

Proposed Town of Westminster Massachusetts

Demolition Delay Bylaw – Draft 16 (List Based)

Section 1. Intent and Purpose

The purpose of this bylaw is to protect historical structures within the Town that reflect or constitute distinctive features of the architectural, cultural, economic, political or social history of Westminster.

The intent of this bylaw is not to permanently prevent demolition, but rather to provide an opportunity to develop preservation solutions and to provide owners with time to consider alternatives for preservation, rehabilitation, or restoration of such structures.

To achieve these purposes, the Westminster Historical Commission (WHC) is authorized to prepare and update on an ongoing basis, a List of Historic Structures within the Town and work together with the Building Commissioner to implement the provisions of the bylaw with respect to the issuance of permits for demolition of structures that are included on the List of Historic Structures.

Upon passage of the Demolition Delay Bylaw, owners who question the inclusion of their structures on the List of Historic Structures will have 60 days to request a review by the WHC. The 60 day request for review will also apply to any future additions to the List of Historic Structures.

Section 2. Definitions

Building Commissioner:

The Building Commissioner of the Town of Westminster, or other person authorized by state law or local bylaw to issue demolition permits in Westminster.

Commission:

“WHC” – the Westminster Historical Commission

Demolition:

Any act of pulling down, destroying, removing, dismantling or razing a building or substantial part thereof, or commencing the work of total or substantial destruction with the intent of completion of the same. Substantial part is defined as one half or greater of the square footage or half the assessed value of the structure or greater as determined by the Building Commissioner or the assessor. For purposes of this section, the term “demolition” shall not include the ordinary maintenance or repair of any structure, interior renovations, removal, or demolition of any ancillary portion of a structure, including, but not limited to porches and windows. Barns are excluded from this bylaw.

Demolition Delay Period

The 12 month delay period begins when the Building Commissioner receives the application for a demolition.

Demolition Permit

Any permit issued by the Building Commissioner which authorizes the demolition of a building as defined herein, excluding a building permit issued solely for the demolition of the interior of a building.

Demolition Permit Application

An official application form provided by the Building Commissioner for an application for a Demolition Permit.

Historic Structure

A historically significant structure that is included on the WHC List of Historic Structures due to the manner in which it reflects distinctive features of age, rarity, integrity, style and historical association.

Owner

Any person, agent, firm or corporation having a legal or equitable interest in the property.

Section 3. Commission to Establish a List of Historic Structures

The WHC will provide a List of Historic Structures to the Building Commissioner. The list will be posted on the Town's website. Owners will be notified of any additions to the list and the appeal process.

Section 4. Procedure

- 4.1 When the Building Commissioner receives a demolition permit application for a structure, s/he will determine if the structure is listed on the List of Historic Structures.
 - A. If the structure is listed, the 12 month delay will begin when the Building Commissioner receives the demolition permit application. The Building Commissioner shall, within fifteen (15) business days, inform the WHC in writing and email and will forward a copy of the application to the WHC.
 - B. If the structure is not listed, the Building Commissioner shall follow established Building Department demolition permit application procedures.
- 4.2 The WHC shall within fifteen (15) business days after receipt from the Building Commissioner of the demolition permit application, reconfirm whether or not the structure is or is not historically or architecturally significant. If the structure is

significant, the applicant may appeal to the WHC for a demolition delay waiver and submit a demolition plan. (Emergency and Hardship requests are excluded from this process. See Sections 5 and 6 on page 4).

- A. The applicant for the demolition permit may submit to the WHC a demolition plan which shall include the following information: (i) a lot plan showing the location of the building or structure to be demolished on the property and with reference to neighboring properties; (ii) a brief description of the type of building or structure and the reason for the proposed demolition with supporting data; and (iii) may include a brief description of the proposed reuse of the premises upon which the building or structure is located.
 - B. The WHC shall hold a public hearing within 30 days from receipt of the demolition plan and information as provided in paragraph 4.2.A . At the close of this hearing a vote of the majority or the WHC members present and voting shall determine whether to issue a waiver. Within 15 days from the date of the public hearing the WHC shall file a written report of its decision with the Building Commissioner, which shall include the following: (i) a description of the age, architectural style, historical associations and importance of the building or other structure to be demolished; (ii) a determination as to whether the building or structure should be preserved and remain subject to the demolition delay.
 - C. Upon a determination by the WHC that any building or structure which is the subject of an application for demolition is a significant building or structure which should be preserved, the WHC shall advise the applicant and the Building Commissioner that the 12 Month Delay period remains in force, and no demolition permit shall be issued up to 12 Months after the date of the original application to the Building Commissioner.
- 4.3 During the twelve (12) month delay period, the applicant, the WHC and any other interested parties are encouraged to seek alternatives to the proposed demolition.
- 4.4 Within the 12 month period, the Building Commissioner may issue a demolition permit for a historic structure after receipt of written opinion from the WHC that either:
- A. The historic structure is determined not to warrant preservation, or
 - B. The WHC is satisfied that there is no reasonable likelihood that either the owner or some other person or group is willing to purchase, preserve, rehabilitate, or restore such structure.

Section 5. Emergency Demolition

Nothing in this bylaw shall restrict the Building Commissioner from immediately ordering the demolition of a historic structure in the event of an imminent danger to the safety of the public.

Section 6. Waiver for Hardship

The applicant may request that the WHC waive the demolition delay based on grounds that keeping this historic structure for another twelve (12) months will create an undue hardship, economic or otherwise. This request must include evidence to support the applicant's case.

Section 7. Enforcement and Remedies

If a historic structure 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.

Section 8. Severability

In case 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.