

## **Proposed Town of Westminster Massachusetts**

### **Demolition Delay Bylaw (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 to preserve, rehabilitate, or restore 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.

#### **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 of the volume of the building or structure or greater. For purposes of this section, the term “demolition” shall not include the ordinary maintenance or repair of any building or structure, interior renovations, removal, or demolition of any ancillary portion of a structure, including, but not limited to porches and windows.

##### Demolition Delay Period

Demolition delay period is (12) months dated from the final determination by Westminster Historical Commission that the building subject to demolition permit is a historically significant structure and is protected under this bylaw.

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 the architectural, cultural, economic, political or social history of Westminster.

**Section 3. Commission to Establish a List of Historic Structures**

The WHC will provide a List of Historic Structures to the Building Commissioner. This List may be updated by the WHC from time to time as needed and will be posted on the Town's website.

**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 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 A. The WHC shall within fifteen (15) business days after receipt of the application, confirm whether or not the structure is or is not historically or architecturally significant.
  - B. The Commission shall, within thirty (30) days of its confirmation, conduct a public hearing to determine whether the Historic Structure is 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 14 days before the hearing and the second notice no more than 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 Historic Structure is located (if other than the applicant) to the owners of all property within 300 feet of the premises on which the Historic

Structure is located as appearing on the most recent tax list, and to such other persons as the Commission shall deem entitled to notice.

If, after a public hearing, the Commission determines that demolition of the Historic Structure would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the applicant, the owner, if other than the applicant, and the Building Commissioner, in writing, within 10 business days of such determination. Upon receipt of such notice, or upon the expiration of 10 business days from the date of the close of the Commission's public hearing, without having received any notification from the Commission, the Building Commissioner, subject to the requirements of the State Building Code and any other applicable laws, by-laws, rules and regulations, issue a demolition permit for the subject building.

If, after the public hearing, the Commission determines that demolition of the Historic Structure would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered to be a preferably preserved building, and the Commission shall so advise the applicant, the owner if other than the applicant, and the Building Commissioner, in writing within 10 business days, and no demolition permit shall be issued until 12 months after the date of such determination by the Commission. (Delay period from date of WHC determination not from date of filing).

- 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 by submitting a demolition plan review to the WHC. The review shall include the following information:
  - A. a plot plan showing the location of the historic structure with reference to neighboring properties;
  - B. a brief description of the type of structure and the reason for the proposed demolition, and the date of proposed demolition;
  - C. a brief description of the proposed reuse of the premises upon which the structure is located.
  
- 4.4 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 economic hardship. This request must include evidence to support the applicant's case.

### **Section 7. Enforcement and Remedies**

If a historic structure is 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. Addition of Other Significant Buildings and/or other Structures to this Bylaw's List:**

Additional historic structures may be added to the list covered by this Bylaw.

### **Section 9. 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.