

## **§60-320. DEMOLITION DELAY**

### **A. Intent and Purpose.**

This Section is adopted for the purpose of preserving and protecting Significant Buildings within the Town of Belmont that 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 Section, owners of Preferably Preserved Buildings are encouraged to seek out and consider 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, this Section 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 Belmont Historic District Commission is authorized to advise the Inspector of Buildings with respect to Demolition Permit Applications.

### **B. Time Limitation.**

The provisions of this Section shall be null and void and of no force and effect on and after June 30, 2016.

### **C. Definitions.**

For the purposes of this Section, the following terms shall have the following definitions:

1. APPLICANT – Any person or entity that files an Application for a Demolition Permit.
2. APPLICATION – An Application for a Demolition Permit.
3. BUILDING – A roofed Structure enclosing useful space.
4. COMMISSION – The Belmont Historic District Commission.
5. DEMOLITION – The removal or dismantling of a Building in whole or substantial part, with or without the intent to replace the construction so affected. For purposes of this Section, the term “Demolition” shall not include routine maintenance, interior renovations, removal or construction of porches, decks, windows, additions or other types of renovations for which Commission approval is generally not required.
6. DEMOLITION PERMIT – The permit required by the Inspector of Buildings for Demolition of a Building, excluding a permit required solely for the Demolition of the interior of a Building.
7. INSPECTOR OF BUILDINGS – The person authorized by law to issue Demolition Permits within the Town of Belmont.
8. LIST – A list of Buildings, entitled *Belmont’s Significant Historic Buildings Subject to Demolition Delay Bylaw*, prepared by the Commission and on file with the Town Clerk, as may be modified pursuant to Subsection D.

9. **PREFERABLY PRESERVED BUILDING** – Any Significant Building that the Commission determines, following a public hearing, should be preserved or rehabilitated rather than demolished.
10. **SIGNIFICANT BUILDING** – A Building that is listed on the List.
11. **STRUCTURE** – Anything constructed or erected, the use of which requires fixed location on the ground.

**D. The List of Buildings.**

1. Upon the effective date of this Section, the Commission shall notify the owner of record of any Building identified on the List as originally filed, of the owner's right to appeal to the Board of Selectmen within 60 days of such notice to have the Building removed from the List. The basis for this appeal shall be limited to a factual demonstration that the Building does not qualify to be a Significant Building, based upon the following considerations:
  - Whether the Building is associated with events that have made a significant contribution to our history;
  - Whether the Building is associated with the lives of persons historically significant in our past;
  - Whether the Building embodies distinctive characteristics of a type, period, or method of construction; represents the work of a master; possesses high artistic value; or represents a significant and distinguishable entity whose components may lack individual distinction;
  - Whether the Building has recognized national, state, or local level historical significance;
  - The historic context of the Building; and,
  - The integrity of the historic Building.
2. Additional buildings shall not be added to the List.
3. Buildings that are located within the McLean Hospital National Historic District, the Common Street Historic District, the Pleasant Street Historic District and the Richardson Farm Historic District, as well as the Belmont Center Fire Station and Waverley Square Fire Station and all municipal buildings shall be ineligible for inclusion on the List.
4. The Demolition of a Building following the issuance of a Demolition Permit shall automatically result in the removal of such Building from the List.

**E. Review Procedure.**

1. No Demolition Permit for a Significant Building shall be issued until the provisions of this Section have been satisfied.
2. An Applicant proposing to demolish a Significant Building shall file with the Inspector of Buildings an Application containing the following information:
  - The address of the Building to be demolished;
  - The owner's name, address and telephone number;
  - A description of the Building;
  - A photograph or photographs of the Building and photographs of neighboring Buildings.

If the Applicant is not the owner of the Building, the Application shall demonstrate the owner's assent to the filing of the Application.

3. The Inspector of Buildings shall, within seven days of receipt of such Application, forward a copy thereof to the Commission.
4. Within 35 days of receipt of the Application from the Inspector of Buildings, the Commission shall hold a public hearing to determine if it is in the public interest for a Significant Building to be preserved or rehabilitated rather than demolished and, based on such determination, whether the Significant Building is a Preferably Preserved Building. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in the same manner as meeting notices posted in Belmont under the Open Meeting Law, MGL c.30A, §20, for a period of not less than seven days prior to the hearing date. The Inspector of Buildings, the Applicant and the owner of the Building (if different from the Applicant) shall be notified in writing of the meeting time and place no less than 14 days prior to the hearing date.
5. Within 10 days of the first date of such Public Hearing, the Commission shall provide written notification to the Inspector of Buildings and the Applicant of its determination as to whether the Significant Building is a Preferably Preserved Building. If agreed to in writing by the Applicant, the determination of the Commission and notification to the Inspector of Buildings may be postponed to a specified date. If the Commission does not provide written notification to the Inspector of Buildings and the Applicant of its determination in writing by such deadline, then the Inspector of Buildings may issue the Demolition Permit.
6. If the Commission determines that the Significant Building is not a Preferably Preserved Building, the Commission shall so notify the Inspector of Buildings and Applicant in writing. The Inspector of Buildings may then issue the Demolition Permit.
7. If the Commission determines that the Significant Building is a Preferably Preserved Building, a Demolition Permit may thereafter be issued no sooner than six months for

residential buildings and 12 months for commercial, institutional, and religious Buildings after the date that the Application was filed with the Inspector of Buildings, unless a shorter time is otherwise authorized by the Commission based on its finding that the intent and purpose of this Section, as provided in Subsection A hereof, will be adequately served. If a Building is of mixed-use, having both residential and commercial, institutional or religious uses, then the relevant delay for the issuance of a Demolition Permit shall be the longer of the applicable delay periods.

**F. Responsibility of Owners.**

1. The owner of a Significant Building for which a Demolition Permit is being sought shall:
  - Provide such information as is reasonably requested by the Commission in connection with its consideration of whether the Significant Building is a Preferably Preserved Building;
  - Allow exterior access to the property on which the Significant Building is located, as reasonably requested by the Commission; and
  - Secure the Significant Building, if vacant, to the satisfaction of the Inspector of Buildings until a Demolition Permit is issued.

An Applicant who has applied for a Demolition Permit for a Preferably Preserved Building shall:

- Participate in the investigation of preservation options for the Preferably Preserved Building; and
  - Reasonably cooperate with the Commission and any interested parties in seeking alternatives to the Demolition of the Preferably Preserved Building.
2. If the owner of a Significant Building fails to secure the Building to the satisfaction of the Inspector of Buildings, the subsequent destruction of the Building through any cause, shall be considered a voluntary Demolition in violation of this Section if such destruction could have been prevented by the required security measures.

**G. Emergency Demolition.**

1. Nothing in this Section shall restrict the Inspector of Buildings from ordering the immediate Demolition, in accordance with applicable law, of any Building in the event of imminent danger to the safety of the public. In the event that the Inspector of Buildings is informed that a Significant Building is dangerous to life or limb, or otherwise may be subject to a removal order, the Commission shall be notified and, where practicable, the Commission or its designee shall be allowed to accompany the Inspector of Buildings during the inspection of the Building.

2. As soon as practicable after the Inspector of Buildings has issued an emergency Demolition order for a Significant Building, a copy of such order shall be provided to the Commission, together with copies of all documentation relevant thereto.

#### **H. Administration, Enforcement and Remedies.**

1. The Commission may adopt such rules and regulations as are necessary to administer the provisions of this Section, but may not increase the length of the delay period stated herein.
2. In computing any period of time prescribed in this Section, the day of the act, event, or default after which the designated period begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next business day.
3. The Commission and the Inspector of Buildings are each specifically authorized to institute any and all actions and proceedings, in law or equity, as either of them may deem necessary and appropriate to obtain compliance with the requirements of this Section or to prevent a threatened violation thereof.
4. Any owner of a Significant Building that is demolished without first obtaining a Demolition Permit in accordance with the provisions of this Section shall be subject to a penalty of \$300.00. Each day that such violation exists until a faithful restoration of the demolished Significant Building or other remediation or remediation plan has been approved by the Commission shall constitute a separate offense. The Inspector of Buildings may enforce this Section by non-criminal disposition as provided in MGL c.40, §21D.
5. If a Significant Building is voluntarily demolished without first obtaining a Demolition Permit in accordance with the provisions of this Section, no building permit authorizing construction on the lot on which the Building was located or on any adjoining lot under common ownership therewith shall be issued for a period of two years from the date of the Demolition, unless agreed to by the Commission.

#### **I. Severability.**

If any provision of this Section shall be found invalid for any reason, such invalidity shall be construed as narrowly as possible, and the balance of the Section shall be deemed to be amended to the minimum extent necessary, so as to secure the purposes thereof, as set forth in Subsection A.