
TOWN OF LINCOLN

HISTORIC DISTRICT BY-LAW

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TOWN OF LINCOLN
HISTORIC DISTRICT BY-LAW

PREAMBLE: The purpose of this By-Law is to promote the educational, cultural, economic, and general welfare of the residents of Lincoln through the preservation and protection of the distinctive architectural characteristics of buildings and places significant in the history of the Commonwealth and of the Town, through the maintenance and improvement of the settings for such buildings and places, and through the encouragement of the spirit of sensitive and innovative design compatible with the conceptual significance of the Town's historical development. ~~This By-Law does not seek to es-~~

tablish an architectural museum, but instead to inform the historical process of architectural growth and adaptation with a sense of educated pride in our heritage.

SECTION 1. HISTORIC DISTRICT

SECTION 1.1. An Historic District (the District) is hereby established in the Town of Lincoln, Massachusetts, in accordance with provisions of Chapter 40C of the General Laws of the Commonwealth. The District consists of areas, the locations and boundaries of which are as shown on a plan to be filed with the Lincoln Town Clerk and the Massachusetts Historical Commission and to be recorded with the Middlesex South Registry of Deeds. **The District is intended to preserve and protect** as a permanent legacy the significant historical areas and distinctive architectural characteristics of the Town of Lincoln in their settings.

SECTION 2. HISTORIC DISTRICT COMMISSION

SECTION 2.1. Membership. An Historic District Commission (the Commission) is hereby established as required by said Chapter 40C, consisting of seven members, all residents of Lincoln, appointed by the Selectmen. The Commission shall include one member from two nominees submitted by the Lincoln Historical Society, one member from two nominees submitted by the Massachusetts State Association of Architects, and one member from two nominees submitted by the board of realtors covering Lincoln, if any. 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 Selectmen may proceed to appoint the Commission without nomination by such organization. Further, at all times one member shall be a resident of or an owner of property in the District and two shall be members of the Lincoln Planning Board nominated by that body. Five members shall be drawn, if otherwise qualified, from the Lincoln Historical Commission. All members shall serve without compensation.

SECTION 2.1.1. Alternates. There shall also be two alternate members appointed by the Selectmen, one of whom at all times shall be a resident of the District.

SECTION 2.2. Terms. The terms of members on the Commission shall be so arranged that the term of at least one member shall expire each year and shall, if possible, coincide with their membership on the other Town body on which they serve. Successors shall be appointed in the same manner as the original appointments for terms of three years. Vacancies shall be filled in the same manner as the original appointment by the Selectmen for the remainder of the unexpired term. **Each member and each alternate shall continue in office after the expiration of his or her term until a qualified successor is duly appointed by the Selectmen and accepts the appointment.**

SECTION 2.3. Officers. ~~The Commission shall annually elect a chairman and a vice-chairman from within its number and a secretary from within or without its number.~~

SECTION 2.4. Replacements. In case of absence, inability to act, or self-interest on the part of a member of the Commission, that member's place shall be taken for the duration of that condition by an alternate member designated by the Chairman.

SECTION 3. DEFINITIONS.

In this By-Law, the following terms shall have the meanings described below:

SECTION 3.1. Altered: The word "altered" includes the words "rebuilt", "reconstructed", "restored", "removed", and "demolished".

SECTION 3.2. Building: The word "building" means a combination of materials forming a shelter for persons, animals or property.

~~SECTION 3.3.~~ Commission: The word "commission" means the Commission acting as the Historic District Commission.

SECTION 3.4. Constructed: The word "constructed" includes the words "built", "erected", "installed", "enlarged", and "moved".

SECTION 3.5. Exterior Architectural Feature: 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.

SECTION 3.6. Structure: The word "structure" means a combination of materials other than a building, **including** a sign, fence, wall, terrace, walk, or driveway.

SECTION 4. DUTIES, POWER, AND AUTHORITY OF HISTORIC DISTRICT COMMISSION.

SECTION 4.1. Duties. The Commission shall have the duty of implementing this By-Law by receiving and reviewing applications in connection with the alteration or construction of any building or structure within the Historic District and by acting on each such application as hereinafter provided in this By-Law. The Commission shall have the further duty of informing the Massachusetts Historical Commission of the likely impact on the District of any state or federally funded, licensed, or assisted project.

SECTION 4.2. Authority. Except as otherwise provided in Section 6, of this By-Law, no building or structure within the 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 the Historic District and no demolition permit for demolition or removal of a building or structure within the Historic District shall be issued by the Building Inspector of the Town of Lincoln until the certificate required by this section has been issued by the Commission.

SECTION 4.3. Augmentations. The Commission shall have such other duties, powers, and authority within the scope of Chapter 40C of the General Laws as may be delegated or assigned to it by vote of a Town Meeting.

SECTION 5. CRITERIA.

SECTION 5.1. Standards. In passing upon matters before it, the Commission shall consider, among other things, the historic and architectural value and significance of the site, building, or structure, the general design, arrangement, texture, and material of the features involved, and the relation of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures, the Commission shall consider the appropriateness of the size and

shape of the building or structure, both in relation to the land area upon which the building or structure is situated, and to buildings and structures in the vicinity, and the Commission may, in appropriate cases, impose dimensional and set-back requirements in addition to those required by applicable By-Law. In the event of any conflict between the provisions of this By-Law and the Zoning By-Law of the Town, which apply to the same property, the conflict shall be resolved by application by the appropriate body of the most restrictive provisions first.

SECTION 5.2. Limitations. The Commission shall not consider interior arrangements or architectural features not subject to public view. The Commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the Historic District.

SECTION 6. EXEMPTIONS AND EXCLUSIONS.

SECTION 6.1. Exemptions. Use, interior arrangements, and exterior architectural features not subject to public view are exempt from the jurisdiction of the Commission.

SECTION 6.2. Exclusions. The authority of the Commission shall not extend to review of the following categories of buildings or structures or exterior architectural features in the Historic District, and the buildings or structures or exterior architectural features so excluded may be constructed or altered within the Historic District without review by the Commission:

SECTION 6.2.1. Temporary structures of signs, subject, however, to such conditions as to duration of use, location, lighting, removal, and similar matters as the Commission may reasonably specify.

SECTION 6.2.2. Terraces, walks, driveways, sidewalks, roadside paths, and similar structures, provided that any such structure is substantially at grade level.

SECTION 6.2.3. Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae, and similar appurtenances.

SECTION 6.2.4. The color of paint.

SECTION 6.2.5. The color of materials used on roofs.

SECTION 6.2.6. 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 non-residential use of each building or structure which is not more than twelve square feet in area, consists of letters painted on wood without symbol or trademark, and, if illuminated, is illuminated only indirectly.

SECTION 6.3. Additional Exclusions. The Commission may determine from time to time after public hearing that additional categories of exterior architectural features and structures enumerated in Chapter 40C may be constructed or altered without review by the Commission without causing substantial derogation from the intent and purpose of this By-Law.

SECTION 6.4. Non-applicability to ordinary maintenance and related actions. Nothing in this By-Law shall be construed to prevent the ordinary maintenance, repair, or replacement of any exterior architectural feature within the Historic District which does not involve a change in design or 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 By-Law.

SECTION 6.5. Energy Conserving or Producing Devices. The Commission shall, after public hearing, set forth in such manner as it may determine, a variety of designs of certain appurtenances, such as solar energy equipment and wind-activated power-generating equipment, which will meet the requirements of the Historic District, but no such roster of designs shall limit the right of an applicant to present other designs to the Commission for its approval.

SECTION 6.6. Certificates of Non-applicability. Upon request, the Commission shall issue a certificate of non-applicability with respect to construction or alteration in any category then not subject to review by the Commission in accordance with the provisions of ~~this section.~~

SECTION 7. COMMISSION PROCEDURE.

SECTION 7.1. Meetings. Meetings of the Commission shall be held at the call of the chairman and shall be called at the request of two members of the Commission and in such other manner, including, in the absence of the chairman, at the call of the vice-chairman, as the Commission shall determine in its rules. Notice of meetings shall be posted at least forty-eight hours in advance.

SECTION 7.2. Quorums and Voting. The majority of the members of the Commission shall constitute a quorum, but the concurring vote of at least four members of the Commission shall be necessary to issue any certificate and to determine whether a public hearing is required as specified below.

SECTION 7.3. Initial Determinations. The Commission shall determine promptly, and in all events within fourteen days after the filing of an application for a certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship, as the case may be, whether the application involves any exterior architectural features which are subject to approval by the Commission. If the Commission determines that such application involves any such

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.

SECTION 7.4. Dispensing with Public Hearings. A public hearing on an application need not be held if (i) such hearing is waived in writing by all persons entitled to notice thereof, or (ii) if the Commission determines that the exterior architectural feature involved or its category, 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 hereinafter provided, and ten days shall elapse after the mailing of such notice before the Commission may act upon such application.

SECTION 7.5. Public Hearings. If the Commission decides to hold a public hearing on any application, it shall fix a reasonable time for such hearing 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, 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 within such further time as the applicant may allow in writing, the Commission shall make a determination of the application. If the Commission shall fail to make a determination within such period, the Commission shall thereupon issue a certificate of hardship.

SECTION 7.6. Certificate of Appropriateness. 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, materials, and similar features. Prior to the issuance of any disapproval, the Commission may notify the applicant of its proposed action accompanied by recommendations of changes in the applicant's proposal which, if made, would make the application acceptable to the Commission. If, within fourteen days of the receipt of such notice, the applicant files a written modification of his application in conformity with the recommended changes of the Commission, the Commission shall cause a certificate of appropriateness to be issued to the applicant.

SECTION 7.7. Certificate of Non-applicability. In the case of a determination by the Commission that an application for a certificate of appropriateness or for a certificate of non-applicability does not involve any exterior architectural feature, or involves an exterior architectural feature which is not then subject to review by the Commission in accordance with the provisions of Section 6, the Commission shall cause a certificate of non-applicability to be issued to the applicant.

SECTION 7.8. Certificate of Hardship. If the construction or alteration for which an application for a certificate of appropriateness has been filed shall 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 derogation from the intent and purpose of this By-Law. 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 7.5 above, the Commission shall cause a certificate of hardship to be issued to the applicant.

SECTION 7.9. Execution of Certificates. Each certificate issued by the Commission shall be dated and signed by its chairman, vice-chairman, secretary, or other person designated by the Commission to sign such certificates on its behalf.

SECTION 7.10. Rules, Regulations, and Permanent Records. 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 By-Law and Chapter 40C, and prescribe such forms as it shall deem desirable and necessary for the

regulation of its affairs and the conduct of its business. The Commission shall file a copy of any such rules and regulations with the Town Clerk.

SECTION 7.11. Final Dispositions. The Commission shall file with the Town Clerk and with the Building Inspector a copy or notice of all certificates and determinations of disapproval issued by it.

SECTION 8. REVIEW PROCEDURE.

SECTION 8.1. Authorized Review. Any applicant aggrieved by a determination of the Commission may, within twenty days after the filing of the notice of such determination with the 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 Metropolitan Area Planning Council, of which the Town of Lincoln is a member.

SECTION 8.2. Review Finding. The finding of the person or persons asking such review shall be filed with the 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 below.

SECTION 9. REMEDY BY SUPERIOR COURT.

SECTION 9.1. Appeal to Superior Court. Any applicant aggrieved by a determination of the Commission or by the finding of a person or persons making a review may, within twenty days after the filing of the notice of such determination or such finding with the Town Clerk, appeal to the Superior Court sitting in equity for Middlesex County. 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 in 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 the appellant acted in bad faith or with malice in making the appeal to the court.

SECTION 9.2. Jurisdiction of Superior Court. The Superior Court sitting in equity for Middlesex County shall have jurisdiction to enforce the provisions of this By-Law and the determinations, rulings and regulations issued pursuant thereto, and may, upon petition of the Board of Selectmen or of the Commission, restrain by injunction violations thereof; and without limitations, such court may order the removal of any building, structure, or exterior

architectural feature constructed in violation thereof, or the substantial restoration of any building, structure, or exterior architectural feature altered or demolished in violation thereof, and may issue such other orders for relief as may be equitable.

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

SECTION 10. REPORTS TO THE MASSACHUSETTS HISTORICAL COMMISSION

SECTION 10.1. This By-Law, amendments thereto, maps of areas in the Historic District created thereunder, and annual reports and other publications of the Commission, and rosters of membership therein, shall be filed with the Massachusetts Historical Commission.
