

## About the Historic Districts By-Law and Commission

Hingham's first historic district (the Lincoln Historic District) and the town's Historic Districts Commission were established pursuant to a 1966 Town Meeting vote and a special Act of the Massachusetts Legislature, Chapter 502 of the Acts of 1966. In 1987, Hingham voted to adopt Chapter 40C of the Massachusetts General Laws, the enabling statute for historic districts (the "Historic Districts Act"), and concurrently adopted its own Historic Districts By-Law (the "By-Law"). Both Chapter 40C and the local Historic Districts By-Law (the "By-Law") now govern the Historic Districts Commission (also referred to as the HHDC) and all the local historic districts in Hingham.

The statute and By-Law provide for the establishment of historic districts and the appointment of an Historic Districts Commission. Proposals to create historic districts are developed by ad hoc study committees appointed by the Board of Selectmen. Given the large number of outstanding historic properties in Hingham, the task of identifying district boundaries can be laborious. The study committees base their recommendations on a professional survey or inventory of properties that records important architectural features, examines historic significance, and analyzes the relation of buildings to their settings. The committees look for boundaries that make the historic districts something more than a mere collection of buildings, however worthy each one might be. The survey data allow these committees to delineate historic districts fairly and sensibly, so that properties are neither included nor excluded for arbitrary reasons. Consultations with residents, reviews by local and state authorities, and the requirement of a two-thirds majority at Town Meeting confirm that the historic districts that are eventually created have public support as well as professional justification.

Once established, Hingham's historic districts are subject to regulation by the Historic Districts Commission, which consists of five members and five alternates appointed by the Board of Selectmen for staggered three-year terms. The By-Law requires that the commission include an architect, a designee of the Planning Board, a designee of the Historical Society and at least one resident of an historic district. The commission is subject to the Open Meeting Law and always provides public notice of its meetings.

Put simply, the function of the Historic Districts Commission is to identify and protect the physical character of older buildings and their settings in historic districts and to assure that modifications or new construction in historic districts will not be incompatible. The Historic Districts Act and By-Law stipulate, with certain exceptions, that "no building or structure within an historic district shall be constructed or altered in any way that affects exterior architectural features" unless the commission has first reviewed the work proposed and issued a certificate of appropriateness or a certificate of hardship, or has determined that the By-Law is not applicable.

- A **Certificate of Appropriateness** is required for exterior alterations and new construction that is subject to review by the commission.
- A **Certificate of Non-applicability** covers matters that are specifically excluded from review under the By-Law or that the commission has decided to exempt from review because the work proposed either automatically meets the requirements for an historic district or does not detract from the purposes of the By-Law.
- A **Certificate of Hardship** is issued when construction or alteration is inappropriate but the commission has determined that failure to approve the application will cause significant hardship, financial or otherwise, to the owner, while the work proposed will not conflict substantially with the purposes of the By-Law.

The term "exterior architectural features" covers a wealth of elements, from decorative details like paint color, trim and railings, to major functional features such as doorways and windows. Under the By-Law,

such features are subject to review only if they are visible from a public street or other public area. In addition to houses, “structures” that may be subject to review include fences, walls, terraces, walks and driveways. The By-Law defines “construction” and “alteration” in broad terms to include a range of activities from enlarging, installing and restoring, to moving or demolishing. In judging the appropriateness of a particular proposal, the commission may take into account a range of factors such as historic and architectural significance of a building or site, the general design, material and color of the features involved, and the size and shape of a new building in relation to its site and to existing buildings in the area.

The commission may not look at interior arrangements, except to the extent that interior alterations may have an impact on the exterior of the building. Also, some matters that are related to exterior features are specifically exempt from review. The commission has no authority over the reconstruction of a building or feature damaged by fire, storm or other disaster, provided that the new work is substantially similar in design and is begun within one year; nor may it prevent work deemed necessary for public safety because of a dangerous condition. The By-Law does not directly regulate routine landscaping, although it may affect siting, paving and related elements like hardscape and fences. It does not apply to work of any kind that has been started or will be performed under permit issued before the relevant historic district was created, meaning the date on which it was approved by the Attorney General.

The commission has limited jurisdiction and cannot initiate projects. In the absence of an application, there is no requirement to undertake routine maintenance or to restore a property to its original appearance. The objective of the commission’s decisions is to avoid developments that are out of keeping with the history or architectural significance of a building or its setting. The commission is concerned with authenticity, and its decisions are grounded in information about historic buildings and the districts in which they are found. The inventory that is used in drawing district boundaries provides a framework of knowledge for setting and applying standards of appropriateness.

In its review function, the Historic Districts Commission plays a valuable advisory role. The professional expertise of its members and its access to independent preservation consultants make the commission an excellent source of information and guidance on architectural design and materials. The commission can provide owners with data on their properties from the town’s historical inventory (“Form Bs”) and other public records, which can be augmented with any documents in the owners’ possession. The Administrator is available to meet with owners, architects and builders for preliminary or informal discussions and offer advice about the appropriateness of proposed projects.

Early contact with the Historic Districts Commission can expedite the certification process by identifying the type of certificate involved and the likelihood that the work contemplated will be acceptable. By the time it issues a certificate, the commission is looking at design decisions that have already been reached by an owner. Advance consultations, therefore, can make it easier for property owners to obtain accurate cost estimates and to avoid expensive changes and delays. It is especially important for owners to realize that they, rather than their architects, contractors, or builders, are responsible for fulfilling the certification requirements. Since exterior painting and some minor projects do not require building permits but are subject to review by the Historic Districts Commission, *owners should assume that any alteration or change in structure or site should be reviewed by the HHDC* and secure an application form from the Building Department, from the Historical Commissions office or from the Town of Hingham website. If review is not necessary, the HHDC will so inform the applicant. An application for painting must be filed whether the owner proposes to use an approved color or one not on the roster.

Repairs, alterations and new construction must be described in terms appropriate to the complexity of the project. The design may require drawings, specifications, samples, photographs and other exhibits. The design may be prepared by any competent person, but it must contain information adequate to present

complete views of the work with some technical skill. This role is traditionally the function of the professional architect (who is licensed by the state and has a registration number), with the assistance of a licensed engineer for structural problems. Few builders are skilled in preparation of construction drawings and other documents, but such material is useful to owners because it can be used to obtain competitive bids from contractors and for job supervision. The employment of a professional architect and/or engineer may be required for the information of the HHDC and of the Building Commissioner, who is charged with inspection and enforcement. A site plan at 40 scale showing relation to the street should be included.

Owners should also be aware that the Historic Districts By-Law is only one element in the array of statutes affecting building in Hingham. Although certification by the commission is a pre-condition for obtaining a building permit within an historic district, it does not remove other requirements for a permit that may be imposed by the Building Department. Inclusion in an historic district has no impact whatsoever on the allowable uses of a building, which are subject to local zoning ordinances, nor does it affect property tax rates in any way. Older buildings that lie outside an historic district are unaffected by the Historic Districts By-Law, although they may be subject to the by-law concerning demolition delay. Public buildings in Hingham are not exempt from the jurisdiction of the HHDC, and town agencies submit the required application and documentation.