

The interment of more than one body per burial plot shall only be allowed with the approval of the Cemetery Commissioners.

## § 139-5. Transfer of unused plots.

If the owner of a lot containing one or more than one unused burial plot with bodies interred in the lot wishes to transfer or convey the remaining unused burial plots, he shall make application to the Cemetery Commissioners who will confirm the unused burial plots and issue a new deed for the remaining burial plots. The fee for such re-deeding shall be set by a vote of the Cemetery Commissioners annually. The re-deeded lot shall be registered with the Town Clerk's office in accordance with plans locating the unused burial plot or plots.

## § 139-6. Subdivision of existing lot.

- A. The Cemetery Commission shall have the power and authority, upon written request from a lot owner, to empower and permit, if it deems fit, the subdivision of an existing cemetery lot. Upon approval of the subdivision the Cemetery Commission will issue new deeds for the newly created lots to the respective lot owners.
- B. The Commission will set a fee to offset the administrative costs of the subdivision process.
- C. Perpetual care charges will be the responsibility of the new lot owner at the current rate.
- D. The sale price of a lot must be paid in full prior to the approval of any subdivision. The owner must provide proof of payment to the Commission prior to the issuance of new deeds.
- E. The lot owner shall indemnify and hold harmless the Cemetery Commission and the Town of Dudley for any and all damages which may arise as a result of the subdivision of any lot and subsequent sale to a new owner. This is to include but not be limited to the sales price, method of payment, method of collection, court costs and attorney's fees.

## § 139-7. Veterans' lots.

[Added 10-29-2018 by Art. 34; amended 6-22-2020 by Art. 11]

This section in the cemetery called "veterans' lots" may be used for the interment of any resident veteran, with a grave opening charge only, predicated on and subject to available space in said veterans' lot and subject to the rules and regulations. Said space will be set aside for the burials of honorably discharged veterans residing in the Town of Dudley at the time of their enlistment into the service and/or at the time of their death, proof of residency having been established by the Veterans' Agent and subject to the satisfaction and approval of the Cemetery Commissioners. Spouses shall be buried beside veterans and subject to fees within the rules and regulations. The lifting of the turf for flower beds is prohibited on any veteran's grave.

## Chapter 147. Demolition Delay

[HISTORY: Adopted by the Town Meeting of the Town of Dudley 5-22-2002 by Art. 7 (Art. 39 of the 1952 General bylaws). Amendments noted where applicable.]

## § 147-1. Declaration of policy.

Finding that the economic, cultural and aesthetic standing of the Town of Dudley can best be maintained and enhanced by due regard for the historical and architectural heritage of the Town and by striving to discourage the destruction of such cultural assets, it is hereby declared as a matter of public

policy that the protection, enhancement, perpetuation and use of structures of historical and architectural significance located within the Town of Dudley is a public necessity and is required in the interest of the prosperity, civic pride and general welfare of the people.

## § 147-2. Purpose.

The purpose of this bylaw is to:

- A. Designate, preserve, protect, enhance and perpetuate those structures and sites within the Town that reflect outstanding elements of the Town's cultural, artistic, social, economic, political, architectural, historic or other heritage;
- B. Foster civic pride in the vestiges and accomplishments of the past;
- C. Stabilize or improve the aesthetic and economic vitality and values of such structures and sites;
- D. Protect and enhance the Town's attraction to tourists and visitors;
- E. Promote the use of historical or architectural structures and sites for the education and welfare of the people of the Town;
- F. Promote good urban design including the perpetuation of related private open spaces;
- G. Promote and encourage continued private ownership and utilization of such buildings and sites now so owned and used; and
- H. Provide owners of significant structures with time to consider alternatives to demolition.

## § 147-3. Definitions.

The provisions of this bylaw shall be liberally construed to effect the purposes expressed or implied in § 147-2. Definitions of the following words and phrases shall be construed and understood according to their common and usual meaning unless the contrary is clearly indicated:

### **COMMISSION**

The Dudley Historical Commission.

### **DEMOLITION**

Any act of pulling down, destroying, removing or razing a structure or portion thereof, whether interior or exterior, or commencing the work of total or substantial destruction with the intent of completing the same.

[Amended 6-19-2006 by Art. 12]

### **DEMOLITION PERMIT**

A permit issued by the Building Inspector under the State Building Code for the demolition of a building or structure.

### **SIGNIFICANT STRUCTURE**

A structure or site found by the Dudley Historical Commission to contribute to the historical or architectural heritage or resources of the Town pursuant to § 147-5 of this bylaw.

## § 147-4. Procedure.

- A. No permit for demolition of a significant structure shall be issued except as provided in this bylaw.

- B. Every application for a demolition permit shall be made upon a form provided by the Building Inspector and shall be signed by the owner or the owner's agent under the power of attorney. Every application shall include such locational information, plans and narrative description and justification of the proposed demolition as shall be required under Historical Commission rules and regulations for such applications.  
[Amended 6-22-2020 by Art. 11]
- C. Upon receipt of any application for a demolition permit, the Building Inspector shall within five days transmit a copy thereof to the Dudley Historical Commission.
- D. Within 45 days of the Commission's receipt of a copy of the application for a demolition permit, the Commission shall hold a public hearing on such application and shall make a determination as to whether the structure is a significant structure under one or more of the criteria set forth in § **147-5A** and **B**. The Commission shall give written notice of the time and place of the hearing, not less than seven days prior to the hearing, to the owner by certified mail, and by posting and by publication once in a local newspaper. The Commission may conduct a site visit prior to the hearing.  
[Amended 10-25-2010 by Art. 18]
- E. If within 45 days of the Commission's receipt of a copy of an application for a demolition permit no public hearing has been held or no finding by the Commission has been filed with the Building Inspector, 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.  
[Amended 10-25-2010 by Art. 18]
- F. If after holding a public hearing the Commission shall determine that the structure is not a significant structure because it fails to meet one or more of the criteria set forth in § **147-5**, or if the Commission shall determine that the structure is a significant structure meeting one or more of the criteria set forth in § **147-5** but that the proposed demolition would not be detrimental to the historical or architectural heritage or resources of the Town, then the Commission shall notify the Building Inspector in writing of its findings within 14 days of said determination. Upon receipt of such notification, or upon expiration of said 14 days without such notice, the Building Inspector may issue a demolition permit, subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations.
- G. If after such hearing the Commission determines that the structure is a significant structure and that the proposed demolition would be detrimental to the historical or architectural heritage or resources of the Town, then it shall file written notice with the findings of its determination to the applicant and the Building Inspector and no demolition permit shall be issued until 12 months after the date of such determination by the Commission, or the issuance of a court decree pursuant to an appeal of such determination, whichever may be later. During the twelve-month waiting period, the owner shall make continuing, bona fide attempts to find a buyer or alternative use for the building or structure that will result in its preservation. When a buyer is found, then the owner is obligated to engage in a good faith effort to consummate the transaction.  
[Amended 11-7-2005 by Art. 5]

## § 147-5. Standards for significant structure designation.

The Historical Commission shall determine that a structure be designated as a significant structure if it meets one or more of the following criteria:

- A. It is listed on or is within an area listed on the National Register of Historic Places, or is the subject of a pending application for listing on said National Register; or
- B. The Commission determines that the structure meets one or more of the following three criteria:
  - (1) Historical importance. The structure meets the criteria of historical importance if it:

- (a) Has character, interest or value as part of the development, heritage or cultural characteristics of the Town of Dudley, the Commonwealth of Massachusetts or the nation;
  - (b) Is the site of an historic event;
  - (c) Is identified with a person or group of persons who had some influence on society; or
  - (d) Exemplifies the cultural, political, economic, social or historic heritage of the community.
- (2) Architectural importance. The structure meets the criteria of architectural importance if it:
- (a) Portrays the environment of a group of people in an era of history characterized by a distinctive architectural style;
  - (b) Embodies those distinguishing characteristics of an architectural type;
  - (c) Is the work of an architect, master builder or craftsman whose individual work has influenced the development of the Town; or
  - (d) Contains elements of architectural design, detail, materials or craftsmanship which represent a significant innovation.
- (3) Geographic importance. The structure meets the criteria of geographic importance if:
- (a) The site is part of, or related to, a square, park or other distinctive area; or
  - (b) The structure, as to 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.

## § 147-6. Demolition.

Notwithstanding the provisions in § **147-4G**, the Building Inspector may issue a demolition permit for a significant structure under any of the following circumstances:

- A. If at any time after inspection the Building Inspector shall determine that the structure poses an imminent threat to the public health or safety of the community under § **147-7D** and so advises the Commission in writing;
- B. The Commission is satisfied that there is no reasonable likelihood that either the owner or some other person or group is or will be willing to purchase, preserve, rehabilitate, restore or relocate such building and so advises the Building Inspector in writing; or
- C. The Commission is satisfied that the owner has made continuing bona fide and reasonable efforts to locate a purchaser who would be willing to preserve, rehabilitate, restore or relocate the subject building but that such efforts have been and will continue to be unsuccessful and so advises the Building Inspector in writing.

## § 147-7. Emergency demolition.

- A. If a building or structure poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request issuance of an emergency demolition permit from the Building Inspector.
- B. Upon receipt of any application for an emergency demolition permit, the Building Inspector shall within five days transmit a copy thereof to the Dudley Historical Commission.

- C. As soon as is practicable, but within 14 days after receipt of such an application, the Building Inspector shall inspect the building or structure with a team consisting of the Building Inspector, Town Engineer, Fire Chief, Historical Commission Chair and two other members of the Commission selected by the Chair, or the designees of said officials.
- D. Within five days after inspection of the building or structure, and after consultation with other members of the inspection team, the Building Inspector shall determine whether the condition of the building or structure represents a serious and imminent threat to public health and safety and whether there is any reasonable alternative to the immediate demolition of the building or structure which would protect public health and safety.
  - (1) If the Building Inspector finds that the condition of the building or structure poses a serious and imminent threat to public health and safety, and that there is no reasonable alternative to the immediate demolition of the building or structure, then the Building Inspector may issue an emergency demolition permit to the owner of the building or structure.
  - (2) If the Building Inspector finds that the condition of the building or structure does not pose a serious and imminent threat to public health and safety and/or that there are reasonable alternatives to the immediate demolition of the building or structure which would protect public health and safety, then the Building Inspector may refuse to issue an emergency demolition permit to the owner of the building or structure.
- E. Upon issuing an emergency demolition permit under the provisions of this section, the Building Inspector shall submit a brief written report to the Commission describing the condition of the building or structure and the basis for his/her decision to issue an emergency demolition permit.
- F. Nothing in this section shall be inconsistent with the procedure for the demolition and/or securing of buildings and structures established by MGL c. 143, §§ 6 through 10.

## § 147-8. Enforcement and remedies.

The following enforcement and remedies shall apply under this bylaw:

- A. The Historical Commission is authorized to adopt rules and regulations to carry out its duties and functions under this bylaw.
- B. The Commission and the Building Inspector are each authorized to institute any and all proceedings in law or equity they shall deem necessary and appropriate to obtain compliance with the requirements of this bylaw, or to prevent a violation thereof.
- C. No building permit shall be issued with respect to any premises upon which a structure has been demolished in violation of this bylaw for a period of five years from the date of the completion of such demolition.  
[Amended 5-21-2007 by Art. 4]

## § 147-9. Severability.

If any section, paragraph or part of this bylaw is for any reason declared invalid or unconstitutional by any court, every other section, paragraph and part shall continue in full force and effect to the extent that the overall purposes of this bylaw can still be met.

## § 147-10. Demolition permits not transferable.

[Added 6-19-2006 by Art. 11]

Demolition permits issued under the provisions of this bylaw shall not be transferable by the applicant and shall become null and void at such time as the underlying property is transferred. A change in

control of a business entity shall be considered a transfer by the applicant and shall render the demolition permit null and void.

## Chapter 158. Excavations and Fill

[HISTORY: Adopted by the Town Meeting of the Town of Dudley 5-22-2017 (Art. 17 of the 1952 General Bylaws). Amendments noted where applicable.]

### Article I. Earth Removal and Importation

#### § 158-1. Purpose.

[Amended 6-22-2020 by Art. 11]

The primary intent of this bylaw is to establish guidelines and regulate the removal, importation, and filling of any material for the protection of human health, public safety, welfare, and the integrity of the natural resources, including aquifers, bodies of water and the wetlands of the Town of Dudley.

#### § 158-2. Definitions.

The following definitions shall apply to this bylaw:

**BOARD**

The Board of Selectmen.

**EARTH**

Soil, loam, sand, gravel, borrow, rock, sod, peat, humus, clay, coal or other earth material.

**EXCAVATE**

To dig out and remove material.

**FILL**

To deposit, use, redistribute or move any material on or within any land area or water body. Also, any material which is used for this purpose.

**IMPORT**

To bring any material from outside of the Town to any land area or water body within the Town.

**MATERIAL**

Any geologic, man-made, recycled or processed material including in its entirety or as a proportion containing clay, rock, sand, gravel, topsoil, loam, humus, peat, sod, borrow rock, sediment, wood, plant or animal matter, glass, paper, plastic, metal, bituminous pavement, or concrete.

#### § 158-3. Permit required; exceptions.

The removal, importation or filling of any material to or from any parcel of land in the Town of Dudley is prohibited unless a written permit therefor is obtained first from the Board. If said fill project is in excess of 100,000 cubic yards over the life of the project or projects, an Administrative Consent Order from the Massachusetts Department of Environmental Protection or successor agencies or their equivalent is required as part of the permitting process as herein provided.

A. No permit shall be necessary when material must be removed, imported or filled for the following: