

The following is the text approved by the Attorney General's Office as it pertains to the Demolition Delay Bylaw. The Attorney General's Office said a fine of \$300 was the maximum a Town could levy (G.L. c. 40 S. 21). The Commission recommend to the Inspector, after an open meeting, that this penalty be waived.

The following text is what was approved on June 17, 2010.

## **Chapter 61.**

### **Demolition Delay**

- (1) INTENT AND PURPOSE: This bylaw is adopted for the purpose of protecting and preserving historically significant buildings and structures, as defined in Subsection (2)h, below, which constitute or reflect distinctive features of the history of the Town of Leverett, and for the purpose of promoting the public welfare through the preservation of the architectural, historical, cultural and aesthetic qualities of the Town. Through this bylaw the Town desires to encourage owners and others to preserve, rehabilitate or restore such historically significant buildings or structures rather than demolishing or removing them.
- This bylaw does not pertain to customary and usual maintenance of, or repairs to, historically significant buildings and structures.
- (2) DEFINITIONS: For the purposes of this bylaw, the following words and phrases shall have the following meanings:
- a. APPLICANT - A person applying for Demolition Delay Review with the Leverett Historical Commission.
  - b. APPLICATION - An application for Demolition Delay Review sent to the Leverett Historical Commission.
  - c. BUILDING -- A freestanding structure designed for the shelter or housing of persons, animals, chattels or property of any kind.
  - d. COMMISSION -- The Leverett Historical Commission.
  - e. DAYS -- For the purposes of this bylaw, "days" shall mean calendar days.
  - f. DEMOLITION -- Any act of pulling down, destroying, altering significantly, or razing a structure or building or attached portion thereof, such that at least one entire exterior wall, or more than one partial wall, is affected. For the purposes of this bylaw, an alteration that affects less than one exterior wall of a building or structure is not considered demolition.
  - g. DEMOLITION PERMIT -- The permit issued by the Building Inspector as required by the State Building Code for the demolition, partial demolition or removal of a building or structure from its lot or the moving of the building or structure on its lot.
  - h. HISTORICALLY SIGNIFICANT BUILDING -- Any building or structure which is (1) associated with any one or more historic persons or events or with the architectural, cultural, economic, political or social history of the Town of Leverett, the Commonwealth of Massachusetts and/or the United States of America; or (2) is historically or architecturally important by reason of type, period, style and method of building or structure construction, or represents the work of a well-known architect or builder, either by itself or in the context of a group of buildings or structures.
  - i. INSPECTOR -- A building inspector representing the Town of Leverett.
  - j. PREFERABLY PRESERVED BUILDING -- Any building or structure meeting the above definition of a historically significant building or structure, which is determined, after a public

hearing by the Commission and a review of a demolition/removal plan, to be significant to the architectural landscape of Leverett. The loss of such building or structure, or a portion thereof, by virtue of significantly meeting one or more criteria of a historically significant building, would thus constitute a significant loss to the architectural landscape.

k. REMOVAL -- To transfer a building or structure from its existing location.

l. STRUCTURE -- Any combination of materials assembled, constructed, erected or maintained in a fixed location and placed permanently or temporarily in or on the ground.

(3) REGULATED BUILDINGS AND STRUCTURES: The provisions of this bylaw shall apply only to buildings or structures meeting one or more of the following conditions:

a. Buildings or structures over 100 years old on the date of the Application;

b. Buildings or structures of indeterminate age;

c. Buildings or structures placed on a list filed by Commission with the Inspector prior to the date of Application, such buildings or structures being listed because they are associated with one or more significant historic persons or events.

(4) PROCEDURE:

a. Application: Approval from the Commission is required before the Building Inspector will review any Demolition Permit Application. An Application for Demolition Delay Review must be obtained and forwarded to the Commission for approval before any Application for Demolition is sent to the Building Inspector.

b. Historically Significant Building determination: Within 30 days from the Commission's receipt of an Application, the Commission shall hold an open meeting to hear and collect information and evidence to determine whether or not the building or structure is historically significant. The Applicant shall be notified by mailing notice at least seven days prior to the open meeting. The thirty-day period may be extended by written agreement signed by the Applicant and the chair of the Commission.

1. If the Commission determines that, based upon available information and evidence, the building or structure is not historically significant, or that the proposed alterations do not constitute an alteration of the historical significance of the building or structure, the Commission shall forthwith notify the Applicant of its decision, including the reasons for such a determination, and the Applicant may apply for a Demolition Permit.

2. If the Commission determines that, based upon available information and evidence, the building or structure is historically significant, the Commission shall forthwith notify the Applicant, in writing, of its decision, including the reason for such a determination.

c. Preferably Preserved Building designation:

1. After the Commission's determination that a building or structure is historically significant, the Applicant shall submit to the Commission six copies of a demolition/removal plan that includes the following information:

(a) A map showing the present location of the building or structure to be demolished/removed on its property with references to lot lines and neighboring buildings;

(b) Three-inch by five-inch photographs of all sides of the building or structure; and

(c) A brief description identifying the reasons for the proposed demolition/removal, including any data to justify the need for demolition/removal, and identifying the proposed reuse of the parcel on which proposed demolition is located. Any additional information addressing the criteria outlined in Section (4) c.3. herein.

2. Within 50 days of its receipt of the demolition/removal plan, the Commission shall hold a public hearing. The Applicant, the Leverett Planning Board, the Inspector and all immediate abutters of the property where the building or structure is to be demolished/removed shall be notified by mailing notice of the public hearing at least seven days prior to the date of the public hearing.

3. The Commission shall review the following factors when determining if a building or structure is a Preferably Preferred Building:

- (a) The age of the building or structure;
- (b) The condition of the building or structure;
- (c) The historical significance of the building or structure;
- (d) The location of the building or structure;
- (e) The proximity to other historically significant buildings or structures; and
- (f) Any other factor deemed significant by the Historical Commission.

d. Decision: Within 30 days of the public hearing, the Commission shall make a written decision stating its reasons for determining whether or not the building is a Preferably Preserved Building.

1. If the building is not determined to be a Preferably Preserved Building, or if the Commission fails to decide within 30 days of the public hearing for the demolition/removal plan, the Commission must approve the Application and the Applicant may apply for a Demolition Permit.

2. If the building is determined to be a Preferably Preserved Building, the Commission shall not approve the Application for a period of 18 months from the date the Commission determined that the building is preferably preserved, unless the Commission determines, prior to the expiration of the eighteen-month period, that:

- (a) In the opinion of the Commission there is no likelihood of preserving, restoring or rehabilitating the building; or
- (b) The Commission is satisfied that the Applicant has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building who is willing to preserve, rehabilitate or restore the building; or
- (c) The Applicant has agreed to accept approval according to certain conditions stipulated by the Commission.

In such cases, the Commission may approve the application and the Applicant may apply for a Demolition Permit.

- (5) Emergency demolition: If a building or structure poses an immediate threat to public health or safety due to its deteriorated condition, the owner of such building may request issuance of an emergency demolition permit from the Inspector, bypassing the demolition delay review process as set forth in this bylaw. As soon as practicable after the receipt of such request from the owner, the Inspector shall arrange to have the property inspected. After inspection of the building or structure and consultation with the Leverett Fire Chief and/or the Leverett Board of Health, and the Commission Chair or designee of the Commission Chair, the Inspector shall determine whether the condition of the building or structure represents a serious and imminent threat to public health and safety, and whether there is any reasonable alternative to the immediate demolition of the building or structure which would protect public health and safety. Whenever the Inspector issues an emergency demolition permit under the provisions of this bylaw section, the Inspector shall prepare and file a written report describing the condition of the building or structure and the basis of his decision to issue an emergency demolition permit with the

Commission. Nothing in this bylaw shall be inconsistent with the procedures for the demolition and/or securing of buildings and structures established by Massachusetts General Laws Chapter 143, Sections 6--10, but the Commission Chair must be invited to accompany the Inspector on any inspections under this bylaw section.

- (6) Noncompliance: In addition, the Inspector shall not issue a building permit pertaining to any property on which a building or structure identified in Subsection (3) has been demolished for a period of two years from the date of demolition, unless a Demolition Permit was obtained and fully complied.
- (7) Severability: In case any section, paragraph or part of this bylaw is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part of the bylaw shall continue in full force and effect.

A true copy attest:

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Lisa Stratford, Town Clerk

I have posted attested copies of the Attorney General's action on Articles 24 and 25 of the 2010 Annual Town Meeting on the Post Office, in the Town Hall and Congregational Church at Leverett, also the Baptist Church at North Leverett, and the Village Coop at Moores Corner.

\_\_\_\_\_, 20\_\_.