



IN THE COUNCIL
IN THE YEAR TWO THOUSAND EIGHT
Ordinance #29687

Chapter 23

Delayed Demolition Ordinance

ARTICLE I. Preservation of Historically Significant Buildings

Sec. 23-1. Intent and Purpose

This ordinance is enacted for the purpose of preserving and protecting significant buildings within the City of Waltham, which constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the city and to limit the detrimental effect of demolition on the character of the city. Through this ordinance, owners of preferably preserved buildings are encouraged to seek out alternative options that will preserve, rehabilitate or restore such buildings and residents of the city are alerted to impending demolitions of significant buildings. By preserving and protecting significant buildings, streetscapes and neighborhoods, this ordinance promotes the public welfare by making the city a more attractive and desirable place in which to live and work. To achieve these purposes the Historical Commission is authorized to advise the Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this ordinance.

Sec. 23-2. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

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. Where the applicant is a realty trust, the application shall include the names of all the trustees and beneficiaries of said realty trust; and where the applicant is a corporation, the application shall include the names of all the officers and stockholders of said corporation; provided, however, that when the number of beneficiaries or stockholders exceed 25, only the 25 largest beneficiaries or stockholders need be included, and provided further, that such application shall also include any changes in beneficiaries or stockholders that has occurred within six months prior to the dated of 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 City of Waltham Historical Commission or its designee.

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 building permit issued by the Building Inspector for a demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

PREFERABLY PRESERVED—Any significant building which the Commission determines, following a public hearing, that it is in the public Interest to be preserved rather than demolished. A preferably preserved building is subject to the twelve (12) months demolition delay period of this ordinance.

SIGNIFICANT BUILDING—Any building within the city which is in whole or in part seventy-five (75) years or more old and which has been determined by the Commission or its designee to be significant based on any of the following criteria:

- The Building is listed on, or is within an area listed on, the National Register of Historic Places; or
- The Building has been found eligible for listing on the National Register of Historic Places; or
- The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the City or the Commonwealth, or
- The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

Sec. 23-3. Procedure

(a) No demolition permit for a building which is in whole or in part seventy-five (75) years or more old shall be issued without following the provisions of this ordinance. If a building is of unknown age, it shall be assumed that the building is over 75 years old for the purpose of this ordinance.

(b) An applicant proposing to demolish a building subject to this ordinance 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, including principals of the applicant submitting the application (i.e. trustees and beneficiaries of realty trusts, officers and stockholders of corporations).
- A description of the building.
- The reason for requesting a demolition permit and data supporting said reason.
- A brief description of the proposed reuse, reconstruction or replacement.
- A photograph(s) of the building.

- (c) The Building Inspector shall within seven days forward a copy of the application to the Commission. The Commission shall within fifteen days after receipt of the application, make a written Determination of whether the building is significant.
- (d) Upon 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.
- (e) Upon 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 fifteen days of receipt of the application, the Building Inspector may proceed to issue the demolition permit.
- (f) If the Commission finds that the building is significant, it shall hold a public hearing within thirty days of the written notification to the Building Inspector. If the Commission deems the building or structure significant, the applicant shall also provide the Commission with ten (10) copies of a demolition plan which shall include the following information: (i) A map showing the location of the building or structure to be demolished on its property and with reference to neighboring properties; (ii) Photographs of all street face elevations; (iii) A description of the building or structure, or part thereof, to be demolished; (iv) The reason for the proposed demolition and data supporting said reason, including data sufficient to establish any economic justification for demolition; (v) A brief description of the proposed reuse of the property on which the building or structure to be demolished is located. Public notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in city hall for a period of not less than seven days prior to the date of said hearing and the applicant and the building inspector shall be notified in writing of the meeting time and place.
- (g) The Commission shall decide at the public hearing or within fourteen days after the public hearing whether the building should be preferably preserved. If agreed to in writing by the applicant, the determination of the Commission may be postponed.
- (h) 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.
- (i) 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 twelve (12) months from the date of the determination unless otherwise agreed to by the Commission. If the Commission does not so notify the Building Inspector in writing within twenty-one days of the public hearing, the Building Inspector may issue the demolition permit.
- (j) 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 alteration on the premises shall be issued for a period of twelve (12) months from the date of the determination unless otherwise agreed to by the Commission.
- (k) 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.

(l) Upon determination that a building is a preferably preserved building, the applicant/owner shall be responsible for properly securing the building to the satisfaction of the Building Inspector. Should the owner/applicant fail to so secure the building, a subsequent destruction of the building at any time during the twelve (12) month delay period, which destruction could have been prevented by the required security measures, shall be considered a demolition in violation of this ordinance and shall be subject to the fines and/or 2-year bar to the issuance of permits as enumerated below in Sec.23-6.

(m) The Building Inspector may issue a demolition permit or a building permit for a preferably Preserved building within the twelve (12) month delay period if the Commission notifies the Building Inspector in writing that the Commission finds that the intent and purpose of this ordinance is served even with the issuance of the demolition permit or the building permit.

(n) Following the twelve (12) month delay period, the Building Inspector may issue the demolition permit.

Sec. 23-4 Administration

(a) The Commission may adopt such rules and regulations as are necessary to administer the terms of this ordinance.

(b) The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this ordinance.

(c) The Commission may delegate authority by vote of the Commission to make initial determinations of significance to one or more members of the Commission or to a municipal employee.

(d) The Commission may pro-actively develop a list of significant buildings that will be subject to this ordinance. Buildings proposed for the significant building list shall be added following a public hearing. The inclusion of certain buildings on such a significant building list shall have no bearing on whether non-listed buildings may qualify as significant building upon application for any demolition permit.

Sec. 23-5 Emergency Demolition

If after an inspection, the Building Inspector finds that a building subject to this ordinance is found to pose an immediate threat to public health or safety due to its deteriorated condition 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. The Building Inspector shall then prepare a report explaining the condition of the building and the basis for his/her decision which shall be forwarded to the Commission. Nothing herein shall be constructed to conflict with or derogate in any way from the Building Inspector's statutory obligations under G.L. c. 143 or under the State Building Code.

Sec. 23-6 Enforcement and Remedies

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

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

(c) If a building subject to this ordinance is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of two years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless the building permit is for the faithful restoration referred to above or unless otherwise agreed to by the Commission.

Sec. 23-7 Historic District Act

Following a determination that the building is significant and preferably preserved, the Commission may recommend to the mayor and city council that the building be protected through the provisions of Massachusetts General Law, Chapter 40C, the Historic District Act. The steps required under M.G.L. Chapter 40C shall be followed prior to the establishment of a local historic district. Nothing in this Ordinance shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws Chapter 40C. If any of the provisions of this ordinance do so conflict, that act shall prevail.

Sec. 23-8 Severability

In case any section, paragraph or part of this ordinance be for any declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

First Reading : February 24, 2003

Attest : Rosario C Malone, CMC
City Clerk

Second Reading : January 14, 2008

Third Reading : January 14, 2008

Approved January 24, 2008
Jeannette A McCarthy, Mayor