

ARTICLE XVI. DEMOLITION OF HISTORICALLY SIGNIFICANT BUILDINGS

Section 16.01 Intent and purpose.

- (a) This article is adopted to protect and preserve buildings and structures within the city which reflect or constitute distinctive features of the architectural, cultural, economic, political or social history of the city and to encourage the preservation and restoration rather than demolition of such buildings and structures; and, by furthering these purposes, to promote the public welfare and to make the city a more attractive and desirable place in which to live and work.
- (b) To achieve this purpose, the Beverly Historic District Commission (hereinafter "the commission") is empowered to advise the Director of Municipal Inspections with respect to the issuance of permits for demolition of historically significant buildings. Further, the commission is mandated to offer its advice and expertise to owners of preferably preserved buildings and structures.
- (c) The issuance of demolition permits is regulated as described hereafter in this article.

(Ord. No. 279, §1, 12-16-91)

(d) Definitions:

The following words and phrases, when used, whether or not capitalized in this article shall have the meanings set forth below, unless the context otherwise requires:

- (i) *Applicant* means 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 with the application his/her assent to the filing of the application.
- (ii) *Business day* means a day which is not a legal municipal holiday, Saturday or Sunday.
- (iii) *Demolition* means the intentional act of pulling down, destroying, removing, dismantling or razing a building or structure or commencing the work of total or substantial destruction with the intent of completing the same.
- (iv) *Historical commission or commission* means the Beverly Historic District Commission, which has the powers and duties and acts as the Beverly Historical Commission. The commission may designate one (1) or more of its members to act in its behalf between the commission's regular monthly meetings.

- (v) *Historic district* means Fish Flake Hill Historic District or any other historic district which may be established in the city under Chapter 40C of the General Laws of Massachusetts; or the Regulations of the National Register of Historic Places.
- (vi) *Historically significant building or structure* means any building or structure within the city which is determined by the commission to be historically significant because such building or structure is (1) Associated with one (1) or more historic persons or events, or with the architectural, cultural, economic, political or social history of the city; or (2) historically or architecturally important (in terms of period, style, method of building construction or association with a famous architect or builder) either by itself or in the context of a group of buildings or structure.
- (vii) *Preferably preserved historic building or structure* means any historically significant building or structure which is determined by the commission, because of the important contribution made by such building or structure to the historical and/or cultural resources of the city, to be in the public interest to preserve.

(Ord. No. 279, § 2, 12-16-91; Ord. No. 24, 2-19-2004)

Section 16.02 Regulated buildings and structures.

- (a) The provisions of this article shall apply only to any building or structure which, in whole or in part, was built fifty (50) or more years prior to the date of the application for the demolition permit, and is:
  - (i) A building or structure listed or eligible to be listed on the National Register of Historic Places, or on the State Register of Historic Places (the criteria used to determine eligibility for listing on the National and/or State Register of Historic Places is on file in the planning department in city hall and available for public review); or
  - (ii) A building or structure importantly associated with one (1) or more historical persons or events, or with the broad architectural, cultural, economic, political or social history of the city, or
  - (iii) A building or structure which is historically or architecturally significant in terms of period style, method of building construction or association with a significant architect or builder either by itself or as part of a group of buildings; or
  - (iv) A building or structure located within one hundred fifty (150) feet of a federal, state or local historic district boundary.

(Ord. No. 279, § 3, 12-16-91)

Section 16.03 Procedures.

- (a) No permit for the demolition of any building or structure shall be issued other than in conformity with the provisions of this article, as well in conformity with the provisions of the other laws and ordinances applicable to the demolition of buildings and structures and the issuance of permits generally.
- (b) Upon receipt of an application for a demolition permit the Director of Municipal Inspections shall forward a copy to the commission and to the planning director of the city.
- (c) Within ten (10) business days from receipt by the commission or a designee of the commission of an application for a demolition permit, the commission or a designee of the commission shall make determination of whether or not the building or structure is a regulated building or structure, and if the commission or a designee of the commission determines that the building or structure is regulated by this article, the commission or a designee of the commission shall also determine within the same ten (10) business days whether or not the building or structure may be an historically significant building or structure.
- (d) If the Director of Municipal Inspections does not receive the opinion of the commission or a designee of the commission in regard to these determinations within ten (10) business days of the date of the receipt of the application by the commission or a designee of the commission, then, subject to the provisions of the Historic District Act as provided in this Article, the Director of Municipal Inspections may grant the permit applied for.
- (e) If the commission or a designee of the commission determines that the building or structure is not regulated by this article, or is not historically significant, the demolition permit application shall be signed as approved by the commission or a designee of the commission and returned to the Director of Municipal Inspections. Upon receipt of such, the Director of Municipal Inspections may, subject to the requirements of the building code and any other applicable laws, issue the demolition permit.
- (f) If the commission or a designee of the commission determines that the building or structure may be an historically significant building or structure, the commission or a designee of the commission shall review the application for demolition at a public hearing to be held within twenty (20) business days of determination that the subject building or structure may be an historically significant building or structure. The commission or a designee of the commission shall cause to be published in a newspaper of local circulation notice of the date and place of such public hearing. Such notice shall specify the address of the subject building, and shall be published in said newspaper at the expense of the applicant once during each of the two (2) weeks preceding the date of such public hearing.

- (g) No less than five (5) business days before the public hearing the applicant for the demolition permit shall submit to the commission three (3) copies of a demolition plan which shall include the following:
  - (i) A map showing the location of the building or structure to be demolished on its property and with reference to the neighboring properties;
  - (ii) Photographs of all street facade elevations;
  - (iii) A description of the building or structure, or part thereof, to be demolished;
  - (iv) The reasons for the proposed demolition and data supporting said reason; or
  - (v) A brief description of the proposed reuse of the property on which the building or structure to be demolished is located.
- (vi) After said public hearing, the commission shall within ten (10) business days determine whether or not the subject building or structure is:
  - 1) Historically significant; and
  - 2) A preferably preserved building or structure, and notify in writing the applicant and the Director of Municipal Inspections of its determination, stating the reasons for such decision.
- (vii) If the determination is that the subject building or structure is both historically significant and preferably preserved, the Director of Municipal Inspections shall not issue a demolition permit for a period of twelve (12) months from the date of such determination, unless the commission informs the Director of Municipal Inspections in writing prior to the expiration of the twelve-month period that:
  - 1) The commission is satisfied that the applicant has made a bonafide, reasonable, and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure; or
  - 2) The applicant has agreed to accept a demolition permit according to certain conditions approved by the commission.
- (viii) 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 Director of Municipal Inspections and have been found to comply with all laws pertaining to the issuance of a building permit. All approvals necessary for the issuance of such building permit 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.

(Ord. No. 279, § 4, 12-16-91; Ord. No. 24, 2-19-2004)

Section 16.04 Notice.

- (a) Notice of a hearing or determination provided for in this article shall be sent by the commission to the owner of record, the applicant for the demolition permit (if different from owner of record), the immediate abutters to the subject property, the Director of Municipal Inspections, and to such other persons and organizations in such manner as the commission may determine appropriate. The commission may require that the applicant maintain on the building, which is subject of a demolition permit application, notice, in a form designated by the commission, visible from the nearest public way, of any hearing on the subject matter or such application; and applicant shall comply with such requirement.

(Ord. No. 279, § 5, 12-16-91; Ord. No. 24, 2-19-2004)

Section 16.05 Emergency demolition.

- (a) Nothing in this article shall be construed to derogate in any way from the authority of the Director of Municipal Inspections derived from Chapter 143 of the General Laws. However, before acting pursuant to this chapter the Director of Municipal Inspections shall make every reasonable effort to inform the chairperson of the historic district commission of his intentions to issue a demolition permit before it is issued.

(Ord. No. 279, § 6, 12-16-91; Ord. No. 24, 2-19-2004)

Section 16.06 Historic districts act.

- (a) Nothing in this article shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws, Chapter 40C, with respect to requirements of notice, hearing and issuance by the commission of a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship prior to demolition of any building in an historic district. Any temporary building erected or maintained in an historic district pursuant to a certificate issued by the commission may be demolished in a manner consistent with the terms of such certificate.

(Ord. No. 279, § 7, 12-16-91)

Section 16.07 Enforcement and remedies

- (a) The Director of Municipal Inspections is specifically authorized to institute any actions, in law or in equity, as they deem necessary to obtain compliance with the requirement of this article to prevent a threatened violation thereof.
- (b) Any owner of a building determined by the commission to be a preferably preserved historic building or structure who caused the building to be demolished

without first obtaining a demolition permit in accordance with the provisions of this article shall be subject to 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 complete or unless otherwise agreed to by the Commission.

- (c) No building permit shall be issued with respect to any premises upon which a building or structure subject to this Ordinance has been voluntarily demolished in violation of this ordinance for a period of two (2) years after the date of the completion of such demolition, to be determined by the Director of Municipal Inspections. As used herein "premises" includes the parcel of land upon which the demolished significant building was located.
- (d) Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on the application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this article better serves the intent and purpose of this article, it may, prior to the expiration of said period of two (2) years, consent to the issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the process of this article, and may so notify the Director of Municipal Inspections.
- (e) Upon the 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 Director of Municipal Inspections. Should the owner fail to secure the building, the loss of such building through fire or other cause shall be considered demolition for the purpose of this Ordinance.

(Ord. No. 279, § 8, 12-16-91; Ord. No. 33, 1-8-2003; Ord. No. 24, 2-19-2004)