A GUIDEBOOK FOR HISTORIC DISTRICT COMMISSIONS



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On the Cover:
The Crown Hill Local Historic District in Worcester was established in 2013.

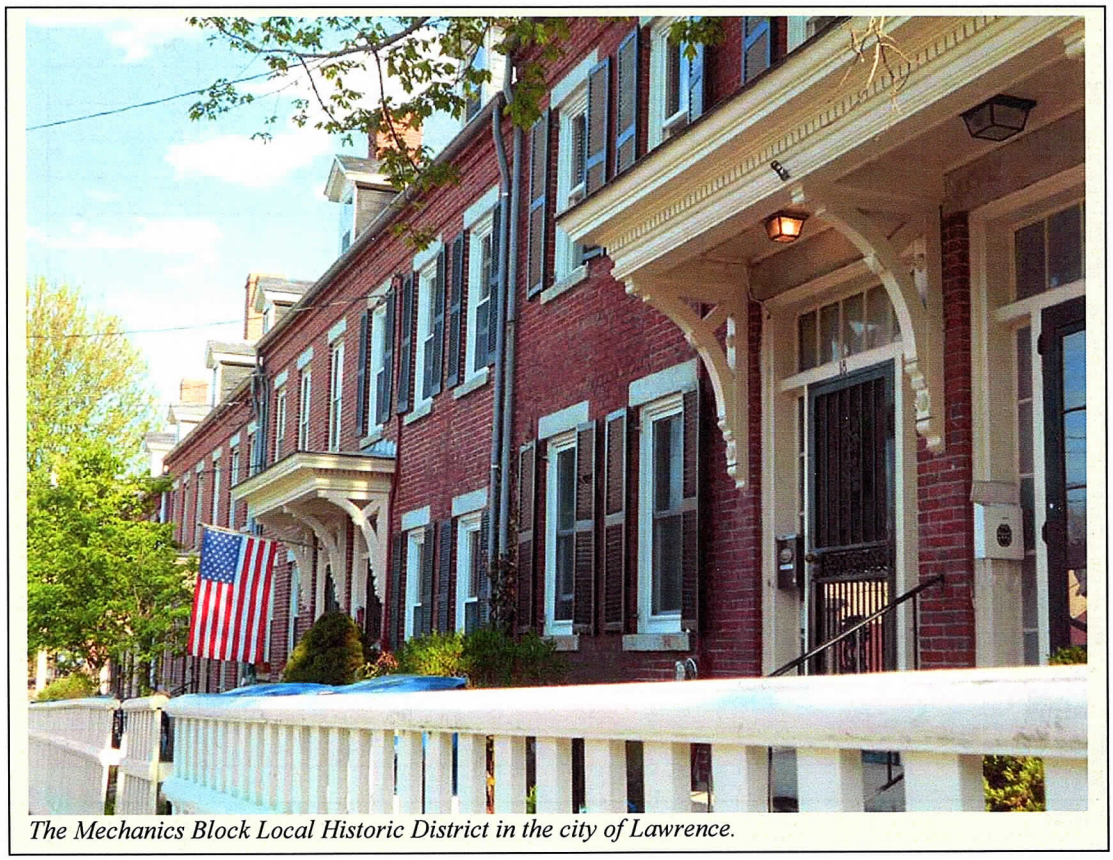
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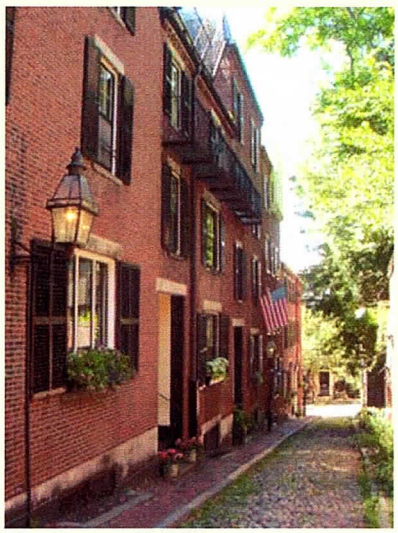
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The Mechanics Block Local Historic District in the city of Lawrence.

Introduction

Since 1955, when the first local historic districts in Massachusetts were established in Boston and Nantucket, Historic District Commissions have greatly contributed to the preservation of our irreplaceable significant historic resources by preventing inappropriate alterations, construction, and demolitions.



The Beacon Hill Historic District, Boston was established in 1955.

Today, there are over 100 Historic District Commissions operating in Massachusetts, administering over 200 local historic districts. Without them, Massachusetts would be a very different place. The regulatory authority of Historic District Commissions is one of the most effective methods of preservation in the Commonwealth, and one of the most challenging.

In administering a local historic district, historic district commissions face many challenges, including complex regulations, paperwork, public hearings, and design review.

This guidebook has been prepared for the Historic District Commissions of Massachusetts in order to make your job a little easier. It is hoped that this guidebook will assist you in administering, advocating, and preserving the historic resources in your community.

While this guidebook is meant for historic district commissions, others may also find the information useful, including municipal staff, developers, property owners, and individuals interested in becoming a member of a historic district commission.

While this guidebook contains a great deal of information, it is not meant to be read and put aside. It is hoped that the format is such that a commission member can easily find the information needed so that the guidebook can be referred to again and again.

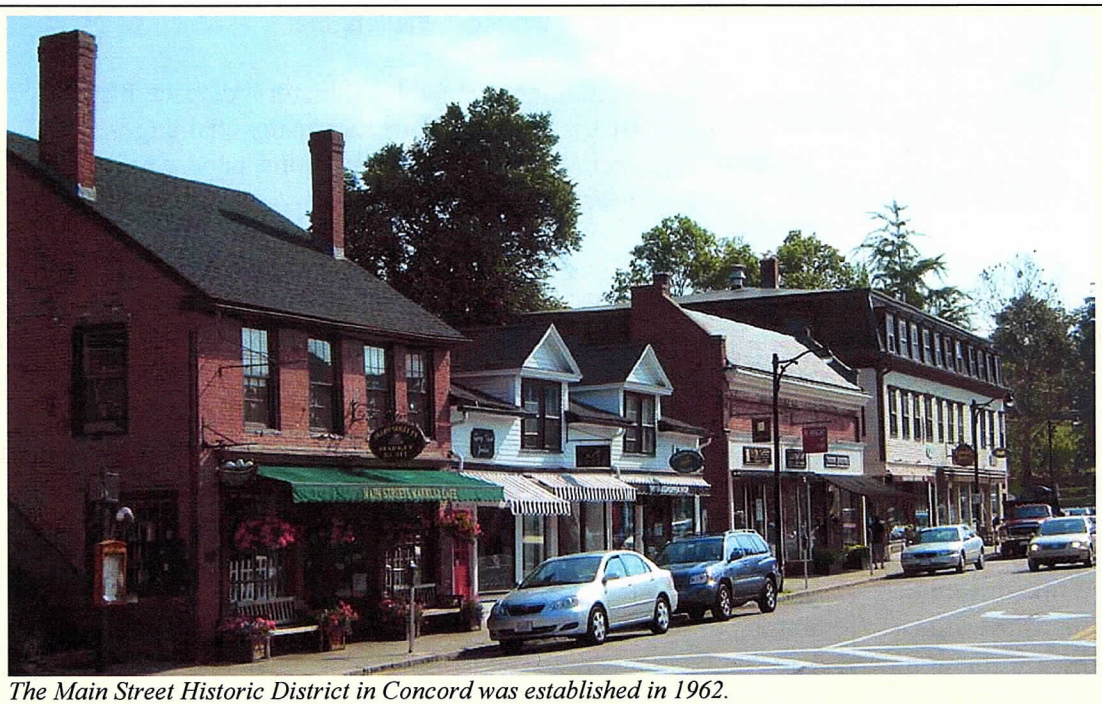
This guidebook is not meant to be a substitute for municipal legal counsel to Historic District Commissions. MHC is not responsible for any errors or omissions found in this guidebook. It should also be noted that this guidebook is primarily designed for local historic districts established under M.G.L. Chapter 40C. Special Act Districts may have different authority or procedures.

If you are interested in creating a new local historic district, you should consult the Massachusetts Historical Commission's guidebook, Establishing Local Historic Districts.

Additional copies of this manual can be obtained by contacting the Massachusetts Historical Commission.

If you have questions or recommendations on improving this guidebook, please contact:

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The Main Street Historic District in Concord was established in 1962.

Why Do We Have Local Historic Districts?

The benefits of local historic districts are many. Through local historic districts, cities and towns of Massachusetts protect significant historic resources in their downtowns, village centers, and neighborhoods. At the same time, local historic districts allow appropriate changes to occur so that these areas can adapt to changing times and remain vibrant parts of their communities.



The Washington Street Historic District in downtown Haverhill protects significant buildings and the overall streetscape while, at the same time, allowing changes to occur in this busy commercial center.

Local historic districts do not prevent change from occurring, nor do they prevent new development. Their intent is to ensure that changes and additions are harmonious, to protect significant buildings, and to prevent the intrusion of incongruous elements that might detract from the historic character of the district. The purpose of a local historic district is not to halt growth, but to allow for thoughtful consideration of change.

In many instances throughout the state, local historic districts can be credited with saving the character of a historic area from otherwise certain destruction.

Local historic districts do more than just preserve individual buildings. Local historic districts protect the context, setting, and overall character of our built environment.

By providing a tangible, lasting connection to our past, local historic districts provide a grounding sense of place, neighborhood stability, and pride in community.

As an educational tool, local historic districts are valued by teachers, professors, and historians, because they bring local history out of the classroom and into the daily lives of their students.

Local Historic Districts have three major purposes as stated in Massachusetts General Law Chapter 40C:

1. To preserve and protect the distinctive characteristics of buildings and places significant in the history of the Commonwealth and its cities and towns.
2. To maintain and improve the settings of those buildings and places.
3. To encourage new designs compatible with existing buildings in the district.

History of Local Historic Districts

The local historic district movement began in the United States in 1931, when the City of Charleston, South Carolina, enacted a local ordinance designating an "Old and Historic District" administered by a Board of Architectural Review. A few years later, following a 1936 amendment to the Louisiana Constitution, the Vieux Carre Commission was created in 1937 to protect and preserve the French Quarter in New Orleans.



The Beacon Hill Historic District in Boston was established in 1955.

The regulations of these districts provided that no changes could be made to the exterior architectural features of buildings, structures, and sites visible from a public street within the designated areas, without the review and approval of an historic district commission. These districts served as models for the establishment of local protection ordinances across the country.

Massachusetts first made use of this preservation tool in 1955. Following opinions rendered to the General Court by the Massachusetts Supreme Judicial Court that held that these districts were constitutional, Special Acts of the Legislature creating the Beacon Hill District in Boston and the Historic District in Nantucket were passed. Additional Special Act Districts in Lexington and Concord were established between 1956 and 1960.

In 1960, a statewide enabling statute was enacted to empower municipalities to establish local historic districts without the special approval of the state legislature. The Historic Districts Act, M.G.L. Chapter 40C, was created to protect and preserve the historic resources of the Commonwealth through a local review system. Since then, the Historic Districts Act was amended in 1971, and minor language changes were made in 1983 and 1987.

A list of the municipalities in Massachusetts with a local historic district is included in the MHC guidebook, *Preservation through Bylaws and Ordinances*. In addition, a statewide map of local historic districts is available by contacting the MHC.

The Historic Districts Act has served the communities of Massachusetts well for over five decades. To date, over 120 communities across the Commonwealth have enacted local historic districts to protect their historic resources and ensure the preservation of their community character.

It should be noted that not all post-1960 local historic districts in Massachusetts were established under M.G.L. Chapter 40C. Some local historic districts were created under their own Special Act of the Legislature, even after Chapter 40C was passed in 1960.



The Downtown Lowell Historic District was established through a Special Act of the Legislature in 1983.

Legal Basis for Local Historic Districts

Because local historic districts have direct impacts on private property, the question of their legal basis and constitutionality often arises. Local historic district controls exist within the broader context of land use regulations that have been extensively reviewed and examined by the courts.

The basic origin for historic preservation controls lies with the development of municipal land use and zoning controls in the early 20th century. In 1926, the U.S. Supreme Court decision in Village of Euclid v. Ambler Realty, 272 U.S. 365 (1926), upheld the constitutionality of local zoning ordinances and established the ability of municipalities to regulate land use through the exercise of their police powers.

As land use controls evolved, they eventually began to encompass aesthetic considerations and the desire of communities to protect and preserve the character of their historic and architectural resources. In 1954, the U.S. Supreme Court affirmed the constitutionality of "aesthetic" zoning in the case of Berman v. Parker, 348 U.S. 26 (1954). With the development of historic district controls, state judicial opinions supported the use of such regulation as a valid exercise of the state's power to promote the general welfare.



Local historic districts promote the general welfare and serve a valid public purpose. Pictured here is the Henry Wilson Historic District in Natick.

It was not until 1978, when the U.S. Supreme Court decided Penn Central Transportation Company v. City of New York, 438 U.S. 104 (1978), that the constitutionality of local controls to further historic preservation was affirmed. In this landmark case, the Court considered whether historic preservation controls constituted a "taking" in violation of the Constitution's Fifth Amendment, which provides that private property shall not be taken for public use without just compensation. The Court found that historic preservation is a valid public purpose, and that the City of New York's landmark restrictions on Grand Central Station did not constitute a "taking" because the controls did not prevent a reasonable economic use of the property.

Although the basic constitutionality of local historic preservation controls has been recognized by the courts, they are still subject to legal challenge, often involving the claim of taking. However, unless the regulation is found not to advance a legitimate public interest, or the restrictions on designated property are so severe as to deprive the owner of any reasonable economic use, historic preservation controls will remain solidly within the broad spectrum of constitutional land use controls.

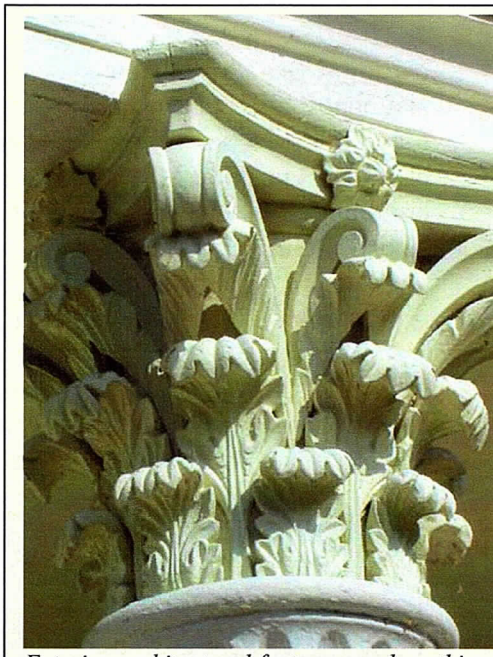
What does a local historic district commission review?

Local historic district commissions review changes to exterior architectural features visible from a public way.

What is an exterior architectural feature?
This list is not meant to be comprehensive but does provide a basic understanding of what is reviewed in a local historic district.

- Buildings
- Parts of buildings such as trim, siding, windows, doors, foundations, porches, dormers, chimneys, and stairs.
- Outbuildings, including sheds, barns, carriage houses, and garages.
- Structures, including stone walls, retaining walls, fences, air conditioning units, satellite dishes, signs, and lighting fixtures.

Under M.G.L Chapter 40C, landscaping with plants, trees, or shrubs is exempt from review. However, this exemption in state law does not include landscape structures such as fences, stone walls, or retaining walls.



Exterior architectural features, such as this column, are reviewed by local historic district commissions.

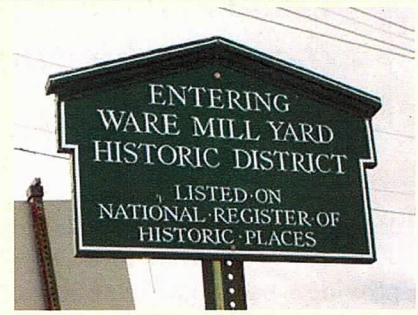
Some projects may be entirely exempt from review depending on the wording of your bylaw, or as determined to be the policy of the commission. Typical exemptions from review include paint color, window box air conditioning units, sidewalks, driveways, screen doors and screen windows, storm doors, and storm windows.

Other projects may be exempt from review only after the historic district commission determines that the project is exempt. Examples include exterior architectural features not visible from a public way and routine maintenance.

A demolition is most definitely a change to an exterior architectural feature and is reviewable.

Local Historic Districts and National Register Districts

In Massachusetts, there are two kinds of historic districts: local historic districts and national register districts. Although the same area may be designated as both a local historic district and a national register district, there are substantial differences between the two designations. This guidebook has been created for local historic district commissions that administer local historic districts under M.G.L. Chapter 40C. A description of the two types of districts is below.



The Ware Mill Yard Historic District in the town of Ware is a National Register District. Because there is no local historic district here, there is no historic district commission to review exterior architectural features visible from a public way. This designation is primarily honorary.

National Register Districts

National Register Districts are part of the listings found in the National Register of Historic Places. The National Register of Historic Places is a listing of buildings, structures, sites, objects, and *districts* significant in our nation's history, culture, architecture, or archaeology, and that are worthy of preservation. It is a federal designation, administered by the Secretary of the Interior through the Massachusetts Historical Commission as the State Historic Preservation Office. Listing in the National Register provides formal recognition of the property's significance, tax incentives for owners of income-producing property, and limited protection for federally funded, licensed, or assisted projects. National Register listing in no way limits the owner's use of the property, and places absolutely no restrictions on conditions or changes made by a private property owner, unless there is state or federal involvement in a project, or unless some other regional or local regulation is in effect.



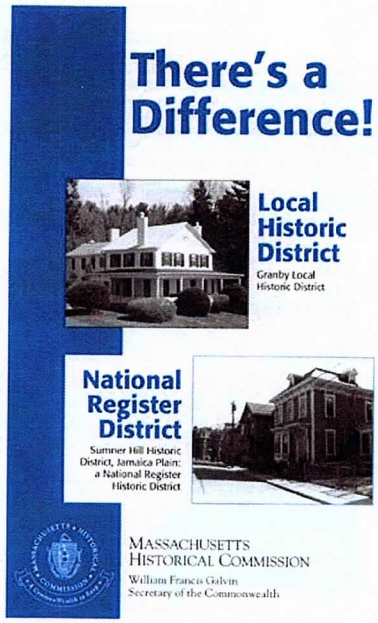
Framingham Common is both a Local Historic District and a National Register District.

In fact, listing in the National Register is primarily an honorary designation. One of the National Register's best uses is as an educational and informational tool. National Register listings are a valuable opportunity for local historical commissions to generate positive publicity for preservation and for the listed property, and to educate the general public about community history.

Local Historic Districts

Local historic districts are established and administered by a city or town through a local ordinance or bylaw. In a local historic district, alterations or construction that in any way affects exterior architectural features that are visible from a public way are reviewed by a locally appointed Historic District Commission. Local historic district protection enables a community to review and then approve only appropriate alterations, demolitions, and new construction. Because inappropriate alterations, demolitions, and new construction can be denied by the local historic district commission, a local historic district is, in general, very adept at permanently protecting significant historic resources.

There are approximately one hundred and twenty local historic districts in Massachusetts.



This brochure from the Massachusetts Historical Commission helps to explain the difference between a local historic district and a national register district. It is available on the website of the Massachusetts Historical Commission.

Local Historical Commissions, Local Historic District Commissions, and Local Historical Societies

There is often substantial confusion over these three types of organizations. It is important to remember that there are very distinct differences among them.



Local Historical Commissions and Local Historic District Commissions are part of municipal government.

Local Historical Commissions *(M.G.L. Chapter 40, Section 8d)*

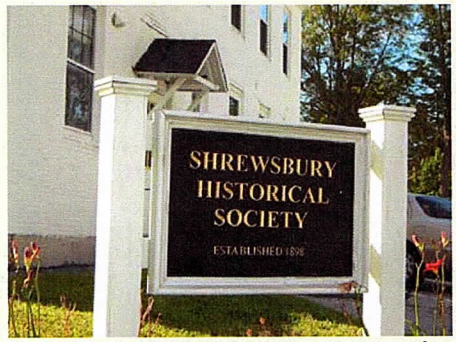
Local historical commissions are the official agents of municipal government responsible for community-wide historic preservation planning. Local historical commissions work in cooperation with other municipal agencies, such as the Select Board, City Council, building inspector, Planning Board, Zoning Board of Appeals, and Conservation Commission, to insure that the goals of historic preservation are considered in the planning and future development of the community. Local Historical Commissions are only advisory, unless a local bylaw or ordinance, such as a demolition delay bylaw, has given them regulatory jurisdiction.



The town of Charlton has a local historical commission and a separate local historic district commission.

Local Historic District Commissions *(M.G.L. Chapter 40C)*

Local Historic District Commissions are the review authority responsible for regulatory design review within designated local historic districts. Local Historic District Commissions review applications for changes to exterior architectural features visible from a public way, and have the ability to prevent demolitions and inappropriate alterations within local historic districts. In some communities, the local historic district commission and the local historical commission are combined into one commission. This combined commission is known as either the historical commission or the historic district commission.



Local historical societies are not part of municipal government.

Local Historical Societies

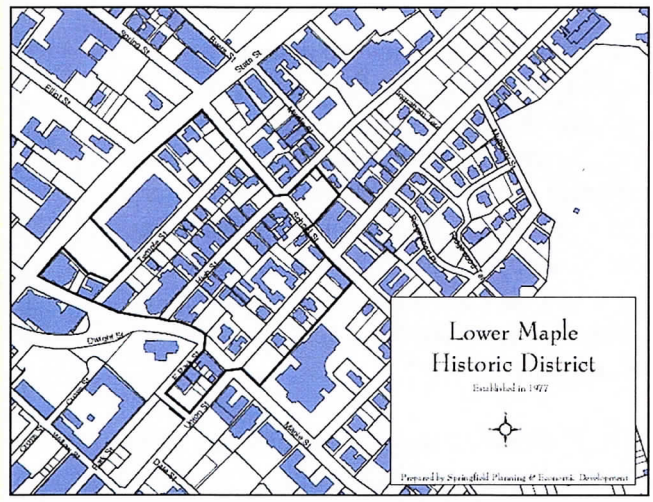
Local historical societies are private membership organizations concerned with the preservation of local histories through records, collections, and properties.

As a New Local Historic District Commission Member

As a new commission member, it is essential for you to familiarize yourself with the basics of the local historic district regulatory process. This guidebook will answer many of the questions you will have, and is a good first step. However, it is also highly recommended that you review the following as soon as possible:

M.G.L. Chapter 40C
Massachusetts General Law Chapter 40C, The Local Historic Districts Act, will govern many of the procedural aspects of local historic district administration. It is included as an appendix in this guidebook.

The Bylaw or Ordinance
This is the town bylaw or city ordinance that your town meeting or city council passed to establish the district. Together with M.G.L. Chapter 40C, it will govern procedural aspects of local historic district administration.



The map of the Lower Maple Historic District in Springfield.

The Local Historic District Map
The local historic district map shows the legal boundary for regulatory review by the commission. A local historic district commission only has regulatory authority within the boundary of the local historic district.

Design Guidelines
Local historic district design guidelines provide commissioners with a framework for reviewing projects and determining the appropriateness to the character of the district. If your local historic district commission has design guidelines, they will greatly help you in your decision-making process.

It is recommended that you have each of these documents with you at every meeting.

Conflict of Interest Training
After you are sworn in as a new commission member, your city or town clerk will also provide you with instructions for taking the online conflict of interest training. This is required under state law.

Getting Started as a New Local Historic District Commission

Has your community recently established a local historic district? If so, congratulations are in order, as your community has taken a major step in protecting its historic resources! While it is exciting to be a part of a new local historic district, it can also be confusing, with many tasks needing attention all at once.

At your first meeting, commission members should spend some time going over M.G.L. Chapter 40C, the bylaw or ordinance, the district map, and a plan for accomplishing tasks. These tasks will include meeting with the historical commission, the building inspector, the city or town clerk, and property owners.



Established in 2012, the Dickinson Local Historic District is the first local historic district in the town of Amherst.

Additionally, the historic district commission will need to prepare an application as soon as possible. This application will be filled out by property owners when they seek to make an alteration to a building or construct a new building. A sample application can be found in this guidebook and additional samples can be obtained from the Massachusetts Historical Commission.

Other documents, such as operating rules and regulations, design guidelines, and public outreach can wait for now, but should be part of the plan. More information on these essential documents can also be found in this guidebook.

MHC staff is also available to meet with your new local historic district commission.

If the new historic district commission is separate from the local historical commission, then the two commissions should meet to discuss the responsibilities of each organization and how the two organizations can best work together for common goals.

Once the historic district commission is in place, the commission should meet with relevant local officials as soon as possible. In particular, the historic district commission should meet with the building inspector and the city/town clerk. The commission should explain to the building inspector the local historic district application process, and that no building permits for exterior architectural features can be issued until a certificate from the district commission has been granted. The city/town clerk will likely be the municipal staff person that accepts the applications. The clerk will also file all of your application decisions.

The Decision-Making Process



The Boylston Historic District consists of the town common and surrounding buildings.

A Historic District Commission is a branch of local government, and its decisions are binding under the law. A commission must protect the public's right to due process and equal treatment. Commissions that do not follow proper procedures, or are arbitrary or capricious in their decision-making, risk court appeals, overturned decisions, and a loss of credibility. However, following a common-sense approach to the administration of the district will avert most problems. The following section includes the step-by-step process for decision-making by the historic district commission.

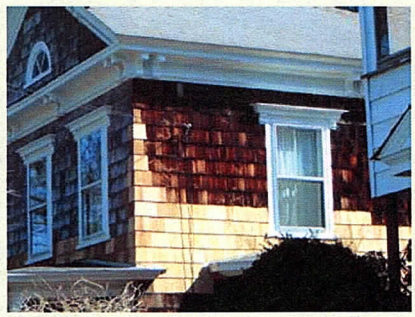
The primary responsibility of a Historic District Commission is to protect the character of the local historic district by reviewing applications for projects, making a determination on whether the project is appropriate, and issuing a certificate if the project is found appropriate. Since construction or demolition cannot progress without a certificate from the historic district commission, a local historic district has a substantial role and responsibility in managing architectural changes to the district.

The Certificates

There are three types of Certificates allowed under Massachusetts General Law Chapter 40C:

- Certificates of Appropriateness
- Certificates of Non-Applicability
- Certificates of Hardship

The type of certificate issued will depend on the type of project, the language of your bylaw/ordinance, and the decision rendered by the commission. In general, changes to exterior architectural features or structures visible from a public way will require the issuance of a certificate before any work can begin. Private property owners, non-profit organizations, and municipal governments all require certificates.



An application for replacement of rotted wood shingles with new wood shingles is routine maintenance and receives a certificate of non-applicability.

Certificate of Appropriateness

A Certificate of Appropriateness is required for most exterior alterations and new construction visible from a public way. A Certificate of Appropriateness usually requires a public hearing, although M.G.L. Chapter 40C does allow several scenarios where a public hearing can be waived.

Certificate of Non-Applicability

A Certificate of Non-Applicability is for matters that are specifically excluded from review under your bylaw. Examples include interiors, exterior features not visible from the public way, routine maintenance, or very minor replacements of architectural features which do not involve a change in materials or design. Some exterior features visible from the public way may also be exempt, such as replacement of features that were damaged by fire, storm, or other disaster. In order to avoid unnecessary delay, some historic district commissions have delegated the issuance of a Certificate of Non-Applicability to the chairperson or a municipal staff person.

Certificate of Hardship

A Certificate of Hardship is issued when construction or alteration is deemed inappropriate, yet the commission has determined that denial of a certificate would constitute a hardship, financial or otherwise, on the property owner. In each case, the proposed work should not conflict substantially with the purposes of the bylaw or the design guidelines. Furthermore, it should not relate generally to other property owners in the district. It should be a specific hardship to an individual property owner, based on unique circumstances affecting the owner's property.

The Application for a Certificate

In order to obtain a certificate, a property owner will need to submit an application to the historic district commission. The application for a certificate should be simple, easy to complete, and yet contain enough information for the historic district commission to fully grasp the proposed project and make a determination. Since proposed projects will vary greatly in size, scale, and complexity, the application needs to have some flexibility. Some commissions have several different applications depending on the type of proposed project.

At a minimum, an application should contain the following:

- Instructions for filling out the application
- Address of the property
- Date of the application
- Name of the owner
- Mailing address of the owner
- Name of the contractor and/or architect (if applicable)
- Mailing address of the contractor and/or architect
- Description of the proposed work
- Proposed start and completion dates

For a simple project, such as replacing damaged wood trim, this may be all that is required. Property owners will greatly appreciate a simple and expedient review process for minor changes. However, if the proposed project is complex, the application should explain that more detailed information must be included, such as plans, elevations, specifications, photographs, and sample materials. All supplemental material should have the applicant's name, mailing address, and address of the property included on them.

The Application for a certificate must be coordinated with the building inspector, since in most cases, the building inspector issues the building permit. The application should be a separate document from the building permit, since some undertakings may require a certificate but not a building permit, such as some fences, walls, or other structures.

Property owners will also appreciate the opportunity for advance consultation with the commission. This consultation process can help to identify potential issues early in the project planning process.



Like many local historic districts in Massachusetts, the Petersham Historic District consists of the village center with residential, commercial, municipal and institutional uses surrounding a town common.

PRESERVATION COMMISSION

APPLICATION FOR CERTIFICATE IN A LOCAL HISTORIC DISTRICT

(See other side for instructions)

TOWN OF BROOKLINE,
Massachusetts
Department of Planning and Community Development

FOR OFFICE USE ONLY	
Application Number:	
Received:	By:
App. Accepted:	
Hearing Date:	
Fee:	
App. Returned:	

TYPE OF CERTIFICATE REQUESTED:	APPROPRIATENESS	NON-APPLICABILITY	HARDSHIP
PROPERTY LOCATION:			
OWNER:			TEL (DAY)
OWNER'S ADDRESS:			TEL (EVE)
			FAX:
OWNER'S E-MAIL:			FAX:
APPLICANT (IF NOT OWNER):			
APPLICANT'S ADDRESS:			TEL (DAY):
			FAX:
APPLICANT'S E-MAIL:			

Zoning: A proposed increase in square footage, height, or enclosed space, including garages, or a change in use or occupancy may require a zoning variance. If a zoning variance is required, the Preservation Commission may not hold a public hearing prior to a hearing before the Zoning Board of Appeals. **Building Permit:** A building permit is required after a Certificate from this office is obtained.

WORK INCLUDES: check all that apply				
Addition:	New Windows:	New Siding:	Repair Porch:	Roofing:
Gutters:	Repair Windows:	Repair Siding:	New Skylights:	Chimney:
Fence:	Wall:	New Doors:	Foundation:	Other:

BRIEF DESCRIPTION OF WORK WITH COST ESTIMATE:

Applications with insufficient documentation cannot be properly reviewed and may be cause for a delay in determination. The applicant must supply drawings, photographs of existing conditions, site or plot plans, and other supporting information as needed.
DOCUMENTATION ATTACHED:

Photographs:	Materials samples:	Manufacturer's literature:	Drawings:	Site or Plot Pan:
Other:				
Signature:			Date:	
Owner:		Applicant:		

Town Hall **333 Washington Street** **Brookline, MA 02445** **T: (617)730-2089** **F: (617)730-2442**

Sample Application for a Certificate from the town of Brookline.
Additional application examples can be obtained from the Massachusetts Historical Commission.

Public Hearing Notice

For holding public hearings, historic district commissions must follow both M.G.L. Chapter 40C and the Open Meeting Law. Under the Open Meeting Law, notice of a meeting must be made 48 hours prior to the meeting. However, for a public hearing under M.G.L. Chapter 40C, notice must be made fourteen days prior to the hearing.

Public hearing notices must be mailed to the applicant, owners of adjoining property, other property owners deemed by the commission to be materially affected, the planning board, and anyone else filing a written annual request for notifications of public hearings.

Public Hearing Notice
The Public Hearing Notice must include the following:

- Date of the posting
- Name of your commission
- Date of the hearing
- Time of the hearing
- Place of the hearing
- An agenda specific enough to give the public an understanding of each topic

When the public hearing notice is complete, it is delivered to the town or city clerk for posting. This must include posting that is accessible 24 hours a day.

Open Meeting Law Guidebook
For more information on posting notices according to the Open Meeting law, it is strongly recommended that you contact your city or town clerk and review the Open Meeting Law Guide found on the website of the Office of the Attorney General.

Waiver of a Public Hearing
A public hearing can be waived according to M.G.L. Chapter 40C, but only if one of the following conditions is met:
1. All persons entitled to notice of the meeting waive the meeting in writing.
2. The Historic District Commission determines that the proposed project is insubstantial and then notifies abutters and other affected property owners that the commission wishes to waive the public hearing. If, after 10 days, no property owner comes forward desiring a public hearing, the hearing can be waived and the Historic District Commission can act upon the application.

Public Hearing

The public hearing is the formal opportunity for members of the public to voice their support, opposition, questions, and/or concerns about an application before the commission. It is essential that the chairperson and all members of the historic district commission follow proper procedures, listen carefully to each speaker, and maintain a respectful tone toward everyone. The benefits of a well-run hearing go well beyond the hearing itself.

The Public Hearing Step-by-Step

1. The chairperson opens the public hearing and describes how the hearing will progress.
2. The chairperson introduces the commissioners.
3. The chairperson asks if any commission members need to recuse themselves.
4. The chairperson determines who will vote on the application.
5. The chairperson should state the date the application was received and the date by which the decision must be filed with the clerk.
6. The chairperson invites the applicant to present the proposed project.
7. The chairperson invites the commission members to ask questions of the applicant.

Deliberating a Decision

Following the closure of the public hearing, it is time for the historic district commission to deliberate and make a decision on the application. At this point, the commission can deny the application, approve the application, approve the application with certain modifications, or request additional information from the applicant.

In making its decision, the commission should consider such things as the architectural and historical significance of the property; setting, design, massing, materials, size, shape, and scale; its impact on the property; and the impact on the district. This is where local historic district design guidelines can greatly benefit each member of the historic district commission.

When an application for a certificate of appropriateness is determined inappropriate to the district and the applicant is unwilling to agree to any proposed modifications, the commission should vote to deny the application. The denial prepared by the commission should include the date the application was filed, the date of the public hearing, the date action was taken by the commission, and the reason the application was denied, preferably based on language from the local historic district design guidelines.

If the commission determines that additional information is needed, a decision can be postponed to a later date. However, the commission must remember that a decision must be made within 60 days of the filing of the application, unless the applicant agrees to an extension in writing.

If the application for a certificate of appropriateness is determined appropriate, then the commission should vote to issue a certificate of appropriateness. The certificate should include the date the application was filed, the date of the public hearing, the date action was taken by the commission, the reason the application was approved, and any conditions of the approval. The Massachusetts Historical Commission has sample certificates that can be sent to you.

Filing the Decision with the Town or City Clerk

The decision of the commission, whether it is a certificate or a denial, must be in written form and signed and dated by the commission chairperson, designated commission member, or a designated staff person. According to M.G.L. Chapter 40C, the completed

decision must be filed in the clerk's office within 60 days of receipt of the application. If it isn't filed on time, then the decision may be unenforceable. For instance, a project that is denied a certificate by the commission may instead be deemed approved, due to failure of the historic district commission to act within the required time frame. Once filed with the clerk, the certificate or denial is also sent to the owner, the applicant (if different) and the building inspector.

Appeal Process

If a person is aggrieved with a decision of the commission, an appeal process is available through two methods, either through the designated regional planning agency or through the Superior Court. While an appeal is available to applicants, a person aggrieved could also include an abutter or a historic preservation charitable corporation. The process begins with the aggrieved person filing a written request to the commission for an appeal process, within twenty days of the filing of the determination of the commission, with the city or town clerk.

Regional Planning Agency

In order to pursue an appeal through the regional planning agency, this procedure must be included within the local historic district bylaw or ordinance. If it is, the municipality contacts the appropriate regional planning agency when an appeal is filed. The regional planning agency then designates a panel that will review the case and render a decision. The decision is binding on the applicant and the commission, but a further appeal is still possible through Superior Court.

Superior Court

If the regional planning agency language is not included in the local historic district bylaw or if a further appeal from the regional planning agency is sought, the appeal then goes to Superior Court. Historic district commissions will need the dedicated assistance of their municipal legal counsel. As long as the historic district commission was not arbitrary or capricious, and followed proper procedures and sound decision-making, fifty years of precedent point to upholding the decisions of historic district commissions. Commissions should remember that, with the possibility of litigation, keeping accurate records is essential.

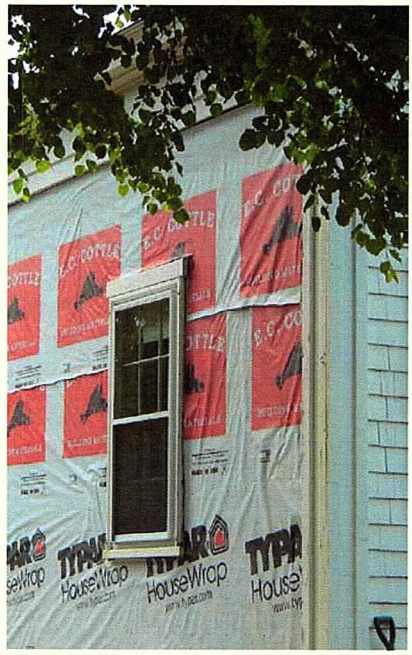
Enforcement

Although not very common, projects are sometimes undertaken by property owners or contractors without the issuance of a certificate. Violations may be noted in the district by a member of the commission, or a member of the public may alert the commission to a violation. Either way, it is best to contact the property owner as soon as possible. If the violation taking place needs a building permit, the commission should alert the building inspector. It is then the responsibility of the building inspector to issue a stop work order if needed.

Violations can result from either unintentional or intentional actions. A property owner may not realize that a certain project is reviewable by the historic district commission. For some projects, a simple phone call or visit is usually all that is necessary to be

effective. At that point, the property owner is advised to apply to the historic district commission for a certificate.

It is recommended that a commission review a partially or fully constructed project that did not obtain a certificate as if the project were not yet constructed. Failure to deal with such issues head-on will mean that the commission will lose its credibility.



Historic District Commissions should take steps to minimize violations before they occur such as through regular education and communication.

Dealing with violations is one of the most challenging tasks of a historic district commission, and the best way to deal with violations is to take steps to minimize them as much as possible. This is done through regularly educating property owners regarding reviewable projects and procedures through letters, brochures, and other updates. Trying to reach out to new property owners is especially important. Good observation on the part of the historic district commission and building inspector will alert property owners before they move too far along with a project. It is easier to enforce early on than when a project is well underway, fully constructed, or demolished.

A more challenging situation arises when the proposed project does not require a building permit but does require a certificate. Examples may include the installation or removal of fences, walls, or street furniture. In these cases, it may be solely up to the historic district commission to handle enforcement, without the assistance of the building inspector.

Seeking an Injunction in Superior Court

If the owner still refuses to comply with a stop work order or refuses to correct the violation, the municipality can go to Superior Court. It is recommended that the historic district commission discuss this process with the Board of Selectmen and the municipal legal counsel prior to an actual violation underway.

Non-Criminal Compliance

If your municipality has a non-criminal compliance bylaw, a property owner can be ticketed and fined for refusing to correct the violation. If your community does not yet have a non-criminal compliance bylaw, it is recommended and can be created by passage at town meeting or city council.

Typical Local Historic District Review Projects



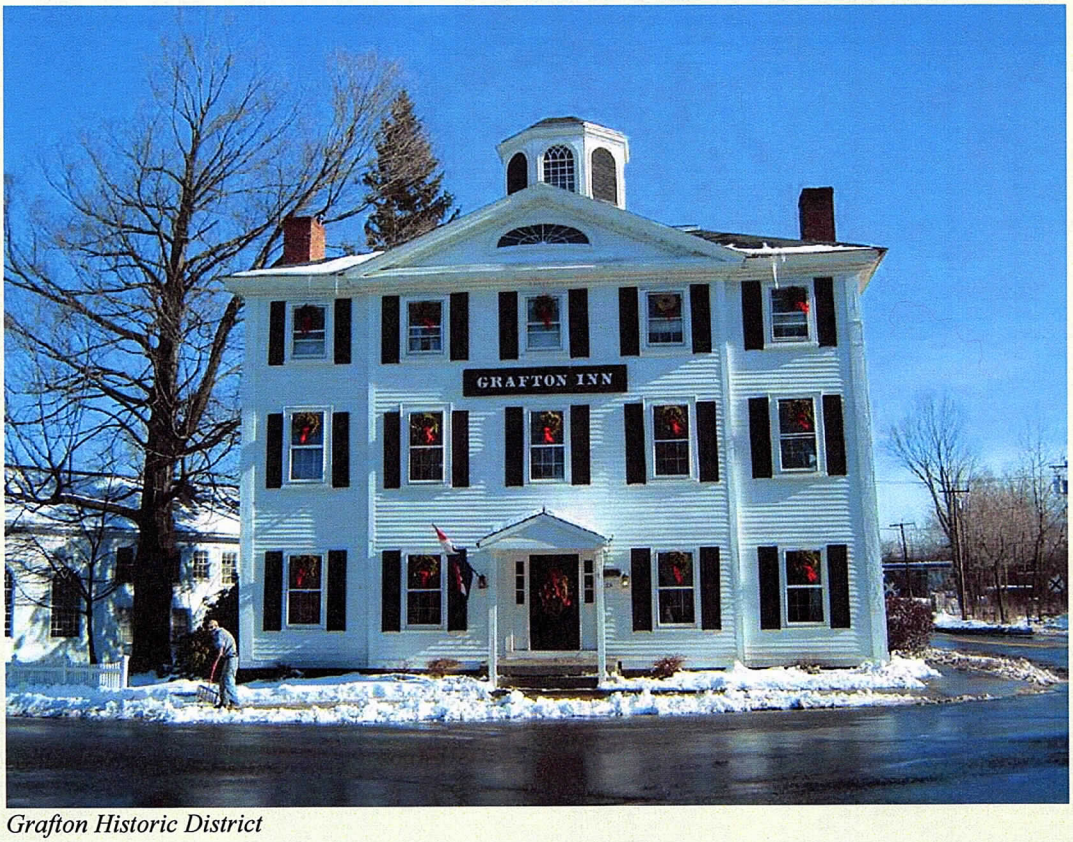
The Melrose Center Local Historic District

Typical Projects

As a local historic district commission, you will see a great variety of applications for proposed projects. These will include additions, new construction, demolition, and new windows. It is important to remember that a local historic district is not meant to be a museum. Time is not meant to stand still in a local historic district. Homes, apartment buildings, neighborhoods, businesses, municipal buildings, village centers, and downtowns are all local historic districts. While they are historic areas, they are meant to grow, change, and adapt. Your role as a historic district commission member is to make sure those changes take place sensitively, thoughtfully, and always in the best interest of your community.

As mentioned before, your task as a historic district commissioner will be far easier if you have a set of design guidelines for your local historic district. Design guidelines are highly recommended but if you don't have them, the Secretary of the Interior Standards for Rehabilitation can provide basic guidance for decision-making.

This next section includes some examples of typical proposed projects in a local historic district and helpful thoughts for you as a local historic district commissioner in reviewing them. Although not comprehensive in the types of projects your commission may review in the future, it is meant to give a basic overview.



Grafton Historic District

Additions to Existing Buildings

When sensitively done, additions to existing buildings have many benefits to the long term viability of a local historic district. An addition can ensure that the existing building remains an active and adaptable part of the local historic district well into the future. When well-designed, an addition does not overwhelm the historic resources, but rather complements the buildings that have stood there for many years.

Additions should not alter, remove, or cover character-defining features of the building. Typically, sensitive additions do not cover the façade, but rather are set back from the main block of the building as a wing, or constructed at the rear of the building as an ell.

For an addition, the historic district commission will need detailed architectural drawings in order to make a decision.

Questions to Ask:
What is the significance of the existing building?
Will the addition alter, remove, or cover character-defining features of the building?
How does the location of the addition impact the existing building and the setting?
What is the form, mass, scale, and setback?
What are the materials used on the addition?
What structures will also be added?



The plans for the addition to the library in the town of Harvard Common Historic District were approved by the commission.

Artificial Siding

Applications for artificial siding are most often for the installation of vinyl siding. Other applications could include the installation of cement fiber board siding. Applications could also be submitted for the removal of artificial siding, such as asbestos or aluminum siding. For historic buildings in a local historic district, covering clapboards, wood shingles, or even asbestos shingles with vinyl siding is not appropriate. Vinyl siding covers up important character-defining features such as shingles, clapboards, and trim. Its installation often removes historic trim, brackets, and other unique architectural features. Even for new construction in a local historic district, vinyl siding should be avoided. Cement fiber board siding is not appropriate if it is replacing existing wood shingles or clapboards. However, for new construction, this type of siding may be considered appropriate, depending on its specific application.

Questions to Ask:
Will the artificial siding cover existing shingles, clapboards, or other authentic materials or character-defining features?

Chimneys

Proposed projects may include removal of a historic chimney, repointing the mortar, rebuilding an existing chimney, or adding a new chimney. The permanent removal of historic chimneys is not appropriate. Chimneys are often highly visible, character-defining features. From time to time, chimneys must be rebuilt from the roofline up due to failing bricks or mortar. If the bricks can be reused, chimneys should be rebuilt using the same bricks. For softer, older bricks, it is essential that the proper mortar mix be used. If the bricks can't be reused, the new bricks should match the originals. A rebuilt chimney should match the original, including details such as the corbelling. Repointing of the mortar must be done so as to carefully match existing mortar joints. For new chimneys, the location should not be on a main façade and the materials should be appropriate to the architectural style of the building.

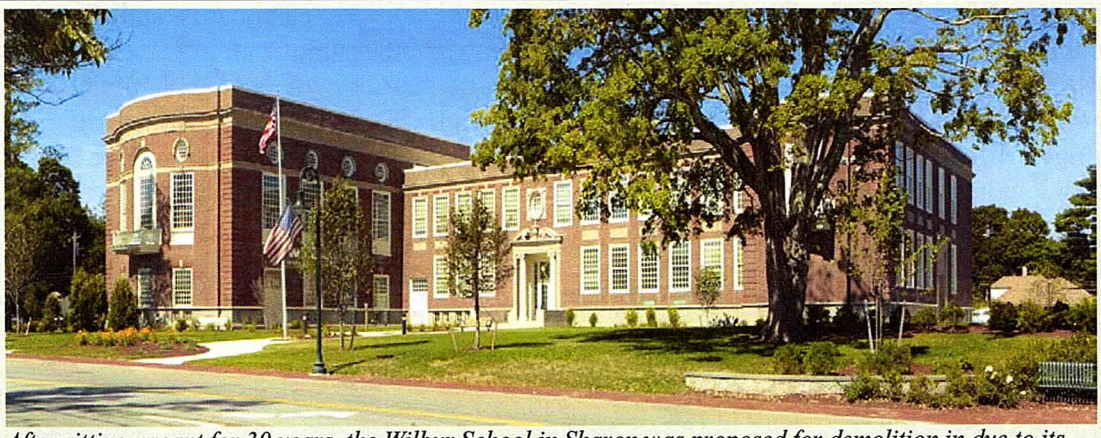
Questions to Ask:
Will the historic chimney be rebuilt using existing bricks?

Demolition

Only in rare cases is a demolition appropriate within a local historic district. After all, it is largely the protections from demolition that established the local historic district in the first place. If an application for demolition is made because the building is vacant, condemned, or in poor condition, it is important for the historic district commission to realize that there may be other options to the owner besides demolition. Temporarily, these include securing the building from entry, fencing off the building, or stabilizing the building from further deterioration.

If the application states that the building is structurally unsound, the historic district commission should seek the advice of the building inspector and an independent structural engineer. A building in poor condition is not necessarily structurally unsound.

In most cases, a commission should deny any applications for demolition of significant buildings or structures.



After sitting vacant for 30 years, the Wilbur School in Sharon was proposed for demolition in due to its condition. It has since been rehabilitated into housing and has received an MHC Preservation Award.

Questions to Ask:
What is the significance of the building?
What does the building contribute to the district?
What is the proposed new construction for the site?
Will the new construction meet the design guidelines of the district commission?
Will a parking lot be constructed on the site?
Has the building inspector determined that the building is a public nuisance and the only option for public safety is demolition?
Have efforts been made to maintain the building over time?
What efforts have been made to properly secure the building?
What efforts have been made to rehabilitate the building?

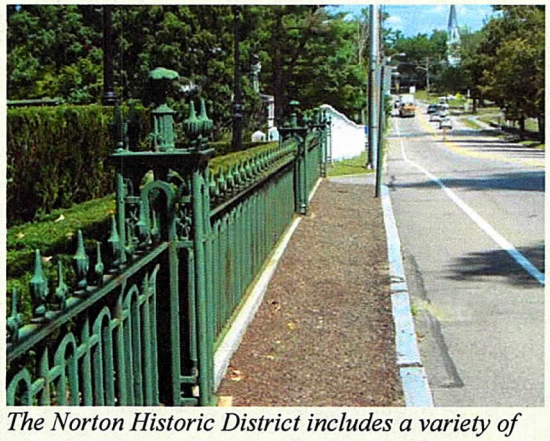

A doorway found within the Groton Center Historic District.

Doors and Doorways

Typical projects include repairing a historic door or doorway, replacing a historic door with a new door, or cutting in a new doorway onto a historic building. When a historic door or doorway is repaired, materials should be re-used whenever possible. When replacement is necessary, the new material and design should match the original. Historic doors and doorways may be significant character-defining features to the district, and should not be removed. Generally, a new doorway cut into a historic building is not appropriate, particularly on a main façade.

Driveways

Not all local historic districts regulate driveways. If the ordinance or bylaw excludes the review of structures at grade level, driveways cannot be regulated by the historic district commission. If driveways are a reviewable project, applications for driveways may include a driveway for new construction, widening an existing driveway, or adding additional parking. Driveways are best located to the side of a main façade, and new parking should not pave over existing front yards.


The Norton Historic District includes a variety of stone walls as well as wood and iron fences.

Fences

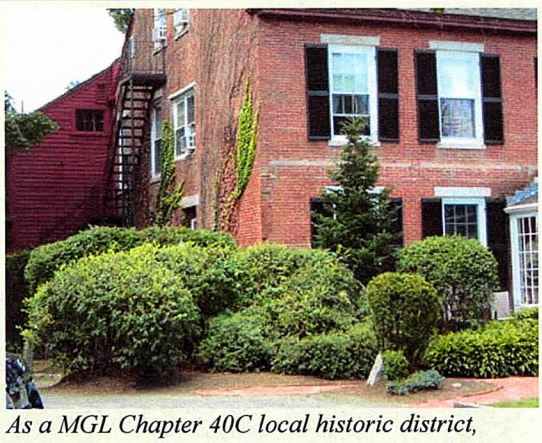
Most historic fences in local historic districts are made of wood. However, other materials, such as iron and steel, can be found in some local historic districts. Such fences can be essential character-defining features to the local historic district, and

removal is not appropriate. However, historic fences, particularly wood fences, may need to be repaired or replaced from time to time. Any replacement should match the historic fence in material and design. New fences at the façade or near the public way should not be so tall that they block the visibility of historic buildings. There may be other site locations where a tall fence is appropriate to the district. Modern materials such as plastic and steel are rarely appropriate fence materials in a local historic district. Some low fences may not require a building permit; however, they are still reviewable projects in most local historic district bylaws and ordinances, requiring a certificate before installation or removal.

Questions to Ask:
What is the height of the fence?
How will the fence impact the streetscape?
What is the material of the fence?
Is the design of the fence appropriate to the character of the district?

Landscaping

Although Massachusetts General Law Chapter 40C exempts the review of landscaping with trees and shrubs, landscape structures such as stone walls, retaining walls, and fences are certainly reviewable. While they may be considered part of the landscape, they are definitely structures. For Chapter 40C Historic District Commissions an important point should be made. Since you do not have review authority over landscaping, remember that what is screened now from public view may be very visible tomorrow. For this reason, many historic district commissions, when determining what is viewable from the public way, assume that no trees or landscaping are present. Although trees and shrubs are exempt from review, a commission may agree to allow certain modern equipment such as air conditioning units if they are properly screened with landscaping. In these instances, the agreement to maintain the screening is binding on the applicant.



As a MGL Chapter 40C local historic district, landscaping that consists of trees and shrubs is exempt from review in the Hopkinton Center Historic District.

Lighting

Lighting fixtures are structures typically reviewed by a historic district commission. This includes municipal, residential, and commercial lighting. For municipal lighting, the historic district commission should work closely with the DPW or local electrical utility when major changes are proposed to street lights. Lighting has many benefits within a local historic district, including public safety. Night lighting can also emphasize unique architectural aspects of the district. However, lighting structures should not be highly prominent on a building or within the landscape.

Questions to Ask:
What is the design, material and size of the lighting fixture?
What is the visibility of the lighting fixture from the public way?
Where will the electrical conduit and junction boxes be located?

Modern Equipment

Modern equipment includes structures such as satellite dishes, outdoor wood boilers, ground-mounted central air conditioning systems, fans, and antennas. In general, modern equipment should be located in the least visible location. Painting, fences or natural screening can also be used to minimize visibility.

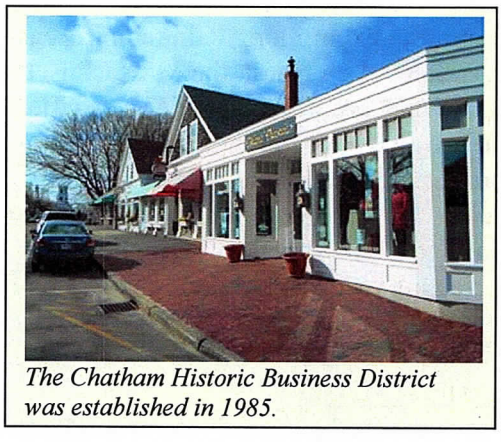
Moving a Building

Although not a typical project in a local historic district, a proposal to move a building within a local historic district may come before your commission. From the start, it is important to make the distinction between moving an intact building to a nearby location and the dismantling, piece by piece of a building, to be reconstructed at a new location.

Disassembly and relocation should be strongly discouraged because this would necessarily involve the destruction of many historic elements of the building. This is not a historic preservation strategy.

Even moving an intact historic building should be carefully considered by a Historic District Commission. Historic District Commissions should consider whether there are feasible alternatives to the relocation of the structure. The loss of the building's historic setting could impact the character of the area. Historic District Commissions should also consider what the vacant site will be used for after the building is removed.

Questions to Ask:
Where will the building be moved?
What alterations will be made to the building when it is moved?
What will be the new construction on the vacant site?
How will the setting be altered by the loss of the building?



The Chatham Historic Business District was established in 1985.

New Construction

New construction within a local historic district can be either beneficial or detrimental to the overall character of the district. On the positive side, new construction on vacant land can benefit the local historic district by filling in a gap on the streetscape, bringing new uses to an underutilized property, and showcasing a new piece of architecture in a historic setting. Yet, if not sensitively designed, new construction can radically alter the character of a district.

Questions to Ask:
What is the orientation of adjacent buildings on the streetscape?
How will the new construction alter the setting of the local historic district?
What is the form, mass, scale, and setback?
What are the materials used on the addition?
What structures will also be added?
Where will new parking areas be located?

Outbuildings

Historic barns, garages, carriage houses, and other outbuildings are essential elements to a local historic district. The local historic district should protect historic outbuildings in addition to main buildings. A historic district commission may also be asked to review new outbuildings such as sheds or garages. Like any new construction, new outbuildings should be appropriate to their setting.



This outbuilding in the Old Town Center Historic District in Winchendon is still used for agricultural purposes.

Questions to Ask:
Will the project alter the historic outbuilding?
What will be the materials of any new construction?
What is the form, mass, scale, and setback?

Paint Colors

Most local historic district bylaws and ordinances in Massachusetts include paint color as an exemption. Paint color is easily reversible. As a result, the Massachusetts Historical Commission encourages cities and towns to consider it as an exemption. If your historic district commission does review paint color, paint analysis by a qualified professional can provide an interesting record of the colors historically found on the building.



In the town of Oak Bluffs, the front porches of the Cottage City Historic District define the architectural character of the district.

Questions to Ask:
Is the proposed paint color appropriate to the age and style of the building?
Is the paint scheme appropriate to the age and style of the building?

Porches

As one of the most prominent features visible from a public way, historic porches are a vital part of a building's facade. Unfortunately, they are often one of the most likely features to be proposed for removal or alteration.

Questions to Ask:
Is the proposed change to the porch appropriate to the age and style of the building?

Roofs

Whether it is a gable, flat, hipped, gambrel, shed, or mansard, a roof is an important character-defining feature of a building. Typical proposed roof additions include dormers, skylights, roof decks, or an additional floor.

Questions to Ask:
Will the proposed project remove or alter the existing roof line?

Roofing

While the most common roofing material is asphalt, other roofing materials may be present in the local historic district such as cedar shake shingles, slate, asbestos, or metal. As character-defining features, it is preferable to retain roofing materials such as cedar shingles and slate. If such materials cannot be repaired, replacement in-kind should be pursued.

Questions to Ask:
Will the proposed project remove cedar shingles, slate, or other materials that are important character-defining features? What is the pattern, size, and shape of the replacement shingles?



The complexity of roof forms on this residential building located in the Fairfield Avenue Local Historic District in Holyoke is an essential character defining feature.

Signs

If your local historic district includes commercial buildings, you will likely see frequent applications for signage. Even in a residential district, there may be some applications for signage depending on what is allowed by zoning in your community. There are many issues to consider when it comes to signs, such as location on a building or site, size, number, lighting, materials, and style. In general, signs should not obscure character-defining features and should not dominate the visual experience of the building or district. The style, location, lighting, and materials should reflect traditional patterns of signage found in the district.

Solar Panels

Solar panels include both photovoltaic and domestic hot water heaters. Accommodating any modern equipment, including solar panels, should be done in such a way as to minimize visibility from public ways. This is typically accomplished by locating the panels on rear ells, subordinate wings, secondary massings, accessory outbuildings, or on

a free-standing array. Installing the panels behind dormers, chimneys, or parapets is important so that the panels do not obscure character-defining features.

Walls

Historic walls in a local historic district can vary from highly ornate designs to simple New England stone walls. Either way, they are important character-defining features and should be retained. Any repairs to historic walls should match the original in material and design. New walls at the façade or near the public way should not be so tall that they block the visibility of historic buildings behind them. The materials and design of any new wall should consider the existing historic resources present in the district.

Questions to Ask:
Is the existing wall an important character-defining feature?
Will the proposed project alter the existing wall?
What is the material of the new wall?
What is the height of the new wall?
What will be blocked from view by the new wall?

Windows

Windows are a very prominent character-defining feature within a local historic district. They are also a very common proposed project in a local historic district for rehabilitation, replacement, or alteration. There is a great volume of material available to historic district commissions, property owners, and contractors regarding the benefits of retaining historic wood windows. These benefits include the financial savings, longevity, and look of historic wood windows. Current research has demonstrated the short life span of replacement windows, and that the financial payback typically is beyond the life cycle of the window itself. Research on historic wood windows has demonstrated that with proper rehabilitation, weather sealing, and storm window installation, there is no financial or energy savings benefit to replacement windows.



The windows on this building, located in a local historic district in Somerville, were removed for rehabilitation. Window replacement was not necessary.

Management of the Historic District Commission



The Silas Felton in downtown Hudson contains a mix of commercial and residential properties.

Commission Records

It is essential that Historic District Commissions maintain accurate records such as applications, agendas, minutes, and decisions, even if some of these documents are also filed with the town clerk. A clear record of commission activities will benefit the commission if a decision is challenged, assist future commission members in understanding procedures, and save valuable time. If you have plans to dispose of certain documents, the commission should consult the Records Management Unit's "Records Retention Schedule" on the Secretary of the Commonwealth's website.

Depending on the size of the district, it is recommended that the commission maintain a separate file for each property in the district. The file should include a copy of the inventory form, photographs, correspondence, applications, certificates, and any other pertinent information. Other files, should also be organized by category and in chronological order, such as applications, certificates, and minutes.

Open Meeting Law

As a municipal board, historic district commission meetings are subject to the open meeting law. This law has specific requirements for the posting of meetings and maintaining records of public meetings. Outside of the public hearings and official meetings of the historic district commission, it places certain restrictions on verbal and written communications amongst a quorum of commission members. For more information on the Open Meeting Law, download a copy of the Open Meeting Law Guide from the Office of the Attorney General's website.

Conflict of Interest Law

As an historic district commission member, you are considered a municipal employee under the state conflict of interest law. As such, you will need to complete mandatory education and training requirements. An online training program is required every two years. For more information, contact your city or town clerk. The website of the Massachusetts State Ethics Commission is an excellent resource for historic district commission members.

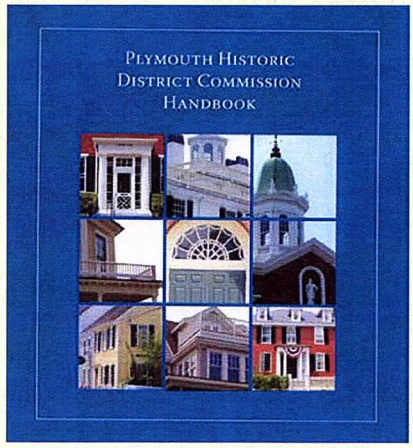
Design Review Guidelines

Design review guidelines are appreciated by both commission members and applicants. Through text and images, design review guidelines set forth the types of projects a commission is likely to find appropriate and the types of projects a commission is likely to deny. For commission members, design review guidelines can greatly aid the commission through difficult decision-making. Design guidelines are also greatly appreciated by property owners, developers, contractors, and architects. If a commission does not have design review guidelines, they should, at a minimum, adopt the Secretary of the Interior's Standards for Rehabilitation. However, design review guidelines tailored to your community are strongly recommended. You can find many examples of design review guidelines online. In addition, the Massachusetts Historical Commission has an

electronic collection of design guidelines for Massachusetts local historic districts, which can be sent to you.

Many of the design guidelines completed in Massachusetts were prepared by professional consultants hired by the city or town. In other cases, the volunteer members of the historic district commission put together their own design guidelines.

If you decide to work on your own design guidelines, start by looking carefully at all of the character-defining features within your district. Think carefully about what aspects of the district make it a special place. These could include individual parts of buildings such as windows, doors, wood shingles, ornamental trim, columns, porches, and chimneys, as well as many others. It could also include scale, setbacks, massing, walls, fences, and outbuildings. If you have historic property survey forms, use them to understand the significance, variety, and context of the character-defining features.



Design review guidelines must be custom made for each community, as the character-defining features of local historic districts vary across the state.

Many local historic districts have a variety of resources, such as residential buildings mixed in with commercial buildings, or late 20th century resources amongst much earlier properties. Local historic district design guidelines should consider character-defining features for varying forms, types, periods, and styles.

Once your design guidelines are finished, they should be included on the municipal website. It is also recommended that you alert all property owners as to how they can obtain a copy of the design guidelines. Anyone picking up an application for a certificate should receive information on how to obtain a copy of the design guidelines.

Operating Rules and Regulations

The Operating Rules and Regulations of the commission define the internal procedures of the commission. They are meant to be very specific procedural actions for the commission to follow annually, monthly, and within action items at each meeting. If set up properly, your commission will function far smoother with rules and regulations.

Operating Rules and Regulations typically include the following:

- The place and time of regular meetings and the annual meeting schedule.
- The procedure for the election of officers.
- The duties of the chairperson, vice chairperson, and secretary.
- The role of alternate commission members.
- The procedure for alternate commission members to step in as voting members.
- The procedures for calling a special meeting.

- The delegation of authority to the chairperson or municipal staff.
- The signatory authority and procedure for the signing of certificates.
- The length of time that a certificate is valid.
- The expectations of commission members.
- The process for amending the rules and regulations.

Sample Operating Rules and Regulations for a historic district commission are included in the appendix.

Historic Property Survey Forms

Historic property survey forms greatly assist the work of the historic district commission. Through their photographs, location map, historical narrative, and architectural description, survey forms provide a range of historical, architectural, contextual, and baseline information that is very helpful when reviewing the impact of a project on a particular historic resource. When survey forms for the district are comprehensive and up-to-date, the commission will have valuable and instantaneous information on all the historic resources of the local historic district.

The historical narrative describes the history of the property, and its uses and associations over time. It includes information on owners and occupants and their place in the history of the property, district, and community as a whole. This information will be very valuable to the commission, allowing you to place in the context of both the district and the community, the significance of the property.

The architectural description includes a more detailed discussion of the architectural features of the building. This architectural description can be very beneficial to the historic district commission. It will help to provide an overall sense of what makes the



The Old Kings Highway Regional Historic District on Cape Cod is a very unique local historic district. It includes portions of the towns of Sandwich, Barnstable, Yarmouth, Dennis, Brewster and Orleans.

district a special place, in other words, the character-defining features of the property and the local historic district. The commission can review the photos and architectural description, during the application and review process, to determine if the proposed

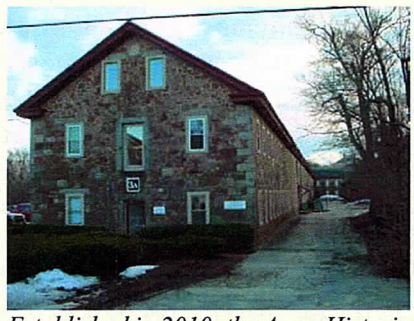
changes to the building are in keeping with its character-defining features and those of the district.

The survey forms are also the commission's record of existing conditions at the time of the survey. If work is suspected to have been undertaken without a certificate, the photographs and architectural description may serve as proof of what changes have taken place.

While the most common survey form is for a building, there are specific forms for different types of historic resources, including structures, objects, parks, and other landscape features, bridges, burial grounds, and archaeological sites.

Historic district commissions should familiarize themselves with the survey forms for the local historic district. If forms are missing, incomplete, or outdated, the historic district commission should investigate how best to improve the existing survey. For further information, the historic district commission should contact the local historical commission (if separate from the historic district commission), or contact the Massachusetts Historical Commission directly.

Amending Existing Local Historic Districts Bylaws and Ordinances



Established in 2010, the Ames Historic District in Easton was expanded in 2013.

Adding Properties to a Local Historic District

A local historic district is expanded in much the same way that the initial local historic district was established. Instead of a local historic district study committee, the historic district commission is responsible for the proposed expansion. Basically, the process requires the preparation of a local historic district preliminary study report, the submittal of the report to the Massachusetts Historical Commission, a public hearing, and a two-thirds affirmative vote of town meeting or city council. If the historic district commission is interested in expanding the local historic district, review the Massachusetts Historical Commission guidebook, *Establishing Local Historic Districts*. This guidebook will explain the steps and requirements in more detail.

Removing Properties from a Historic District

A local historic district can be reduced as well. As with expanding a local historic district, the process includes the preparation of a local historic district preliminary study report, the submittal of the report to the Massachusetts Historical Commission, a public hearing, and a two-thirds affirmative vote of town meeting or city council.

Amending the Historic District Bylaw

Historic district ordinances and bylaws may also be amended, by a two-thirds affirmative vote of the city council or town meeting, as long as the amendment is not inconsistent

with the intent of M.G.L. Chapter 40C. Before the amendment may be brought to a vote, the amendment must first be submitted to the historic district commission that has jurisdiction over the district, for its formal recommendation. The historic district commission has a maximum of 60 days to make its recommendation on a proposed amendment, after which time the amendment may be acted upon by the city council or town meeting.

The Need for Staff Support

For a commission of volunteers, administration can be burdensome and time-consuming when it includes accepting applications, preparing agendas, notifying abutters, public hearing notices, filing decisions and preparing minutes. Municipal staff support to the historic district commission, provided by the municipality, is recommended whenever possible. In some communities in Massachusetts, professional preservation planners employed by the municipality provide this staff support. In other communities, clerical staff support is available for such tasks as abutter notifications and minute taking.

Working with the Building Inspector

The Historic District Commission must develop a good working relationship with the building inspector. Since the building inspector most likely issues building permits in your community, it is vital that the historic district commission and the building inspector develop procedures for proposed projects in the historic district. The building inspector must be familiar with the local historic district application process. It is recommended that a map of the historic district and the application procedures be posted in the office of the building department, where everyone can see them, including the general public. If the zoning map is hanging in the office, the district boundaries should be clearly labeled on this map as well. Depending on the filing system of the building department, it is advisable that properties in the local historic district are labeled on the building cards or in the database. This will alert everyone in the department that an application for a certificate may be required. Additionally, on the building permit application, there should be a "Yes or No" box for whether the property is located in the local historic district. The historic district commission and the building inspector should work out the procedures for a violation of the local historic district bylaw ahead of time. It is not advisable to wait and figure out what to do when a violation is already under way. The historic district commission should also discuss the state building code with the building inspector as it relates to the granting of waivers for property listed in the State Register of Historic Places.

Public Education

As a local Historic District Commission, you play a very important role in the protection of the significant buildings and structures in your community. Your role in protecting historic resources should not be limited to the regulatory tool of your bylaw or ordinance. It is essential that the historic district commission undertake educational activities that explain the architectural and historic significance of the district, the role of the commission, and the process of applying to the historic district commission for a

certificate. There are many different ways to conduct public education. A few of them are included below, but your commission may have other ideas as well.

A Letter to Property Owners

An annual letter to property owners is very useful. The letter could explain the need for obtaining a certificate prior to starting work, how the process works, how to obtain design guidelines, and contact information if they have additional questions. Perhaps even more important is a letter to new property owners. The letter should be sent out as soon as possible after a new owner has purchased property in the district. This information can be obtained from either the assessors office or through the real estate transfer section of your local newspaper. Since new owners are often eager to start work on their new home, this letter will greatly assist everyone involved.

Brochures

A simple brochure can be easy to put together and distribute, and can be full of useful information such as historical photographs, a map of the district, and the role of the historic district commission.

Historic District Signs

A few signs placed at the boundaries of the major roads entering the district are excellent for both property owners and residents. The signs signal that the visitor is entering a special place, and can give a sense of pride to the property owners.



Entering historic district signage is very useful as part of public education and pride in place.

Workshops

Workshops for property owners on topics such as the history of the area and how it developed, how the historic district commission works, researching the history of one's historic house, or caring for a historic house can be very interesting to participants.

Newsletters

A newsletter to property owners could include information such as the status of projects before the commission, the commission schedule, upcoming events, and tips for maintaining a historic house.

Newspaper Articles

A newspaper article on the history of the area, how the area developed over time, or how the district has evolved would make very interesting reading.

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Awards Program

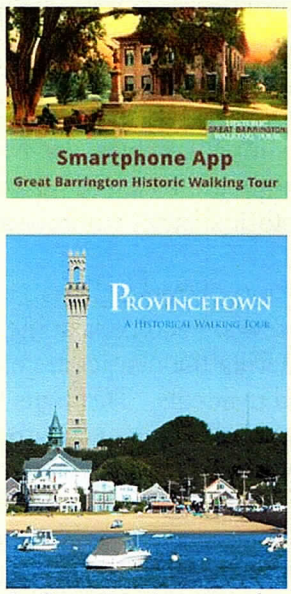
An annual awards program could be implemented, in which owners that have done an outstanding job of restoring their property receive an award. However, this works best if it can be administered by an organization separate from the historic district commission, such as a non-profit organization.

Historical Plaque or Marker Programs
A historical plaque program can be a very useful method of educating the general public and increasing pride of ownership for historic homeowners. Historic plaque programs are typically administered by the local historical commission or a non-profit organization.

Walking Tours
A walking tour can be either self guided or led by an expert in architecture or local history. A simple brochure with a map, stopping points, and descriptions is enough for a self-guided walking tour.

House Tours
Some property owners may be interested in opening their doors as part of a house tour. This is a great chance to see the beauty and wonder of old houses. For property owners, it is a chance to show some pride in their homes. Like plaque programs and award programs, historic house tours are typically managed by a separate, non-profit organization.

Video
Videos produced for the local cable television channel or available on a website can do a great job explaining the history of the area, its significance, and why it is worth preserving.



In Great Barrington and Provincetown, walking tour smartphone applications of the historic districts were produced.

Working with other Municipal Departments

A variety of municipal departments can assist the Historic District Commission in their work. Most of the applicable departments are listed below, but your community may have other important departments as well.

Working with the Historical Commission
Almost all cities and towns in Massachusetts have a local historical commission. Your commission may be both a local historical commission and a historic district commission, or your community may have a separate local historical commission and historic district commission. If they are separate, historic district commission members should familiarize themselves with the role of local historical commission and how the different responsibilities of the commissions can be beneficial. The historical commission is responsible for community-wide historic preservation planning. Responsibilities include maintaining the inventory of historic properties, leading the process of listing properties in the National Register of Historic Places, educating the public about historic resources, and advocating for historic preservation. Unless a local historical commission has a demolition delay bylaw, they are an advisory municipal board. If the local historical

commission is a separate board, be sure to place the Historical Commission on your mailing list for agendas, meeting notices, and other material.

Working with Board of Selectmen or City Council
Historic district commissions should keep their local elected officials informed of their responsibilities. An annual presentation in front of the board of selectmen or city council is recommended.



As part of municipal government, Historic District Commissions work with local elected officials as well as other boards, commissions and departments.

Working with Planning/Community Development Department
Depending on the size of your community, your municipality may or may not have a planning or community development department. If it does, staff assistance to the historic district commission is usually coordinated through this department.

Working with the Planning Board
The responsibilities of the Planning Board include land use planning, zoning, and subdivision. The planning board's policies, regulations, and decisions could easily have major impacts on historic resources within the local historic district. The historic district commission and the planning board should be aware of whether the zoning and subdivision regulations are in need of revisions to better protect historic resources, whether through tighter zoning regulations or through more flexible zoning regulations.

Working with the Zoning Board of Appeals
The Zoning Board of Appeals reviews whether it is appropriate to grant a special permit or a variance based on the zoning bylaw or ordinance. The granting of special permits and variances can either help or hinder the preservation of historic resources depending on what is proposed. If the historic district commission has concerns about a proposed project before the zoning board of appeals, they should put their concerns in writing to the ZBA or speak at the ZBA public hearing.

Working with the Health or Inspectional Services Department
In the case of a blighted or condemned building, the historic district commission should consult with the Health or Inspectional Services Department. Historic District Commissions have no regulatory authority to require a property owner to maintain or improve a blighted building. However, there may be other methods available to the municipality to require basic maintenance on a building. These should be pursued before the condition of a building deteriorates to the point where demolition is the only option.

Working with the Fire Department
In some cases, a Historic District Commission may work with the fire department. Examples could include vacant buildings in the district which are deemed a fire hazard,

or when rehabilitation is proposed in a historic building which must meet regulations for fire safety.

Working with your Legal Counsel
It is essential that a historic district commission develop a working relationship with the municipal legal counsel prior to a major issue needing legal assistance. When and if the time comes that a commission decision is appealed, legal counsel will already understand the basic commission operation and procedures.

Public Works Department
The municipal public works department should be aware of the local historic district boundaries and the role of the commission. Projects in the district, such as the installation of trash receptacles, street signs, and furniture, may require that the public works department obtain a certificate, just as private property owners do.

Finance Committee
The finance committee of your municipality should be aware of the role of the commission and the need for an annual budget appropriation.

What would be included in a Local Historic District Plan?

- A history of the local historic district.
- The significance of the district.
- The integrity of the district
- A map of the local historic district.
- A review of the historic property survey.
- A review of existing historic district commission procedures.
- A review of whether properties are well-protected within the local historic district.
- A review of current land use and zoning.
- Recommendations on improving historic district commission procedures.
- Recommendations on expanding the local historic district.
- Recommendations on preparing design guidelines or revising existing design guidelines.

The Local Historic District Plan

As a regulatory governmental body, a Historic District Commission is, by nature, reactionary. A commission reacts to the projects that are put before it. However, it doesn't have to be solely reactionary. A commission may want to consider looking ahead and recommending preservation goals and strategies that may or may not include the local historic district bylaw or ordinance. While a local historic district is perhaps the most effective method of protecting historic buildings and structures, it works best in conjunction with other techniques.

A local historic district plan can put all the challenges, issues, and solutions into perspective. Challenges and issues could include items both internal and external to the local historic district commission. Internally, perhaps there are some commission procedures, design guidelines, or outreach that would benefit historic preservation. Externally, there may be significant historic resources that are not adequately protected by the district regulations, and other methods should be explored.

Acquisition, grants, preservation restrictions, additional local bylaws, and the National Register of Historic Places are just a few of the techniques that should be considered in

an overall plan. This section of the guidebook is meant as a summary of preservation techniques for a commission to consider. However, it is not comprehensive. There are many other solutions that might meet the preservation needs in your community. A good place to look for additional assistance is the Massachusetts Historical Commission website, guidebooks, and staff.

Survey

As mentioned already in this guidebook, a historic property survey is very useful to the historic district commission and historic preservation within the local historic district. A local historic district plan may find where survey forms are out of date or incomplete, and recommend new survey forms to complete.

Public Outreach

Communication with property owners in the local historic district on a regular basis can be very rewarding. Communication could include letters, brochures, newsletters, walking tours, preservation award programs and many others strategies.

Design Guidelines

Local historic district design guidelines are beneficial to both commission members and property owners. They really help everyone to recognize the projects that will typically receive approval from the commission and the projects that will typically be denied. If your local historic district doesn't have design guidelines, a plan would recommend them, but even if you already have design guidelines, a plan might recommend expanding or revising the guidelines.

Commission Procedures

How a commission works together, how they communicate amongst themselves, and how they handle conflicts can greatly influence a commission's effectiveness. Similarly, how commission members communicate with the public can have implications well beyond the specific project under review.

Expansion of the District or Additional Local Historic Districts

Local Historic District Commissions should also look beyond the border of the local historic district. Quite often, there are significant historic areas outside of the local historic district that are not protected.

Acquisition

In some cases, a property may be best preserved if it is acquired by the municipality or a non-profit organization. For instance, a historic landscape is not well protected through a local historic district bylaw. In this case, the plan might recommend seeking grants or community preservation act funds to acquire the property. The Massachusetts Preservation Projects Fund is a competitive grant program available for acquisition of significant properties.

National Register of Historic Places

The National Register of Historic Places is a listing of buildings, structures, sites, objects, and districts significant in our nation's history, culture, architecture, or archaeology, and that are worthy of preservation. It is a federal designation, administered by the Secretary of the Interior through the Massachusetts Historical Commission as the State Historic Preservation Office. While primarily an honorary designation, a national register district listed in the National Register of Historic Places provides formal recognition of the property's significance. If your local historic district is not already listed as a National Register District, this additional designation should be further explored.



Portions of downtown Plymouth are both a National Register District and a Local Historic District. The National Register District was listed on the National Register of Historic Places in 1982. In 1995, the local historic district was established.

Preservation Restrictions

Since local historic districts have no regulatory review of interior spaces, properties with significant interiors are better protected through a preservation restriction. Preservation restrictions could also be useful in protecting significant archaeological sites, landscapes, and exterior architectural features not visible from a public way. This technique is a legal agreement, with the current property owner agreeing to the restriction. Future property owners are bound by the restriction, which is recorded at the registry of deeds and included as a deed restriction.

Zoning

While a local historic district can regulate exterior architectural features, local historic districts do not regulate land uses. It is a community's zoning that regulates land uses. Proper zoning can benefit historic preservation efforts within a local historic district. Likewise, the existing zoning can be at odds with the historic preservation goals within the local historic district. If, for instance, your current zoning requires setbacks that are not compatible with traditional development patterns, requires excessive on-site parking for commercial uses, or inhibits the adaptive re-use of vacant or underutilized buildings, then some zoning revisions are likely needed.

Other Local Bylaws and Ordinances

Besides the local historic district bylaw or ordinance, other local regulations should be reviewed. A demolition delay bylaw is not needed in a local historic district because the local historic district can permanently prevent a demolition; however, if your community does not have a demolition delay bylaw for areas outside the local historic district, this is an essential tool to consider. In order to deal with demolition by neglect properties, a few communities in Massachusetts have passed an Affirmative Maintenance Bylaw so that owners are required to protect their properties from weather, vandalism, and decay. For more examples, contact the Massachusetts Historical Commission for a copy of the

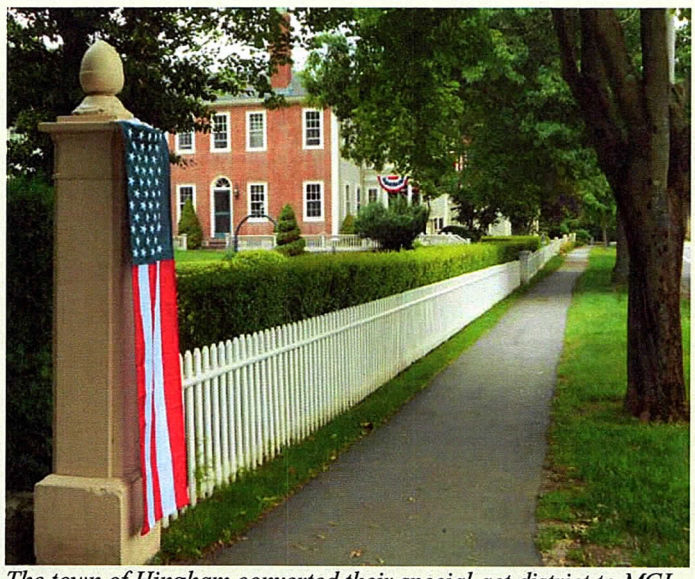
guidebook, *Preservation through Bylaws and Ordinances.*

Who Could Prepare a Historic District Plan?
Since a preservation plan is a substantial undertaking, a community will often hire a professional preservation consultant to prepare the plan. While it is not the first order of business for a commission, a long term plan for the district is highly recommended. Even a brief preservation plan for a district can be helpful in getting you started.

Converting Special Act Districts to 40C Local Historic Districts

Most local historic districts in Massachusetts operate with ordinances and bylaws created under the authority of Massachusetts General Law Chapter 40C. However, some communities in Massachusetts have local historic districts that were established pursuant to a special law or act of the state legislature.

Massachusetts General Law Chapter 40C provides a variety of advantages which may not be present in local historic districts established through special legislation. Local Historic Districts enacted pursuant to MGL Chapter 40C possess a sound procedural and substantive base. The review process under MGL Chapter 40C provides protective measures which are generally more comprehensive than those found under special laws. Also, because Massachusetts General Law Chapter 40C is a statewide statute, favorable legal precedent and legislative initiatives to improve and strengthen the operation of the Local Historic Districts Act will directly benefit local historic districts created under it. Lastly, local historic district commissions, operating under the authority of the Massachusetts General Law Chapter 40C, have a state-wide network of commissions who operate under a shared legislative framework, and can provide legal, technical, and practical information and advice.


The town of Hingham converted their special act district to MGL Chapter 40C.

For these reasons some communities may wish to convert their local historic districts created under special law to MGL Chapter 40C by accepting its provisions. To do so the historic district

commission having jurisdiction over the district should recommend the conversion to the city council or town meeting for action. The validity of the historic district under special law will not be affected, and all previous decisions will remain valid.

Appendices



The Harwich Center Historic District

Appendix I
Massachusetts General Law Chapter 40C

Massachusetts Historic Districts Act – unofficial for searching purposes – consult M.G.L. 40C

Chapter 40C: Section 1. Citation.

Section 1. This chapter shall be known and may be cited as the Historic Districts Act.

Chapter 40C: Section 2. Purpose.

Section 2. The purpose of this chapter 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 commonwealth and its cities and towns or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

Chapter 40C: Section 3. Establishment of historic districts; pre-requisites; enlargement or reduction of boundaries; amendment of creating ordinance; filing of maps.

Section 3. A city or town may, by ordinance or by-law adopted by two-thirds vote of the city council in a city or by a two-thirds vote of a town meeting in a town, establish historic districts subject to the following provisions:-- Prior to the establishment of any historic district in a city or town an investigation and report on the historical and architectural significance of the buildings, structures or sites to be included in the proposed historic district or districts shall be made by an historic district study committee or by an historic district commission, as provided in this section and in section four, who shall transmit copies of the report to the planning board, if any, of the city or town, and to the Massachusetts historical commission for their respective consideration and recommendations. The buildings, structures or sites to be included in the proposed historic district may consist of one or more parcels or lots of land, or one or more buildings or structures on one or more parcels or lots of land. The Massachusetts historical commission may consult with the executive director of the Massachusetts office of business development, the secretary of communities and development and the commissioner of environmental management with respect to such reports, and may make guidelines for such reports, and, after public hearing, establish rules as to their form and manner of transmission. Not less than sixty days after such transmittal the study committee shall hold a public hearing on the report after due notice given at least fourteen days prior to the date thereof, which shall include a written notice mailed postage prepaid, to the owners as they appear on the most recent real estate tax list of the board of assessors of all properties to be included in such district or districts. The committee shall submit a final report with its recommendations, a map of the proposed district or districts and a draft of a proposed ordinance or by-law, to the city council or town meeting.

An historic district may be enlarged or reduced or an additional historic district in a city or town created in the manner provided for creation of the initial district, except that (a) in the case of the enlargement or reduction of an existing historic district the investigation, report and hearing shall be by the historic district commission having jurisdiction over such historic district instead of by a study committee; (b) in the case of

creation of an additional historic district the investigation, report and hearing shall be by the historic district commission of the city or town, or by the historic district commissions acting jointly if there be more than one, instead of by a study committee unless the commission or commissions recommend otherwise; and (c) if the district is to be reduced written notice as above provided of the commission's hearing on the proposal shall be given to said owners of each property in the district.

Any ordinance or by-law creating an historic district may, from time to time, be amended in any manner not inconsistent with the provisions of this chapter by a two-thirds vote of the city council in a city or by a two-thirds vote of a town meeting in a town, provided that the substance of such amendment has first been submitted to the historic district commission having jurisdiction over such district for its recommendation and its recommendation has been received or sixty days have elapsed without such recommendation.

No ordinance or by-law creating an historic district, or changing the boundaries of an historic district, shall become effective until a map or maps setting forth the boundaries of the historic district, or the change in the boundaries thereof, has been filed with the city clerk or town clerk and has been recorded in the registry of deeds for the county or district in which the city or town is located, and the provisions of section thirteen A of chapter thirty-six shall not apply.

Chapter 40C: Section 4. Study committees; commissions; establishment; membership; terms; vacancies; compensation; officers.

Section 4. An historic district study committee may be established in any city or town by vote of the city council or board of selectmen for the purpose of making an investigation of the desirability of establishing an historic district or districts therein. The study committee shall consist of not less than three nor more than seven members appointed in a city by the mayor, subject to confirmation by the city council, or in a town by the board of selectmen, including one member from two nominees submitted by the local historical society or, in the absence thereof, by the Society for the Preservation of New England Antiquities, one member from two nominees submitted by the chapter of the American Institute of Architects covering the area, and one member from two nominees of the board of realtors, if any, covering the area. If within thirty days after submission of a written request for nominees to any of the organizations herein named no such nominations have been made the appointing body may proceed to appoint the study committee without nominations by such organization.

Whenever an historic district is established as provided in section three an historic district commission shall be established which shall consist of not less than three nor more than seven members. An historic district commission shall be appointed in a city by the mayor, subject to confirmation by the city council, or in a town by the board of selectmen, in the same manner as an historic district study committee unless (a) the report recommending its establishment recommends alternate or additional organizations to submit nominees for membership and states reasons why such alternate or additional organizations would be appropriate or more appropriate for the particular city or town, the Massachusetts historical commission does not recommend otherwise prior to the public hearing on the establishment of the district, and the ordinance or by-law so provides; or (b) there is an existing historic district commission in the city or town which the report recommends should administer the new district, and the ordinance or by-law so provides. Unless the report recommends otherwise on account of the small number of residents or individual property owners, and the ordinance or by-law so provides, the

members of the historic district commission shall include one or more residents of or owners of property in an historic district to be administered by the commission. If within thirty days after submission of a written request for nominees to an organization entitled to submit nominations for membership on the commission no such nominations have been made the appointing body may proceed to make the appointment to the commission without nomination by such organization. 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. Ordinances or by-laws adopted hereunder may provide for the appointment of alternate members not exceeding in number the principal members who need not be from nominees of organizations entitled to nominate 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 chairman. Each member and alternate shall continue in office after the expiration of his term until his successor is duly appointed and qualified. All members shall serve without compensation. The commission shall elect annually a chairman and vice-chairman from its own number and a secretary from within or without its number.

Chapter 40C: Section 5. Definitions.

Section 5. As used in this chapter the word "altered" includes the words "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 district commission; the word "constructed" includes the words "built", "erected", "installed", "enlarged", and "moved"; the words "exterior architectural feature" mean such portion of the exterior of a 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 or 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 the applicant, an owner of adjoining property, an owner of property within the same historic district as property within one hundred feet of said property lines and any charitable corporation in which one of its purposes is the preservation of historic structures or districts; and the word "structure" means a combination of materials other than a building, including a sign, fence, wall, terrace, walk or driveway.

Chapter 40C: Section 6. Certificates of appropriateness, non-applicability or hardship; necessity; applications and plans, etc.; building and demolition permits restricted.

Section 6. Except as the ordinance or by-law may otherwise provide in accordance with section eight or said section eight or nine, no building or structure within an historic district shall be constructed or altered in any way that affects 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 a city or town or any department thereof until the certificate required by this section has been issued by the commission.

Chapter 40C: Section 7. Factors to be considered by commission.

Section 7. 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, 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 set-back requirements in addition to those required by applicable ordinance or by-law. When ruling on applications for certificates of appropriateness for solar energy systems, as defined in section one A of chapter forty A, the commission shall also consider the policy of the commonwealth to encourage the use of solar energy systems and to protect solar access. 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.

Chapter 40C: Section 8. Review authority of commission over certain categories of buildings, structures or exterior architectural features limited; authorization.

Section 8. (a) Any city or town may provide in the ordinance or by-law establishing a district or in any amendment thereof that the authority of the commission shall not extend to the review of one or more of the following categories of buildings or structures or exterior architectural features in the historic district, and, in this event, 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 such conditions as to duration of use, location, lighting, removal and similar matters as the commission may reasonably specify.

(2) Terraces, walks, driveways, sidewalks and similar structures, or any one or more of them, provided that any such structure is substantially at grade level.

(3) Walls and fences, or either of them.

(4) Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae and similar appurtenances, or any one or more of them.

(5) The color of paint.

(6) The color of materials used on roofs.

(7) Signs of not more than one square foot in area in connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one sign in connection with the nonresidential use of each building or structure which is not more than twelve square feet in area, consist of letters painted on wood without symbol or trademark and if illuminated is illuminated only indirectly; or either of them.
(8) 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) A 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), if the provisions of the ordinance or by-law 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 chapter.
(c) A city or town may provide in its ordinance or by-law, or in any amendment thereof, that the authority of the commission shall be limited to exterior architectural features within a district which are subject to view from one or more designated public streets, public ways, public parks or public bodies of water, although other portions of buildings or structures within the district may be otherwise subject to public view, and, in the absence of such provision of the ordinance or by-law, a commission may determine from time to time after public hearing that the authority of the commission may be so limited without substantial derogation from the intent and purposes of this chapter.
(d) Upon request the commission shall issue a certificate of nonapplicability with respect to construction or alteration in any category then not subject to review by the commission in accordance with the provisions of paragraph (a), (b) or (c).

Chapter 40C: Section 9. Maintenance and repair, etc.

Section 9. Nothing in this chapter 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 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 ordinance or by-law.

Chapter 40C: Section 10. Additional powers, functions and duties of commission.

Section 10. 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 records 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 a 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 nonapplicability 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 eight, the commission shall cause a certificate of nonapplicability 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 purposes of this chapter. If the commission determines 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 in the event of failure to make a determination on an application within the time specified in section eleven, 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 inconsistent with the provisions of this act 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 city or town clerk.

(f) The commission shall file with the city or town clerk and with any department of the city or town having authority to issue building permits a copy or notice of all certificates and determinations of disapproval issued by it.

(g) A 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 city or town any properties or easements, restrictions or other interests in real property which the city or town may have or may

accept as gifts or otherwise and which the city or 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 this act, such other powers, authority and duties as may be delegated or assigned to it from time to time by vote of the city council or town meeting.

Chapter 40C: Section 11. Approval or disapproval of exterior architectural features by commission; meetings; applications for certificates; public hearings; notices.

Section 11. Meetings of a 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 manner as the commission shall determine in its rules. A majority of the members of a 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.
A 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 a commission determines that such application involves any such features which are subject to approval by the commission the commission shall hold a public hearing on such application unless such hearing is dispensed with as hereinafter 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 city or 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 sixty days after the filing of the application, or such lesser period as the ordinance or by-law may provide, or within such further time as the applicant may allow in writing, the commission shall make a determination on the application. If 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 in 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 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.

Chapter 40C: Section 12. Review procedure provided by local ordinance or by-law.

Section 12. A city or town may provide in its ordinance or by-law or in any amendment thereof, for a review procedure whereby any person aggrieved by a determination of the

commission may, within twenty days after the filing of the notice of such determination with the city or town clerk, file a written request with the commission for a review by a person or persons of competence and experience in such matters, designated by the regional planning agency of which the city or town is a member. If the city or town is not a member of a regional planning agency, the department of community affairs shall select the appropriate regional planning agency.

The finding of the person or persons making such review shall be filed with the city or town clerk within forty-five days after the request, and shall be binding on the applicant and the commission, unless a further appeal is sought in the superior court as provided in section twelve A.

Chapter 40C: Section 12A. Appeal to superior court.

Section 12A. Any person aggrieved by a determination of the commission, or by the finding of a person or persons making a review, if the provisions of section twelve are included in a local ordinance or by-law, may, within twenty days after the filing of the notice of such determination or such finding with the city or town clerk, appeal to the superior court sitting in equity for the county in which the city or town is situated. The court shall hear all pertinent evidence and shall annul the determination of the commission if it finds the decision of the commission to be unsupported by the evidence or to exceed the authority of the commission, or may remand the case for further action by the commission or make such other decree as justice and equity may require. The remedy provided by this section shall be exclusive but the parties shall have all rights of appeal and exception as in other equity cases. Costs shall not be allowed against the commission unless it shall appear to the court that the commission acted with gross negligence, in bad faith or with malice in the matter from which the appeal was taken. Costs shall not be allowed against the party appealing from such determination of the commission unless it shall appear to the court that such party acted in bad faith or with malice in making the appeal to the court.

Chapter 40C: Section 13. Jurisdiction of superior court; penalty.

Section 13. The superior court sitting in equity for the county in which the city or town is situated shall have jurisdiction to enforce the provisions of this chapter and any ordinance or by-law enacted hereunder and the determinations, rulings and regulations issued pursuant thereto and may, upon the petition of the mayor or of the board of selectmen or of the commission, 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 chapter shall be punished by a fine of not less than ten dollars nor more than five hundred dollars. Each day during any portion of which a violation continues to exist shall constitute a separate offense.

Chapter 40C: Section 14. Powers and duties of commissions established hereunder as historical commissions.

Section 14. If the city council or town meeting so votes a commission established hereunder shall have the powers and duties of an historical commission as provided in section eight D of chapter forty and, in this event, a commission may be entitled an historical commission.

Chapter 40C: Section 15. Filing of ordinances, maps, reports, etc.

Section 15. All ordinance or by-laws creating an historic district adopted by a city or town under authority of this chapter and under authority of any special law, unless the special law shall otherwise provide, amendments thereto, maps of historic districts created thereunder, and annual reports and other publications of commissions, and rosters of membership therein, shall be filed with the Massachusetts historical commission.

Chapter 40C: Section 16. Special historic districts; acceptance and effect of this chapter.

Section 16. A city or town in which there is located an historic district established under a special law may, upon recommendation of the historic district commission having jurisdiction over such district, accept the provisions of this chapter with respect to such district by a two-thirds vote of the city council in a city or by two-thirds vote of a town meeting in a town, and thereafter such historic district shall be subject to the provisions of this chapter notwithstanding the terms of any special act pursuant to which such historic district was created. The provisions of this chapter shall not impair the validity of an historic district established under any special act.

Chapter 40C: Section 17. Severability.

Section 17. The provisions of this chapter 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.

Appendix II-
Sample Local Historic District Bylaw

Local Historic District Bylaw
The Town of Preservetown hereby establishes a Local Historic District, to be administered by an Historic District Commission as provided for under Massachusetts General Laws Chapter 40C, as amended.

1. PURPOSE
The purpose of this bylaw is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Preservetown, the maintenance and improvement of their settings and the encouragement of new building designs compatible with the existing architecture.

2. DEFINITIONS
The terms defined in this section shall be capitalized throughout this Bylaw. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this Bylaw the following terms shall have the following meaning:
ALTERATION, TO ALTER
The act or the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.
BUILDING
A combination of materials forming a shelter for persons, animals or property.
CERTIFICATE
A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this Bylaw.
COMMISSION
The Historic District Commission as established in this Bylaw.
CONSTRUCTION, TO CONSTRUCT
The act or the fact of building, erecting. installing, enlarging, moving and other similar activities.
DISPLAY AREA
The total surface area of a SIGN, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the SIGN. The DISPLAY AREA of an individual letter SIGN or irregular shaped SIGN shall be the area of the smallest rectangle into which the letters or shape will fit. Where SIGN faces are placed back to back and face in opposite directions, the DISPLAY AREA shall be defined as the area of one face of the SIGN.
DISTRICT
The Local Historic District as established in this Bylaw consisting of one or more DISTRICT areas.
EXTERIOR ARCHITECTURAL FEATURE

Such portion of the exterior of a BUILDING or STRUCTURE as is open to view from a public way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.
PERSON AGGRIEVED
The applicant; an owner of adjoining property; an owner of property within the same DISTRICT area; an owner of property within 100 feet of said DISTRICT area; and any charitable corporation in which one of its purposes is the preservation of historic places, structures, BUILDINGS or districts.
SIGNS - Any symbol, design or device used to identify or advertise any place of business, product, activity or person.
STRUCTURE
A combination of materials other than a BUILDING, including but not limited to a SIGN, fence, wall, terrace, walk or driveway.
TEMPORARY STRUCTURE or BUILDING
A BUILDING not to be in existence for a period of more than two years. A STRUCTURE not to be in existence for a period of more than one year. The COMMISSION may further limit the time periods set forth herein as it deems appropriate.

3. DISTRICT
The DISTRICT shall consist of one or more DISTRICT areas as listed in Section 13 (Appendices) of this Bylaw.

4. COMMISSION
4.1 The DISTRICT shall be overseen by a COMMISSION consisting of seven members, to be appointed by the Board of Selectmen, two members initially to be appointed for one year, two for two years, and two for three years, and each successive appointment to be made for three years.
4.2 The COMMISSION shall include, if possible, one member from two nominees solicited from the Preservetown Historical Society, one member from two nominees solicited from the chapter of the American Institute of Architects covering Preservetown; one member from two nominees of the Board of Realtors covering Preservetown; and one property owner from within each of the DISTRICT areas. If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Board of Selectmen may proceed to make appointments as it desires.
4. 3 The Board of Selectmen may appoint up to four alternate members to the COMMISSION. Each alternate member shall have the right to act and vote in the place of one regular member should such regular member be absent from a meeting or be unwilling or unable to act or vote. Said alternate members shall initially be appointed for terms of two or three years, and for three year terms thereafter.
4.4 Each member and alternate member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.
4.5 Meetings of the COMMISSION shall be held at the call of the Chairman, at the request of two members and in such other manner as the COMMISSION shall determine in its Rules and Regulations.
4.6 Four members of the COMMISSION shall constitute a quorum.

5. COMMISSION POWERS AND DUTIES

5.1 The COMMISSION shall exercise its powers in administering and regulating the CONSTRUCTION and ALTERATION of any STRUCTURES or BUILDINGS within the DISTRICT as set forth under the procedures and criteria established in this Bylaw. In exercising its powers and duties hereunder, the COMMISSION shall pay due regard to the distinctive characteristics of each BUILDING, STRUCTURE and DISTRICT area.
5. 2 The COMMISSION may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this Bylaw or M.G.L. Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for CERTIFICATES, fees, hearing procedures and other matters. The COMMISSION shall file a copy of any such Rules and Regulations with the office of the Town Clerk.
5.3 The COMMISSION, after a public hearing duly posted and advertised at least 14 days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation, may adopt and from time to time amend guidelines which set forth the designs for certain EXTERIOR ARCHITECTURAL FEATURES which are, in general, suitable for the issuance of a CERTIFICATE. No such design guidelines shall limit the right of an applicant for a CERTIFICATE to present other designs to the COMMISSION for approval.
5.4 The COMMISSION shall at the beginning of each fiscal year hold an organizational meeting and elect a Chairman, a Vice Chairman and Secretary, and file notice of such election with the office of the Town Clerk.
5.5 The COMMISSION shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.
5.6 The COMMISSION shall undertake educational efforts to explain to the public and property owners the merits and functions of a DISTRICT.

6. ALTERATIONS AND CONSTRUCTION PROHIBITED WITHOUT A CERTIFICATE

6.1 Except as this Bylaw provides, no BUILDING or STRUCTURE or part thereof within a DISTRICT shall be CONSTRUCTED or ALTERED in any way that affects the EXTERIOR ARCHITECTURAL FEATURES as visible from a public way, unless the COMMISSION shall first have issued a CERTIFICATE with respect to such CONSTRUCTION or ALTERATION.
6.2 No building permit for CONSTRUCTION of a BUILDING or STRUCTURE or for ALTERATION of an EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT and no demolition permit for demolition or removal of a BUILDING or STRUCTURE within a DISTRICT shall be issued by the Town or any department thereof until a CERTIFICATE as required under this Bylaw has been issued by the COMMISSION.

7. PROCEDURES FOR REVIEW OF APPLICATIONS

7.1 Any person who desires to obtain a CERTIFICATE from the COMMISSION shall file with the COMMISSION an application for a CERTIFICATE of Appropriateness, of Non-Applicability or of Hardship, as the case may be. The application shall be accompanied by 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.
7.2 The COMMISSION shall determine within fourteen (14) days of the filing of an application for a CERTIFICATE whether said application involves any EXTERIOR ARCHITECTURAL FEATURES which are within the jurisdiction of the COMMISSION.
7.3 If the COMMISSION determines that an application for a CERTIFICATE does not involve any EXTERIOR ARCHITECTURAL FEATURES, or involves an EXTERIOR ARCHITECTURAL FEATURE which is not subject to review by the COMMISSION under the provisions of this Bylaw, the COMMISSION shall forthwith issue a CERTIFICATE of Non-Applicability.
7.4 If the COMMISSION determines that such application involves any EXTERIOR ARCHITECTURAL FEATURE subject to review under this Bylaw, it shall hold a public hearing on the application, except as may otherwise be provided in this Bylaw. The COMMISSION shall hold such a public hearing within forty-five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in Town Hall and in a newspaper of general circulation in Preservetown. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties deemed by the COMMISSION to be materially affected thereby. all as they appear on the most recent applicable tax list, to the Planning Board, to any person filing a 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.
7.4.1 A public hearing on an application for a CERTIFICATE 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 for a CERTIFICATE may be waived by the COMMISSION if the COMMISSION determines that the EXTERIOR ARCHITECTURAL FEATURE involved, or its category, is so insubstantial in its effect on the DISTRICT that it may be reviewed by the COMMISSION without a public hearing. If the COMMISSION dispenses with a public hearing on an application for a CERTIFICATE, notice of such application shall be given to the owners of all adjoining property and of other property deemed by the COMMISSION to be materially affected thereby as above provided, and ten (10) days shall elapse after the mailing of such notice before the COMMISSION may act upon such application.
7.5 Within sixty *(60)* days after the filing of an application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall issue a CERTIFICATE or a disapproval. In the case of a disapproval of an application for a CERTIFICATE, the COMMISSION shall set forth in its disapproval the reasons for such disapproval. The COMMISSION may include in its disapproval specific recommendations for changes in the applicant's proposal with respect to the appropriateness of design, arrangement, texture, material and similar features which, if made and filed with the COMMISSION in a subsequent application, would make the application acceptable to the COMMISSION.
7.6 The concurring vote of a majority of the members shall be required to issue a CERTIFICATE.
7.7 In issuing CERTIFICATES, the COMMISSION may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan

modifications consistent with the intent and purpose if this Bylaw.
7.8 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 DISTRICT, the COMMISSION shall issue a CERTIFICATE of Appropriateness.
7.9 If the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, 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 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 purposes of this Bylaw. If the COMMISSION determines 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, the COMMISSION shall issue a CERTIFICATE of Hardship.
7.10 The COMMISSION shall send a copy of its CERTIFICATES and disapprovals to the applicant and shall file a copy of its CERTIFICATES and disapprovals with the office of the Town Clerk and the Building Commissioner. The date of issuance of a CERTIFICATE or disapproval shall be the date of the filing of a copy of such CERTIFICATE or disapproval with the office of the Town Clerk.
7.11 If the COMMISSION should fail to issue a CERTIFICATE or a disapproval within sixty (60) days of the filing of the application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall thereupon issue a CERTIFICATE of Hardship Due to Failure to Act.
7.12 Each CERTIFICATE issued by the COMMISSION shall be dated and signed by its chairman or such other person designated by the COMMISSION to sign such CERTIFICATES on its behalf.
7.13 A PERSON AGGRIEVED by a determination of the COMMISSION may, within twenty (20) days of the issuance of a CERTIFICATE or disapproval, file a written request with the COMMISSION for a review by a person or persons of competence and experience in such matters, acting as arbitrator and designated by the regional planning agency. The finding of the person or persons making such review shall be filed with the Town Clerk within forty-five (45) days after the request, and shall be binding on the applicant and the COMMISSION, unless a further appeal is sought in the Superior Court as provided in Chapter 4OC, Section 12A. The filing of such further appeal shall occur within twenty (20) days after the finding of the arbitrator has been filed with the office of the Town Clerk.

8. CRITERIA FOR DETERMINATIONS

8.1 In deliberating on applications for CERTIFICATES, the COMMISSION shall consider, among other things, the historic and architectural value and significance of the site, BUILDING or STRUCTURE; the general design, proportions, detailing, mass, arrangement, texture, and material of the EXTERIOR ARCHITECTURAL FEATURES involved; and the relation of such EXTERIOR ARCHITECTURAL FEATURES to similar features of BUILDINGS and STRUCTURES in the surrounding area.
8.2 In the case of new CONSTRUCTION or additions to existing BUILDINGS or

STRUCTURES, the COMMISSION shall consider the appropriateness of the scale, shape and proportions of the BUILDING or STRUCTURE both in relation to the land area upon which the BUILDING or STRUCTURE is situated and in relation to BUILDINGS and STRUCTURES in the vicinity. The COMMISSION may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw.
8.3 When ruling on applications for CERTIFICATES on solar energy systems as defined in Section IA of Chapter 40A, the COMMISSION shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.
8. 4 The COMMISSION shall not consider interior arrangements or architectural features not subject to public view from a public way.

9. EXCLUSIONS

9.1 The COMMISSION shall exclude from its purview the following:
9.1.1 Temporary BUILDINGS, STRUCTURES or SIGNS subject, however, to conditions pertaining to the duration of existence and use, location, lighting, removal and similar matters as the COMMISSION may reasonably specify.
9.1.2 Terraces, walks, driveways, sidewalks and similar STRUCTURES, provided that any such STRUCTURE is substantially at grade level.
9.1.3 Storm windows and doors, screen windows and doors, and window air conditioners.
9.1.4 The color of paint.
9.1.5 The color of materials used on roofs.
9.1.6 Signs of not more than two (2) square feet in DISPLAY AREA in-connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one sign in connection with the nonresidential use of each BUILDING or STRUCTURE which is not more than six (6) square feet in DISPLAY AREA, consists of letters painted on wood without symbol or trademark and if illuminated is illuminated indirectly.
9.1.7 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.
9.2 Upon request the COMMISSION shall issue a CERTIFICATE of Non-Applicability with respect to CONSTRUCTION or ALTERATION in any category not subject to review by the COMMISSION in accordance with the above provisions.
9.3 Nothing in this Bylaw shall be construed to prevent the ordinary maintenance, repair or replacement of any EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT which does not involve a change in design, material or the outward appearance thereof, nor to prevent 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 this Bylaw.

10. CATEGORICAL APPROVAL

The COMMISSION may determine from time to time after a public hearing, duly

advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Preservetown, that certain categories of EXTERIOR ARCHITECTURAL FEATURES, STRUCTURES or BUILDINGS under certain conditions may be CONSTRUCTED or ALTERED without review by the COMMISSION without causing substantial derogation from the intent and purpose of this Bylaw.

11. ENFORCEMENT AND PENALTIES

11.1 The COMMISSION shall determine whether a particular activity is in violation of this Bylaw or not, and the COMMISSION shall be charged with the enforcement of this Bylaw.

11.2 The COMMISSION, upon a written complaint of any resident of Preservetown, or owner of property within Preservetown, or upon its own initiative, shall institute any appropriate action or proceedings in the name of the Town of Preservetown to prevent, correct, restrain or abate violation of this Bylaw. In the case where the COMMISSION is requested in writing to enforce this Bylaw against any person allegedly in violation of same and the COMMISSION declines to act, the COMMISSION shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefore, within twenty one (21) days of receipt of such request.

11.3 Whoever violates any of the provisions of this Bylaw shall be punishable by a fine of up to $300.00 for each offense. Each day during any portion of which such violation continues to exist shall constitute a separate offense.

11.4 The COMMISSION may designate the Building Commissioner of the Town of Preservetown to act on its behalf and to enforce this Bylaw under the direction of the COMMISSION.

12. VALIDITY AND SEPARABILITY

The provisions of this Bylaw shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Bylaw shall continue to be in full force and effect.

13. APPENDICES

Appendix 1:

South Preservetown District

The South Preservetown District shall be a DISTRICT area under this Bylaw. The location and boundaries of the South Preservetown District are defined and shown on the Local Historic District Map of the Town of Preservetown, Sheet 1-1990 which is a part of this Bylaw. Sheet 1 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 1.

Appendix 2.

Preservetown Centre District

The Preservetown Centre District shall be a DISTRICT area under this Bylaw. The location and boundaries of the Preservetown Centre District are defined and shown on the Local Historic District Map of the Town of Preservetown, Sheet 2-1990 which is a part of this Bylaw. Sheet 2 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein,

except as otherwise apparent on Sheet 2.

Appendix 3:

West Preservetown District

The West Preservetown District shall be a DISTRICT area under this Bylaw. The location and boundaries of the West Preservetown District are defined and shown on the Local Historic District Map of the Town of Preservetown, Sheet 3-1990 which is a part of this Bylaw. Sheet 3 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 3.

Appendix III-
Sample Rules and Regulations

Preservetown Historic District Commission Rules and Regulations
This version of the Operating Rules and Regulations were approved by the commission on February 28, 2010.

Purpose:
The Preservetown Historic District Commission was established by the town of Preservetown in April, 1975 under Massachusetts General Law, Chapter 40C for the preservation and protection of the Village Center Historic District. These rules and regulations were prepared in order to govern the internal management of the Preservetown Historic District Commission.

These rules and regulations are in addition to the procedural requirements found in MGL Chapter 40C, the Preservetown Local Historic District bylaw as well as other federal, state and local law. While some of the text in these rules and regulations is duplicative, these rules and regulations do not substitute for any local, state or federal law.

Members:
The Preservetown Historic District Commission consists of seven members appointed to three year terms by the town manager and approved by the select board. According to MGL Chapter 40C and the local historic district bylaw, the Board of Selectmen shall follow the nomination and appointment process.

Appointments should be arranged so that the terms of office of approximately one third of the members expire each year. When possible, commission members should include members from among professionals in the disciplines of historic preservation, architecture, history, architectural history, planning or archaeology. Members of the Historic district Commission should have a personal interest in historic preservation and an interest in protecting historic resources in Preservetown.

Alternate Members
There shall be up to seven alternate members appointed by town manager and approved by the select board. At each meeting, the chairperson shall determine the number of vacancies based on absence or inability to act. The chairperson shall delegate from the alternate members present, a like number to serve as voting members at the meeting. Alternate members who are present but who are not delegated to serve as voting members shall be entitled to otherwise participate in all meetings and hearings.

Vacancies
Vacancies are filled by the town manager and approved by the select board for the remaining term of the vacancy.

Officer Elections:

A chairperson, vice-chairperson and secretary shall be elected annually by the commission members at the September meeting or within a reasonable time thereafter. The town clerk and the Massachusetts Historical Commission shall be notified of the election. In the absence of the chairperson at a meeting, the vice-chairperson shall preside. In the absence of the chairperson and vice-chairperson, an acting chairperson elected by a quorum of the members shall preside.

Chairperson Responsibilities
The chairperson shall develop an agenda for each meeting or hearing and deliver the meeting or hearing notices to the town clerk for posting. The chairperson shall be familiar with and follow standard rules of order in officiating each meeting or hearing. The Chair shall conduct monthly meetings and properly noticed hearings in accordance with the Open Meeting Law.

Vice Chairperson Responsibilities
The Vice-Chairperson shall preside when the chairperson is not present at a meeting.

Secretary Responsibilities
The Secretary shall take minutes at all regular meetings and hearings. Whenever possible, the Secretary shall provide draft copies of the minutes to all members prior to the start of the next meeting. The commission shall vote to accept the minutes at the next available meeting.

Application for a Certificate
The Preservetown Historic District Commission Application for a Certificate is considered a part of these rules and regulations. The Commission shall annually review the application and associated materials for revisions.

Certificates
The Chairperson may, without a vote of the Commission, issue a Certificate of Non-Applicability with respect to alterations determined by the chairperson to be excluded from review.

Each certificate shall be dated and signed by the Commission Chairman or Secretary or by another person specifically authorized by the Commission to do so.

Each certificate shall be sent to the applicant and a copy shall be filed with the Commissioner of Inspectional Services, the City Clerk, and the Director of Planning and Development.

Each certificate is valid for a period of one year. A certificate may be renewed beyond one year at the discretion of the commission.

Meeting Times:
There shall be one regular meeting per month held on the second Tuesday of every month at 7pm or at another date and time agreed to by the members. Meetings shall conclude by 9:30pm unless immediate action is required. Special meetings may be called by the

chairperson or by any three members providing notice to the chairperson and the town clerk.

Meeting Notices
Notices of Commission meetings shall be posted at the direction of the town clerk. Meeting Notices shall be posted in compliance with the Open Meeting Law in terms of content, time and location. Whenever possible, notices will be posted at least seven days before the meeting. Notices and agendas shall be routinely mailed to Commission members prior to the meeting.

Public Hearings
Notice of a hearing on an application for a Certificate of Appropriateness and a Certificate of Hardship shall be posted at least fourteen days prior to the meeting and shall include the date, time, location, and address of the property for which the hearing shall be held. Notice of a hearing shall be filed with the City Clerk who posts all City meetings. Notice of a hearing shall be sent to the applicant, to all abutters, and to any other City officials and persons who have requested routine notification.

In reviewing each application, the Commission shall consider the historic and architectural value and significance of the site, building, or structure involved. Also to be considered is 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 district.

In the case of new construction or additions to existing buildings or structures, the Commission shall consider the appropriateness of the size, shape, and design of the building or structure, both in relation to the land area upon which it is situated and to buildings and structures in the district.

Members of the Commission shall abstain from discussion and voting on an application when there is a conflict of interest. If the member is (a) the applicant, (b) a relative, close friend or business associate of the applicant, (c) an abutter to the applicant, or (d) one with a financial interest in the application, the member will remove himself/herself from the process.

Quorum
A quorum of four members is necessary to hold a meeting.

Minutes
The secretary shall take minutes at all regular meetings and hearings. Whenever possible, copies of the minutes shall be distributed to all members prior to the meeting at which they will be accepted.

Conflict of Interest
Each commission member will follow the requirements of the conflict of interest law.

Annual Report

The chairperson shall prepare a yearly description of activities for inclusion in the annual report. The report shall be reviewed and accepted by the commission prior to inclusion in the town report.

Budget
The chairperson shall prepare an annual budget. The annual budget shall be submitted to the select board.

Agenda
The chairperson shall prepare a written agenda for each meeting and make every effort to get this to the members prior to the meeting.

Compensation
Members shall serve without compensation.

Attendance at Meetings
Commission members should make every effort to attend all commission meetings. The absence of more than three meetings in a row, without justification, may be viewed as a voluntary resignation from the Commission and may be referred to the board of selectmen.

Changes to these Rules and Regulations
These rules and regulations may be changed following a public hearing and the affirmative vote of a majority of the members.