

RULES & REGULATIONS
of the
HISTORIC DISTRICT COMMISSION
Town of Swampscott



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INTRODUCTION

The Town of Swampscott Historic District Commission Rules and Regulations are a summary of the process by which the Local Historic District By-law, as passed by Town Meeting in May of 2014, is carried out. The purpose of this document is to provide a simplified reference to assist in understanding the Local Historic District By-law for:

1. Private or public owners within the boundaries of the Frederick Law Olmsted Local Historic District (see Local Historic District Maps);
2. Town of Swampscott Employees, Boards, Committees and Commissions (elected, appointed, and/or volunteer), Non-Profit Organizations, and Tenants responsible for maintenance, upkeep, and/or control of structures within the boundaries of the Swampscott Fish House Local Historic District and Swampscott Cemetery and Andrews Chapel Local Historic District;
3. Private or public owners of the structures located within the boundaries of the Swampscott Railroad Depot Local Historic District.

The information outlined in this document is strictly a summary of the Local Historic District By-law and does not act as a substitution for the By-law. Review and adherence to this By-law is the responsibility of the aforementioned parties.

1. GENERAL RULES

JURISDICTION

The Historic District Commission shall be governed by the Swampscott Local Historic District By-law, Article IX Section 7 of the Town of Swampscott General By-laws, and by Chapter 40C of the General Laws of Massachusetts, as amended. The Town's jurisdiction as set forth in the Local Historic District By-law shall be delineated on the official Local Historic District Maps on file at in the Planning Department at Town Hall and at the South Essex Registry of Deeds.

2. MEETINGS OF THE COMMISSION

REGULAR MEETINGS

The Commission will typically convene on the first Monday of each month at 7:30pm in a posted location. Notice of the date, time, and location of all meetings shall be posted in the Town Hall at least 48 hours prior to their scheduled time. A quorum of three members is required for the Commission to conduct any business and to vote on application for certificates.

SPECIAL MEETINGS

The Commission will also reserve the third Thursday of each month to convene under the direction of the Chairperson, or by the request of two or more Commission members. Meetings will be conducted at 7:30pm in a posted location. Notice of Special Meetings shall be posted as above.

CANCELLATION OF MEETINGS

If there is no Commission business to conduct, the Chairperson may dispense with a meeting by giving notice to all members and alternate members, and posting a notice of the cancellation in Town Hall 48 hours prior to the scheduled meeting time.

3. CERTIFICATES

CERTIFICATE OF APPROPRIATENESS

The Certificate of Appropriateness shall be issued upon review at a public hearing of any modifications affecting the exterior of a building, site or structure within the District, and visible from a public way. Refer to Section I of the Swampscott Local Historic District By-law for exclusions.

CERTIFICATE OF NON-APPLICABILITY

The Certificate of Non-Applicability is issued for:

- modifications affecting the exterior of a building, site or structure that are not visible from a public way,
- modifications excluded from HDC purview per Section I of the Swampscott Local Historic District By-law,
- ordinary maintenance, repair or replacement of any exterior architectural feature which does not involve a change in design, material or the outward appearance,
- requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition.

CERTIFICATE OF HARDSHIP

The Certificate of Hardship is considered for the same types of modifications as a Certificate of Appropriateness. This Certificate shall be issued when a Certificate of Appropriateness is denied, and the denial causes substantial hardship, financial or otherwise, to the applicant. Approval of a Certificate of Hardship must not affect the historic district in general, must be without substantial detriment to the public welfare, and must not detract from the intents and purposes of the Swampscott Local Historic By-law. The Commission will not approve a Certificate of Hardship in the instances where the hardship was self-created (i.e. financial burden to undo work performed that had not been approved by the Commission).

4. COMMISSION REVIEW OF CHANGES TO PROPERTIES IN THE HISTORIC DISTRICT

When an applicant wishes to make alterations to a building or structure in the Historic District, a Certificate must be obtained from the Commission before a building permit can be issued. Application forms are available at the Building Department. In addition to the completed form, seven copies of the following items must be provided (where applicable):

- A site plan showing the existing building and the proposed changes

- Scale drawings of the design detailed enough to show the scope and scale of the proposed work and its relationship to the existing building
- Photographs of all exterior elevations of the existing building visible from a public way, showing the locations of proposed changes
- Listing of proposed exterior materials and assemblies
- Catalog cuts of windows, doors, light fixtures, fences and other proposed manufactured products

Within fourteen days of the Application, the Commission will determine whether the proposed work involves exterior architectural features that are within the jurisdiction of the Commission. If it is determined that the work is not subject to review, the Commission will issue a Certificate of Non-Applicability.

In order to avoid unnecessary delays, the Commission appoints the Director of Community Development to act on its behalf to review the Application for Certificate upon receipt (per MGL Chap 40C Section 10 (d)). A written determination as to applicability of the bylaw shall be valid when signed by the Director, and shall be rendered within fourteen (14) days of the Application filing. This includes approval of a Certificate of Non-Applicability or informing the Applicant that they will require a public hearing for review. At the following Meeting of the Commission, the Director shall provide copies of the determinations issued since the last Meeting.

CHANGES NOT REQUIRING COMMISSION APPROVAL

Changes that do not require review by the Commission include:

- modifications affecting the exterior of a building, site or structure that are not visible from a public way,
- the following exempted items:
 - Temporary buildings, structures or signs, subject to conditions related to the duration of existence and use, location, lighting, removal and similar matters that the Commission may reasonably specify
 - Terraces, walks, driveways, sidewalks and similar structures primarily at grade
 - Flagpoles, sculpture, mailboxes (freestanding or attached), window boxes, house numbers, and garden furniture.
 - Storm windows, storm doors, window screens, screen doors, and window air conditioners, unless their installation alters character defining historic details
 - Paint colors
 - The color of materials used on the roof
 - Signs of not more than two square feet in area in connection with the 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 square feet in display area.
 - Landscaping with plants, trees, shrubs or other vegetation
 - Photovoltaic solar panels
- ordinary maintenance, repair or replacement of any exterior architectural feature which does not involve a change in design, material or the outward appearance, or
- requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition.

PROCEDURES REGARDING CHANGES THAT REQUIRE COMMISSION APPROVAL

Any work in the Historic District that involves construction of a new building or addition, or alterations to exterior architectural features visible from a public right of way requires the review and approval of the Commission prior to the issuance of a building permit.

If the Commission determines that the application does involve exterior architectural features subject to the review, it will hold a Public Hearing within 45 days from the filing of the application. Public notice must be posted by the Commission at Town Hall and on the Town website. In addition, the Applicant must mail notices to abutters within 100 feet of the project property's boundaries and others deemed affected by the proposal. The application must be submitted and received by the Town Clerk three weeks prior to the hearings so that they may be advertised in the newspaper.

A public hearing is not required if it is waived by all persons entitled to public notification. It may also be waived if the Commission determines that the work involved 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, notice of such application will be mailed to all persons entitled to notice thereof, and ten days must elapse before the Commission can act on the application.

NOTE: The waiver of the public hearing does not constitute approval of the application.

HEARINGS

There are two types of hearings. Hearings fall into the following categories:

1. Informal Hearings – This is an opportunity to come before the Commission with ideas and sketches before you file your application to see if you are "on the right track". These hearings are usually held after all the formal hearings of the evening have occurred. If you are planning a major construction project such as an addition to your house or new construction, the informal hearing is recommended and could save time and money. It will also cut down on the number of formal and continued hearings that will be required.
2. Formal Hearings – Formal hearings may be advertised or continued hearings.
 - a. Advertised Hearings – All changes within the purview of the Commission require an advertised hearing. Your application must be submitted and received by the Town Clerk one week before hearings. You will be provided template language to be used to notify your abutters. You will also be provided a certification letter to confirm that you've mailed a notice to abutters. At this hearing you must bring all the documentation listed in Application Procedures.
 - b. Continued Hearings – In some instances the Commission will ask you to make adjustments to your plans; your hearing will then be continued for a determined length of time. There are no additional abutter notice requirements for this Continued Hearing.

NOTE: It is important to notify the Commission Secretary if you will not be coming in as scheduled, as otherwise the Commission will be required to vote to deny your petition.

HEARING PROCEDURES

The Commission is governed by Chapter 40C and all other applicable laws of the Commonwealth of Massachusetts and the General By-laws of the Town of Swampscott. Robert's Rules of Order as revised serve as the parliamentary guidelines.

The Commission meets monthly on the first Monday of the month, and an additional meeting may be held on the third Thursday of the month if the number of applications pending warrants it. Applications will be considered in the order of their receipt. An applicant may appear in person or by agent at the Commission hearing. Review of the application will generally be conducted according to the following procedure:

1. The Chairperson shall give a preliminary statement concerning the application,
2. The applicant or representative shall present the application,
3. Commission members may discuss the application, followed by comments by anyone else with an interest in the proposal,
4. Commission members may ask clarifying questions after each speaker,
5. The Chairperson shall summarize the information, giving all parties a chance to make additional comments,
6. The Commission shall deliberate the application,
7. After adequate discussion, or by the end of the time allotted to the application on the meeting agenda, the Commission shall either vote on the application, postpone further consideration until the next meeting, or request the application's withdrawal and/or revision.

SITE VISITS; ADDITIONAL INFORMATION

The Commission may view the premises and obtain additional information concerning any application before arriving at a decision. If the Commission holds a public hearing on an application, it will disclose any such additional information on which it may rely at the hearing, and give the parties an opportunity to comment on that information.

REVIEW CRITERIA

In reviewing applications for Certificates, the Commission shall take into account the historic and architectural significance of the building or structure. The Commission shall not consider interior arrangements, nor architectural features not subject to view from the public way, nor make any requirement except for the purpose of preventing developments incongruous to the historic aspects or architectural characteristics of the surroundings and the District, and shall use the Design Guidelines as its guide.

COMMISSION DECISIONS

Within sixty days of the filing of an application, the Commission will issue a Certificate or disapproval. A majority vote of the Commission is required to issue a Certificate. In all its decisions on applications the Commission shall state its reasons for the decision, supported by appropriate Findings of Fact. A decision on an application may be accompanied by conditions and/or recommendations. In the case of a disapproval of an application, the Commission may include recommendations for changes in the proposal which, if made, would make the application acceptable to the Commission. If the Commission finds that some aspects of the proposed changes described in an application are incompatible with the character of the property or the District, it will suggest ways in which the application may be amended so that approval may be granted. Such discussion among Commission

members and the applicant, if present, shall focus on arriving at a solution satisfying all concerned while still abiding by the terms and spirit of the Local Historic District By-law. If changes suggested by the Commission are acceptable to the applicant, a reapplication for a Certificate of Appropriateness will not be required.

If the Commission asks the applicant to make adjustments in the plans, the hearing may be continued until the next scheduled hearing date. There are no abutter notice requirements associated with a continued hearing.

Work must commence within one year from the time the Certificate is signed unless an extension is requested and approved by the Commission.

During the construction phase, the Commission tries to keep the application open on a continued basis so that any changes to the original, approved plans may be brought to a monthly meeting. It is important to note that all exterior changes to original, approved plans need approval before being implemented.

5. APPEAL PROCESSES

A person aggrieved by a determination of the Commission may, within twenty 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 Metropolitan Area Planning Council. The arbitrator's finding shall be filed with the Town Clerk within 45 days of the request, and shall be binding on the applicant and the Commission unless a further appeal is sought in Superior Court as provided in Chapter 40C, Section 12A. Such further appeal must be filed within 20 days after the finding of the arbitrator has been filed with the office of the Town Clerk.

6. ENFORCEMENT AND PENALTIES

The Commission shall determine whether a particular activity is in violation of the terms of the Swampscott Local Historic District By-law. Upon a written complaint of any Swampscott resident or property owner, or upon its own initiative, the Commission may institute any appropriate action or proceedings in the name of the Town of Swampscott to prevent, correct, restrain, or abate violation of this By-law. In the case where the Commission is requested in writing to enforce the By-law and the Commission declines to act, it shall so 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.

Whoever violates any of the provisions of this by-law 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.

SPECIAL PROVISIONS REGARDING DEMOLITION

In addition to the penalties set forth in this By-law, whoever shall demolish a Building or Structure without approval shall (a) be subject to revocation after notice of any Certificate issued by the Commission, with respect to said building or Structure; (b) not be issued a certificate for the property on which said Building or Structure was located for a period determined by the Commission, not to exceed two (2) years from the date of said demolition,

and (c) be required to reconstruct the said building or Structure to the footprint, height, dimensions, and character-defining features, as they existed before demolition occurred.

The Commission has designated the Inspector of Buildings of the Town of Swampscott to act on its behalf and to enforce this By-law under the direction of the Commission (amended Jan 5, 2015).