

ARTICLE 28

HISTORIC DISTRICTS BY-LAW

SECTION 1 - Authority and Purpose

This By-law shall be known and may be cited as the Historic Districts By-law of the Town of Hingham and is adopted pursuant to the provisions of Chapter 40C of the Massachusetts General Laws, as amended.

The purpose of this By-law is to promote the educational, 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, or its architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith. Regulations may be promulgated by the Historic Districts Commission in accordance with the provisions of Chapter 40C of the Massachusetts General Laws, as amended, in order to fulfill the purposes of this By-law.

SECTION 2 - Historic Districts Commission

In accordance with the provisions of Chapter 40C, Section 4, of the Massachusetts General Laws, the Historic Districts Commission appointed by the Select Board pursuant to the provisions of Chapter 502 of the Acts of 1966 shall be designated as the Historic Districts Commission under this By-Law. The Commission shall consist of five (5) citizens of the Town appointed for three (3)-year terms, with the terms of either one (1) or two (2) members expiring each year. Five (5) alternate members shall be appointed in a like manner. Vacancies shall be filled in the same manner as the original appointment for an unexpired term. One (1) regular member and one (1) alternate member shall be appointed from each of at least three (3) nominees submitted by the Boston Chapter of the American Institute of Architects, from at least three (3) nominees submitted by the Hingham Historical Society, and from at least three (3) nominees submitted by the Hingham Planning Board. One (1) regular and one (1) alternate member shall be appointed, where possible, from among the residents of the historic districts, and one (1) regular and one (1) alternate member shall be appointed at large. If within thirty (30) days after submission of a request for nominees to an organization entitled to submit nominations for membership on the Commission no such nominations have been made, the Select Board may proceed to make the appointments to the Commission without nomination by such organization.

In case of the absence, inability or unwillingness to act of a member of the Commission, that member's place shall be taken by an alternate member designated by the chair. Each member and alternate shall continue in office until the expiration of their term or until their successor is duly appointed and qualified. All members shall serve without compensation. The Commission shall annually elect a chair and vice-chair from its number and a secretary from within or without its number.

SECTION 3 - Definitions

As used in this By-law the word "altered" includes the word "rebuilt", "reconstructed", "restored", "removed", and "demolished" and the phrase "changed in exterior color"; the word "building" means a combination of materials forming a shelter for persons; animals or property; the word "Commission" means the Commission acting as the Historic Districts Commission; the word "constructed" includes the words "built", "erected", "installed", "enlarged", and "moved"; the words "exterior architectural feature" means such portion of the exterior of the building or structure as is

open to view from a public street, public way, public park or public body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color and texture of exterior building materials, the color of paint and other materials applied to exterior surfaces and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures; the words "person aggrieved" mean an applicant, an owner of property adjoining the property of an applicant, an owner of property within the same historic district as the property of an applicant and within one hundred feet of said property as measured from a property line and any charitable corporation one of whose purposes is the preservation of historic structures or districts; the word "structure" means a combination of materials other than a building, including a sign, fence, wall, terrace, walk or driveway.

SECTION 4 - Certificate of Appropriateness, Non-Applicability or Hardship

Except as otherwise provided in Sections 6 or 7 of this By-law, no building or structure within an historic district shall be constructed or altered in any way that affects an exterior architectural feature 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 therefor in such form as the Commission may reasonably determine, together with such plans, elevations, specifications, material or 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 Building Commissioner until the certificate required by this section has been issued by the Commission.

SECTION 5 - Factors Considered By Commission in Making Determination On Application For Certificate

In passing on 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, material and color 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 setback requirements in addition to those required by other applicable laws or 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 changes or developments incongruous with the historic aspects or the architectural characteristics of an historic district.

SECTION 6 - Exclusion of Certain Matter from Review

The authority of the Commission shall not extend to the reconstruction, if 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 (1) year of the damage or destruction and carried forward with due diligence.

The Commission may determine from time to time after public hearing that certain categories of exterior architectural features, if the provisions of applicable laws or by-laws do not limit the authority of the Commission with respect thereto, may be constructed or altered without review by the Commission without causing substantial derogation from the intent and purposes of this By-law.

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 this Section 6.

SECTION 7 - Ordinary Maintenance; Landscaping; Changes Otherwise Permitted or Required

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 landscaping with plants, trees or shrubs, nor construed to prevent the meeting of a requirement 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 8 - Additional Powers, Functions And Duties Of Commission

The Commission shall by a majority vote of the members thereof promulgate appropriate procedural rules and regulations for the calling of meetings, the calling and conduct of hearings, the issuance and filing of certificates and other determinations, and the keeping of records, provided that the same shall be consistent with the requirements of Chapter 40C, Sections 10 and 11, of the Massachusetts General Laws, and other provisions of this By-law.

The Commission may after public hearing set forth in such manner as it may determine various designs of certain appurtenances, such as lighting 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.

The Commission may, where a certain construction or alteration is otherwise inappropriate, nevertheless determine that 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 that 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 so determines, it shall cause a certificate of hardship to be issued to the applicant.

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 shall have, in addition to the powers, authority and duties granted to it by this By-law, such other powers, authority and duties as may be assigned to it from time to time by

Town Meeting vote.

SECTION 9 - Appeals to and Enforcement by the Superior Court

Any person aggrieved by a determination of the Commission may, within twenty (20) days after the filing of the notice of such determination with the Town Clerk, appeal to the Superior Court for Plymouth County, in accordance with the provisions of Chapter 40C, section 12A, of the Massachusetts General Laws.

The Superior Court for Plymouth County may, in accordance with the provisions of Chapter 40C, section 13, of the Massachusetts General Laws, enforce the provisions of this By-law, and any determination, ruling or regulation issued pursuant thereto, and may, upon the petition of the Commission or the Select Board, restrain by injunction violations thereof; and, without limitation, such court may order the removal of any building, structure or exterior architectural feature constructed in violation thereof, or the substantial restoration of any building, structure or exterior architectural feature altered or demolished in violation thereof, and may issue such other orders for relief as may be equitable.

Whoever violates any of the provisions of this By-law shall be punished by a fine of not less than ten dollars (\$10) nor more than five hundred dollars (\$500). Each day during any portion of which a violation continues to exist shall constitute a separate offense.

SECTION 10 - Districts Established By Special Acts of The General Court

The Lincoln Historic District and the Glad Tidings Historic District, established pursuant to a prior Special Act of the Massachusetts General Court, shall hereafter be subject to the provisions of this By-law, notwithstanding the terms of such Special Act. The provisions of this By-law shall not affect the validity of these historic districts.