

The By-Laws of Boylston Historic District

Section 1: Title

This By-Law shall be known as the Boylston Historic District By-Law.

Section 2: Purpose of the Historic District

The purpose of the Historic District is to promote the education, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Town of Boylston and the Commonwealth, or their architecture, and through the maintenance and improvement of settings of such buildings and places and the encouragement of design compatible therewith.

This By-Law is not intended to conflict with any zoning By-Laws or other By-Laws of the Town of Boylston. The requirements established herein do not relieve any person from also satisfying any and all of Boylston's zoning By-Laws or other By-Laws that are applicable.

Section 3: Historic Districts

Historic Districts in the Town of Boylston shall be created and maintained in every respect under and according to the provisions of General Laws of the Commonwealth, Chapter 40-C (see Section 16), and all amendments thereto, and this By-Law shall be in every respect controlled by and subject to the provisions of said Chapter 40-C of the General Laws and all amendments thereto.

Section 4: Membership of the Historic District Commission

The Historic District Commission shall be appointed by the Selectmen and shall consist of seven regular members. Included among the members, when possible, shall be one person who is a member of the Boylston Historical Society, one person who is a member of the American Institute of Architects in the Boylston area, one person who is a member of a Board of Realtors in the Boylston area, and one person who is a resident or property owner in the Historic District. The Selectmen need not appoint as regular members of the historic Commission one person from each of said categories of persons if such specially qualified persons are not available. Regular members will each serve a term of three years. When the Historic District Commission is first established, the Selectmen shall at first appoint three members who will serve for a term of office of three years, two members who will serve for a term of office of two years, and two members who will serve for a term of office of one year. The appointments to membership in the Commission shall be so arranged that the term of at least one member will expire each year, and their successors shall be appointed in the same manner as the original appointment for terms of three years. Vacancies shall be filled in the same manner as the original appointment for the unexpired term.

The Selectmen may appoint alternate members not exceeding in number the principal members. In case of the absence, inability to act or unwillingness to act because of self-interest on the part of a member of the Commission, his place shall be taken by an alternate member designated by the chairperson. Each member and alternate shall continue in office after expiration of his term until his successor is duly appointed and qualified. All members shall serve without compensation. The Commission shall elect annually a chairperson and vice-chairperson from its own number and a secretary from within or without its number.

Section 5: Map of Boundaries of the Historic District

The boundaries of the Historic District are shown on a map of the Historic District which is filed with the Town Clerk of the Town of Boylston and recorded in the Registry of Deeds for the County of Worcester. This map is attached to these By-Laws at the end thereof.

Section 6: Powers and Duties of the Historic Commission, Certification

Except as this By-Law may otherwise provide in accordance with Section 8, Section 9 or Section 10 of these By-Laws, no building or structure within an historic district shall be constructed or altered in any way that effects exterior architectural features unless the Commission shall first have issued a certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship, with respect to such construction or alteration.

Any person who desires to obtain a certificate from the Commission shall file with the Commission an application for a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship, as the case may be, in such form as the Commission may reasonably determine, together with such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

No building permit for construction of a building or structure or for alteration of an exterior architectural feature within an Historic District and no demolition permit for demolition or removal of a building or structure within an Historic District shall be issued by the Boylston Planning Board or its Agents or by the Building Inspector until the certificate required by this section has been issued by the Commission.

Section 7: Guidelines

In passing upon matters before it the Commission shall consider among other things, the historic and architectural value and significance of the site, building or structure, the general design, arrangement, texture, and material of the features involved, and the relation of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures, the Commission shall consider the appropriateness of the size and shape of the building or structure, both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity, and the Commission may in appropriate cases impose dimensional and set-back requirements in addition to those required by other applicable By-Laws. The Commission shall not consider interior arrangements or architectural features not subject to public view.

The Commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the Historic District.

Section 8: Exceptions

(A) The authority of the Commission shall not extend to the review of the following categories of buildings or structures or exterior architectural features in the Historic District, and the buildings or structures or exterior architectural features so excluded may be constructed or altered within the Historic District without review by the Commission:

- (1) Temporary structures or signs, subject however to the following conditions:
 - (a) that such temporary structures or signs not remain for a period in excess of thirty days:
 - (b) that all illumination upon said temporary structures or signs be indirect and non-flashing.
- (2) Terraces, walks, driveways, sidewalks, and similar structures, or one or more of them, provided that any such structure is substantially at grade level.
- (3) One antenna per building, storm doors and windows, screens, window air conditioners, lighting fixtures and similar appurtenances.
- (4) The color of paint, provided that the paint color does not cause substantial derogation from the intent and purpose of the by-law and is in keeping with acceptable aesthetic standards.
- (5) The color or materials used on roofs.
- (6) Signs of not more than two square feet in area in connection with use of a residence for a customary home occupation, or professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and provided only one sign in connection with the non-residential use of each building or structure is displayed which is not more than twelve square feet in area consisting of letters painted on wood, and if illuminated is illuminated only indirectly.
- (7) The reconstruction, substantially similar in exterior design, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.

(B) The Commission may determine from time to time after public hearing that certain categories of exterior architectural features, colors, structures, or signs, including, without limitation, any of those enumerated under paragraph (A), may be constructed or altered without review by the Commission without causing substantial derogation from the intent and purpose of this By-Law.

(C) Upon request the Commission shall issue a certificate of non-applicability with respect to construction or alteration in any category then not subject to review by the Commission in accordance with the provisions of paragraphs (A) and (B).

Section 9: Ordinary Maintenance, Repairs or Replacement

Nothing in this By-Law shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature within an Historic District which does not involve a change in design, material, color or the outward appearance thereof, nor to prevent the landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any construction or alteration under a permit duly issued prior to the effective date of the applicable Historic District By-Law.

Section 10: Additional Powers, Functions and Duties of the Historic Commission

The Commission shall have the following additional powers, functions, and duties:

(A) If the Commission determines that the construction or alteration for which an application for a certificate of appropriateness has been filed will be appropriate for or compatible with the preservation or protection of the Historic District, the Commission shall cause a certificate of appropriateness to be issued to the applicant. In the case of a disapproval of an application for a certificate of appropriateness, the Commission shall place upon its record the reasons for such determination and shall forthwith cause a notice of its determination, accompanied by a copy of the reasons therefor as set forth in the records of the Commission, to be issued to the applicant, and the Commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material and similar features.

Prior to the issuance of any disapproval the Commission may notify the applicant of its proposed action accompanied by recommendations of changes in the applicant's proposal which, if made, would make the application acceptable to the Commission.

If within fourteen days of the receipt of such notice the applicant files a written modification of his application in conformity with the recommended changes of the Commission, the Commission shall cause a certificate of appropriateness to be issued to the applicant.

(B) In the case of a determination by the Commission that an application for a certificate of appropriateness or for a certificate of non-applicability does not involve any exterior architectural feature or involves an exterior architectural feature which is not then subject to review by the Commission in accordance with the provisions of Section 8, the Commission shall cause a certificate of non-applicability to be issued to the applicant.

(C) If the construction or alteration for which an application for a certificate of appropriateness has been filed shall be determined to be inappropriate, or in the event of an application for a certificate of hardship, the Commission shall determine whether, owing to conditions especially affecting the building or structure involved, but not affecting the Historic District generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this By-Law. If the Commission determines in either such instance that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, or if the Commission fails to make a determination on an application within the time specified in Section 11 of Chapter 40-C of the General Laws, the Commission shall cause a certificate of hardship to be issued to the applicant.

(D) Each certificate issued by the Commission shall be dated and signed by its chairman, vice-chairman, secretary, or such other person designated by the Commission to sign such certificates on its behalf.

(E) The Commission shall keep a permanent record of its resolutions, transactions, and determinations and of the vote of each member participating therein and may adopt and amend such rules and regulations not consistent with the provisions of these By-Laws or of General Laws, Chapter 40-C, and prescribe such forms as it shall deem desirable and necessary for the regulation of its affairs and the conduct of its business. The Commission shall file a copy of any such rules and regulations with the Town Clerk.

(F) The Commission shall file with the Town Clerk and with any department of the Town having authority to issue building permits a copy or notice of all certificates and determinations of disapproval issued by it.

(G) The Commission may after public hearing set forth in such manner as it may determine the various designs of certain appurtenances, such as light fixtures, which will meet the requirements of an historic district and a roster of certain colors of paint and roofing materials which will meet the requirements of an historic district, but no such determination shall limit the right of an applicant to present other designs or colors to the Commission for its approval.

(H) The Commission may, subject to appropriation, employ clerical and technical assistants or consultants and incur other expenses appropriate to the carrying on of its work, and may accept money gifts and expend the same for such purposes. The Commission may administer on behalf of the Town any properties or easements, restrictions, or other interests in real property which the Town may have or may accept as gifts or otherwise and which the Town may designate the Commission as the administrator thereof.

(I) The Commission shall have, in addition to the powers, authority and duties granted to it by these By-Laws and General Laws, Chapter 40-C, such other powers, authority and duties as may be delegated or assigned to it from time to time by vote of town meeting.

Section 11: Meetings, Quorum

Meetings of the Commission shall be held at the call of the chairman and shall be called at the request of two members of the Commission and in such other manners as the Commission shall determine in its rules. A majority of the members of the Commission shall constitute a quorum. The concurring vote of a majority of the members of the Commission shall be necessary to issue a certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship.

The Commission shall determine promptly, and in all events within fourteen days after the filing of an application for a certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship, as the case may be, whether the application involves any exterior architectural features which are subject to approval by the Commission. If the Commission determines that such application involves any such feature which are subject to approval by the Commission, the Commission shall hold a public hearing on such application unless such hearing is dispensed with hereinafter is provided. The Commission shall fix a reasonable time for the hearing on any application and shall give public notice of the time, place and purposes

thereof at least fourteen days before said hearing in such manner as it may determine, and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors, to the Planning Board of the Town, to any person filing written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice.

As soon as convenient after such public hearing but in any event within six days after filing of the application, or such lesser period as the By-Law shall provide, or within such further time as the applicant may allow in writing, the Commission shall make a determination within such period of time the Commission shall fail to make a determination within such period of time the Commission shall thereupon issue a certificate of hardship.

A public hearing on an application need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application may be waived by the Commission if the Commission determines that the exterior architectural feature involved or its category or color, as the case may be, is so insubstantial its effect on the Historic District that it may be reviewed by the Commission without public hearing on the application, provided, however, that if the Commission dispenses with a public hearing on an application a notice of the application shall be given to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as above provided, and ten days shall elapse after the mailing of such notice before the Commission may act upon such application.

Section 12: Review and Appeal

Any applicant aggrieved by a determination of the Historic Commission or by the finding of a person or persons making a review may within twenty days after the filing of the notice of such determination or such finding with the Town Clerk appeal for a review by a person or persons designated by the appropriate regional planning agency or appeal to the Superior Court sitting in Equity for the County of Worcester as the case may be in accordance with the review procedures provided in Sections 12, 12-A, and 13 of Chapter 40-C of the General Laws of the Commonwealth.

Section 13: Severability

The provisions of this By-Law shall be deemed to be severable. If any of its provisions shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.