

## ARTICLE 57. DEMOLITION DELAY

### 57.1. Intent and Purpose

This Bylaw is enacted for the purpose of preserving and protecting significant buildings within the Town which 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 Bylaw, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings, and residents of the town are alerted to impending demolition of significant buildings. By preserving and protecting significant buildings, this Bylaw promotes the public welfare by making the town a more attractive and desirable place in which to live and work and better protects the community character found in the buildings, streetscapes and neighborhoods of the town. To achieve these purposes, the Historic Preservation Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided in this Bylaw.

### 57.2 Definitions

The following terms, when used in this Bylaw, shall have the meanings set forth below, unless the context otherwise requires.

“**Applicant**” - Any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate on or with the application his/her assent to the filing of the application.

“**Application**” - An application for the demolition of a building.

“**Building**” - Any combination of materials forming a shelter for persons, animals or property.

“**Building Inspector**” - The person occupying the office of Building Inspector or otherwise authorized to issue demolition permits.

“**Commission**” - The Bedford Historic Preservation Commission

“**Demolition**” - Any act of pulling down, destroying, removing, dismantling or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

“**Demolition Permit**” - The permit issued by the Building Inspector for demolition of a building, excluding a demolition permit issued solely for the demolition of the interior of a building. Such permit is subject to the requirements of the State Building Code and any other applicable laws, bylaws, rules and regulations.

“**Preferably Preserved**” - If, following a public hearing, the Commission determines that the demolition of a significant building would be detrimental to the historical or architectural heritage or resources of the town and that it is in the public interest that the building be preserved or rehabilitated rather than be demolished, such building shall be considered a preferably preserved building.

“**Significant Building**” - Any building within the town which has been determined to be significant based on any of the following criteria:

- a) The building is listed on, or is within an area listed on, the National Register of Historic Places; or

- b) The building, or area within which it is located, has been found eligible for the National Register of Historic Places; or
- c) The building, or area within which it is located, is recommended for listing in the National Register of Historic Places, based on the Community-wide Historic Properties Survey, June 1998; or
- d) The building is listed on an Inventory provided to the Building Inspector by the Commission, following a public hearing, based on its historical or architectural significance either by itself or in the context of a group of buildings.

### **57.3 Exclusions**

The following are categorically excluded from action under this Bylaw:

- a) Buildings, additions and outbuildings completed on or after January 1, 1943. If a building is of an unknown age, it shall be assumed that the building was completed prior to January 1, 1943 for purposes of this Bylaw;
- b) Buildings within the Bedford Historic District, established under Chapter 118 of the Special Acts of the Legislature of 1964, as amended. Such buildings are regulated under that Act.

### **57.4 Procedure**

No demolition permit for a significant building shall be issued without following the provisions of this Bylaw.

An applicant proposing to demolish a building subject to this Bylaw shall file with the Building Inspector 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;
- \* The reason for requesting a demolition permit;
- \* A brief description of the proposed reuse, reconstruction or replacement;
- and,
- \* A photograph or photograph(s) of the building.

The Building Inspector shall within seven (7) days forward a copy of the application to the Commission. The Commission shall within fifteen (15) days after receipt of the application, make a determination of whether the building is significant.

Upon a determination by the Commission that the building is not significant, the Commission shall so notify the Building Inspector and applicant in writing. The building Inspector may then issue the demolition permit.

Upon a determination by the Commission that the building is significant, the Commission shall so notify the Building Inspector and the applicant in writing. No demolition permit may be issued at this time. If the Commission does not notify the Building Inspector within the specified time period, the Building Inspector may issue the demolition permit.

If the Commission finds that the building is significant, it shall hold a public hearing within thirty (30) days of its written notification to the Building Inspector. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous

place in town for a period of not less than seven (7) days prior to the date of said hearing. The Commission shall decide at the public hearing or within fourteen (14) days after the public hearing whether the building shall be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed and/or the public hearing may be continued to a later date.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Inspector and applicant in writing. The Building Inspector may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Inspector and applicant in writing. No demolition permit may then be issued for a period of eighteen (18) months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Inspector within twenty-one (21) days of the public hearing, the Building Inspector may issue the demolition permit.

Upon a determination by the Commission that any building which is the subject of an application is a preferably preserved building, no building permit for new construction or alterations on the premises shall be issued for a period of eighteen (18) months from the date of the determination unless otherwise agreed to by the Commission.

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Inspector and have been found to comply with all laws pertaining to the issuance of a building permit or if for a parking lot, a certificate of occupancy for that site. All approvals necessary for the issuance of such building permit or certificate of occupancy including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

The Building Inspector may issue a demolition permit or a building permit for a preferably preserved building within the eighteen (18) months if the Commission notifies the Building Inspector in writing that:

- a) the Commission finds that the intent and purpose of this Bylaw is served even with the issuance of the demolition permit or building permit; or,
- b) the Commission 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 building; or,
- c) the Commission is satisfied that the owner has made continuing bona fide and reasonable efforts over the preceding twelve months to locate a purchaser to preserve, rehabilitate and restore the subject building and that such efforts have been unsuccessful.

Following the **eighteen (18) month** delay period, the Building Inspector may issue the demolition permit.

## **57.5 Administration**

The Commission may adopt such rules and regulations as are necessary to administer the terms of this Bylaw. The Commission may delegate authority to make initial determinations of significance to one or more members of the Commission or to a municipal employee. The Commission may develop a list of significant buildings that will be subject to this Bylaw. Buildings proposed for addition to the significant buildings list shall be added following a public hearing.

**57.6 Emergency Demolition**

Nothing in this Bylaw shall be construed to derogate in any way from the authority of the Building Inspector derived from Chapter 143 of the General Laws. However, before acting pursuant to that chapter on a building subject to this Bylaw, the Building Inspector shall make every reasonable effort to inform the Commission of his or her intentions to cause demolition before initiating such action.

**57.7 Enforcement and Remedies**

The Commission and/or the Building Inspector are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this Bylaw or to prevent a threatened violation thereof.

Any owner of a building subject to this Bylaw that demolishes the building without first obtaining a demolition permit in accordance with the provisions of this Bylaw shall be subject to a fine of not more than Three Hundred Dollars (\$300.00). Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is completed or unless otherwise agreed to by the Commission.

No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this bylaw for a period of three (3) years from the date of demolition unless otherwise agreed to by the Commission. As used herein "premises" includes the subject parcel of land and any adjoining parcels of land under common ownership and control. Upon a determination by the Commission that a building is a preferably preserved building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Building Inspector. Should the owner fail to secure the building, the loss of such building through fire or other cause shall be considered voluntary demolition for the purposes of this section.

**57.8 Historic District Act**

Nothing in this Bylaw shall be deemed to conflict with the provisions of Chapter 118 of the Special Acts of the Legislature of 1964, which established the Bedford Historic District Commission (HDC), or of the provisions of the Historic Districts Act, Massachusetts General Laws (MGL), Chapter 40C. If any of the provisions of this Bylaw do so conflict, the legislative acts shall prevail.

Following a determination that a significant building is preferably preserved, the Commission may recommend to Town Meeting that the building be protected through the establishment of a local historic district. The steps required under MGL, Chapter 40C or required to further amend Chapter 118 of the Special Acts of 1964 shall be followed prior to establishment of such protection.

**57.9 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.