, they will notify the Building Commissioner in writing that the intent and purpose of the bylaw is served and the Building Commissioner may issue a Demolition or Construction Permit for the Preferably Preserved Structure within the 12-month delay.
6. Following the **(12)** month delay period, the Building Commissioner may issue the Permit if the Commission notifies the Building Commissioner that the Applicant:
  - a. Has presented evidence to the Commission that they have made good faith effort to find alternative preservation, rehabilitation, or restoration options for the structure and that there is no reasonable likelihood that any person or group is willing to provide assistance to do such.
  - b. Has presented evidence to the Commission that bona fide and reasonable efforts to locate a purchaser ready, willing, and able to preserve, rehabilitate or restore the structure have been made and that such efforts have been unsuccessful.
7. Demolition approval by the Commission is valid for **(2)** years. If demolition does not occur within **(2)** years of the issuance of the Permit referred to herein, the Permit will expire.

#### **Section 4: Administration**

The Commission may adopt such rules and regulations as are necessary to administer the terms of the 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 no fewer than 2 members of the Commission.

### **Section 5: Emergency Demolition**

If after an inspection, the Building Commissioner finds a Structure subject to this bylaw to pose an immediate threat to public health or safety due to its deteriorated condition and there is no reasonable alternative to the immediate demolition of the Structure, the Building Commissioner shall so advise the Commission in writing or in person if time permits of the bases of their determination of immediate threat and shall, within **(7)** days of any Emergency Demolition forward to the Commission a report fully explaining the condition of the Structure which was the basis for the decision.

### **Section 6: Enforcement and Remedies**

1. The Commission and/or the Building Commissioner are each specifically authorized to enforce the provisions of this bylaw and, in regard thereto, institute any and all actions and proceedings, in law or equity, as either or both of them may deem necessary and appropriate to obtain compliance with the requirements of this bylaw or to prevent a threatened violation thereof, including, but not limited to non-criminal disposition pursuant to MGL c40Sec21D and Articles of General Bylaw.
2. If a Structure subject to this bylaw is Demolished or Substantially Altered without first obtaining a Permit from the Building Inspector or without fulfilling the requirements of this by-law, **no** Building Permit or Certificate of Occupancy shall be issued for a period of **(2)** years from the date of the Demolition or Substantial Alteration on the subject parcel of land unless the Building Permit is for the faithful restoration of the Structure referred to above or unless otherwise agreed to by the Commission.

### **Section 7: Historic District Act**

Following a determination that a Structure is a Significant Structure and Preferably Preserved, the Commission may recommend to Town Meeting that the Structure be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic Districts Act. The steps required under MGL Chapter 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, Massachusetts General Laws Chapter 40C. If any of the provisions of this bylaw do so conflict, that act shall prevail.

### **Section 8: Appeal**

Appeals from decisions or determinations of the Commission following a public hearing may be made by the applicants(s) or adjoining land owners to the courts under the certiorari statute, MGL Chapter 249, Section 4 or other relevant statute.

**Section 9: 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 an effect.