

ARTICLE I
Demolition Delay
[Adopted 4-29-2023 ATM by Art. 39 ¹]

§ 156-1. Purpose.

The purpose of this bylaw is to protect from demolition historically significant buildings which reflect the historical, cultural, or architectural heritage of the Town of Wellfleet, and to encourage the owners of such buildings to explore and develop acceptable alternatives to demolition such as preservation, renovation, restoration or relocation.

§ 156-2. Definitions.

APPLICANT — Any person or entity who files an application for a building 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 their assent to the filing of the application.

BUILDING — Any combination of materials forming a shelter for persons, animals, or property.

BUILDING COMMISSIONER — The person occupying the office of Building Commissioner or otherwise authorized to issue demolition permits.

COMMISSION — The Historical Commission, established by vote of the Town pursuant to Article 54 of the 1980 Annual Town Meeting.

DEMOLITION — The act of pulling down, destroying, removing, or razing a building, in whole or in part (including the demolition of exterior walls or roof), or commencing such work with the intent of completing the same, all as determined by the Building Inspector; provided, however, that the term "demolition" shall not include the ordinary maintenance or repair of any building. In addition, the term "demolition" defined under this bylaw section shall include the act of enclosing or encapsulating an existing building within new exterior walls or roofed areas.

DEMOLITION PERMIT — The building permit issued by the Building Commissioner for the demolition of a building, excluding a building permit issued solely for the demolition of the interior of a building.

PREFERABLY PRESERVED — Any significant building or structure 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 eighteen-month demolition delay period of this bylaw.

SIGNIFICANT BUILDING or STRUCTURE —

- A. Any building or structure listed on the National or State Register of Historic Places, or which has been found eligible for such a listing;
- B. Any building or structure constructed in whole or in part 75 years or more prior to the date of application for a demolition permit; or
- C. Any building or structure:

1. Editor's Note: This article also repealed former Art. I, Demolition Delay, adopted 4-24-2017 ATM by Art. 30 (Art. XIII of the General Bylaws).

- (1) That is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town or the Commonwealth; or
- (2) That is historically or architecturally significant 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.

WELLFLEET STREET SURVEY INDEX — A list or register of buildings and structures which are potentially historically, culturally or architecturally significant and located within the Town of Wellfleet, created and updated from time to time by Historic Preservation Consultants.

§ 156-3. Review and decision procedure.

- A. An applicant proposing to demolish, in whole or in part, a building or structure subject to this bylaw shall file with the Building Commissioner an application containing the following information:
 - (1) The address of the building to be demolished;
 - (2) The owner's name, address, and telephone number;
 - (3) A description of the building;
 - (4) The reason for requesting a demolition permit;
 - (5) A brief description of the proposed reuse, reconstruction, or replacement; and
 - (6) A photograph or photographs of the building, including all elevations.
- B. The Building Commissioner shall forward a copy of all proposals to demolish in whole or in part buildings or structures that are potentially significant or are referenced in the Wellfleet Street Survey Index, within 10 days of receipt of an application for buildings listed on that Index to the Commission.
- C. The Commission or its designee shall, within 15 days after receipt of the application, inform the Building Commissioner if the building or structure is significant and therefore subject to the hearing process.
- D. Upon determination that the building or structure is not significant, the Commission or its designee shall so advise the Building Commissioner and applicant in writing within 15 days after receipt of the application. The Building Commissioner may then issue the demolition permit.
- E. Upon determination by the Commission or its designee that the building or structure is significant within 15 days after receipt of the application, the Commission shall so notify the Building Commissioner and the applicant in writing. No demolition permit may be issued at this time.
- F. If the Commission finds that the building or structure is significant, it shall hold a hearing within 45 days of the written notification to the Building Commissioner. The public hearing will be held to determine if the intended demolition would materially diminish the building

or structure's significance and/or be detrimental to the historical, cultural, or architectural heritage of the Town, and to explore alternatives to demolition.

- G. Notice of the time, place and subject matter of hearings hereunder shall be given by publication in a newspaper of general circulation in the Town once a week for two successive weeks, the first notice to appear at least 14 days before the day of the hearing (including the day of publication and excluding the day of the hearing) and by mailing a notice of hearing to the owner or applicant, all abutters to the subject property, the Planning Board, Historical Society, Conservation Commission, and such other persons as the Board may determine.
- H. Within 14 working days after the public hearing, the Commission shall decide whether the building or structure shall be preferably preserved. If the Commission determines that the building or structure is not preferably preserved, the Commission or its designee shall so notify the Building Commissioner and applicant in writing. The Building Commissioner may then issue the demolition permit.
- I. If the Commission determines that the building or structure shall be preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing. No demolition permit may then be issued for a period of 18 months from the date of the determination, to afford the applicant and the Commission time to develop alternatives to demolition.
- J. Upon a determination by the Commission that a building or structure is preferably preserved, no building permit for alterations to the building shall be issued for a period of 18 months from the date of determination, unless otherwise agreed to by the Commission except for alterations to the interior of the building or to perform repairs necessary to address immediate threats to safety or to secure the historic building from the elements.
- K. The Commission encourages applicants to submit revised plans and request a review meeting with the Commission at any time during the eighteen-month demolition delay period. The Building Commissioner may issue a demolition permit prior to the end of the mandated delay upon receipt of written notice from the Commission that a viable compromise to preserve, renovate, restore or relocate the building or structure has been reached with the applicant at a duly advertised public hearing. Serious efforts on the part of the applicant to develop alternatives to demolition will facilitate such a compromise.
- L. If at the end of a Commission-mandated delay, the Commission has not notified the Building Commissioner that an alternative has been agreed to by the owner or applicant, the Building Commissioner may then issue the demolition permit.

§ 156-4. Emergency demolition.

If after an inspection, the Building Commissioner finds that a building or structure subject to this bylaw 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 Commissioner may issue an emergency demolition permit to the owner of the building. The Building Commissioner shall then prepare a report explaining the condition of the building and the basis for his decision, which shall be forwarded to the Commission.

§ 156-5. Administration.

- A. The Commission may adopt such rules and regulations as are necessary to administer the terms of this bylaw.
- B. The Commission is authorized to adopt a schedule of reasonable fees to cover the costs associated with the administration of this bylaw.

§ 156-6. Enforcement.

The Building Commissioner shall be authorized to enforce the provisions of this bylaw and to institute any and all actions and proceedings as may be necessary and appropriate to obtain compliance, including injunctive relief to enjoin and restrain any violations or threatened violations thereof.

§ 156-7. Violations and penalties.

- A. Anyone who undertakes demolition of a preferably preserved building or structure without first obtaining a demolition permit in accordance with the provision of this bylaw shall be subject to a fine of not more than \$300. Each day the violation exists shall constitute a separate offense until a faithful recreation of the demolished building is completed or unless otherwise agreed to by the Commission.
- B. If a building or structure subject to this bylaw 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, unless the building permit is for the faithful recreation referred to above or unless otherwise agreed to by the Commission.

§ 156-7.1. Severability.

If any provision of this bylaw is determined to be invalid or unconstitutional by any court of competent jurisdiction, said determination shall not affect the validity of any other section hereof.

§ 156-7.2. Historic District Act.

If any provisions of this bylaw conflict with Massachusetts General Laws Chapter 40C, the Historic District Act, that Act shall prevail.