

Chapter 104

HISTORIC DISTRICT

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[HISTORY: Adopted 5-14-2001 Annual Town Meeting, Art. 39. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning - See Ch. 167.
Building construction - See Ch. 203.
Subdivision of land - See Ch. 235.

§ 104-1. Title; statutory authority.

This bylaw shall be known and may be cited as the "Halifax Historic District Bylaw" and is adopted pursuant to Chapter 40C, Massachusetts General Laws, as amended.

§ 104-2. Purpose.

The purpose of this bylaw is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the Town of Halifax and the Commonwealth of Massachusetts or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

§ 104-3. Historic District established boundaries.

- A. There is hereby established under Chapter 40C of the Massachusetts General Laws an historic district to be known as the "Halifax Local Historic District," one section of this area is to be known as the "Lyonville Historic District." The location and boundaries of the Halifax Local Historic District and the Lyonville Historic District are defined and shown on the Local Historic District Map of the Town of Halifax, which is a part of this bylaw. Said map shall be posted in a public area of Town Hall and filed with the Town Clerk and Plymouth Registry of Deeds.
- B. For the purposes of this bylaw and establishing a boundary, the District boundaries will be measured starting at a point in the center of the road layout 300 feet perpendicular from the center of the road (sections of Plymouth, South, Carver, Thompson and Old Plymouth Streets) or to the effected property line, not to exceed 300 feet.

§ 104-4. Historic District Commission established; membership.

- A. There is hereby established under Chapter 40C of the Massachusetts General Laws an Historic District Commission consisting of five members appointed by the Board of Selectmen, including when possible, one member representing the Halifax Historical Commission, one member who is a resident and/or property owner in the District, and three members all of whom will be either property owners in the District or a resident of the Town at-large.
- B. When the Commission is first established, two members shall be appointed for one year, two members shall be appointed for two years, and one member shall be appointed for three years. Successors shall each be appointed for terms of three years. Vacancies shall be filled within 60 days by the Board of Selectmen by appointment for the unexpired term. All members shall serve without compensation. The Commission shall elect annually a Chairman and Vice Chairman from its own number and shall appoint a Secretary from within or without its own number. Three members of the Commission shall constitute a quorum.

§ 104-5. Duties and powers of the Commission.

The Historic District Commission shall have all powers and duties of historic district commissions as provided by the Historic District Act, MGL c. 40C, and subsequent amendments thereto, unless specifically limited by this bylaw.

- A. Rules and regulations. The Commission may adopt rules and regulations not inconsistent with the provisions of the Historic District Act.
- B. Staffing and assistance. The Commission may, subject to appropriation, employ clerical and technical assistants or consultants and may incur other expenses appropriate to the carrying out of its work.

- C. General regulatory powers. The Commission shall have regulatory control over new construction, reconstructions, alterations, movements, and demolition of all exterior architectural features of buildings and structures within the Historic District which are visible from any public street, public way, or public park within the Historic District, except as limited by this bylaw. The Commission's ability to review will be triggered by an application for a building permit.
- D. Considerations. 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 and arrangement 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, shape, and material of the building or structure, both in relation to the land area upon which the building or structure is situated and to the buildings or structures in the vicinity.
- E. Exceptions. The Commission may determine from time to time, after public hearing, that certain categories of exterior architectural features, structures, or signs may be constructed or altered without review by the Commission. The Commission may, after public hearing, set forth the various designs of certain appurtenances such as lighting fixtures, which will meet the requirements of the Historic District, but no such determination shall limit the right of an applicant to present other designs to the Commission for its approval.

§104-6. Limits and exemptions.

The Historic District Commission shall not make any recommendations or requirements with regard to new construction, reconstruction, or additions, except for the purpose of preventing development incongruous with the historic aspects and/or architectural characteristics of the surroundings and of the historic district.

§ 104-7. Procedures.

- A. Applications for certificates shall be submitted to the Building Inspector's office for processing.
- B. Where the Commission's ability to review is triggered in conformance with § 104-5 of this bylaw, no building or structure shall be constructed or altered such as to affect the exterior architectural features unless the Commission shall first have issued a certificate of appropriateness, a certificate of nonapplicability, or a certificate of hardship with respect to such construction or alteration. Nor shall any building permit or permit for demolition be issued by the Town or any department thereof for any building or structure within the Historic District until the certificate required by this section has been issued by the Commission.

- C. Within 14 days of the filing of the application for any Certificate, the Commission shall determine whether the application involves any features which are subject to review and/or approval by the Commission.
- D. If the application requires the Commission's review or, at the request of the applicant, the Commission shall hold a public hearing, unless waived according to MGL c. 40C, as amended, public notice of the time, place, and purposes of the hearing shall be given at least 14 days in advance and the Commission shall notify by mail all affected parties as provided in MGL c. 40C, as amended.
- E. The Commission shall make a determination on the application within 30 days of its filing or within such further time as the applicant may allow in writing.
- F. Record of action by Commission.
 - (1) A certificate of appropriateness shall be issued to the applicant if the Commission determines that the proposed construction or alteration will be appropriate and compatible with the preservation and protection of the Historic District.
 - (2) In the case of disapproval of an application for a certificate for appropriateness, the Commission shall place upon its record the reasons for such determination and shall forthwith cause a notice of its determination, accompanied by a copy of the reasons therefore as set forth in the records of the Commission, to be issued to the applicant, and the Commission may make recommendations for changes in the applicant's proposal, which, if made, would make the application acceptable to the Commission. If, within 14 days of receipt of such notice, the applicant files a written modification of his application in conformity with the changes recommended by the Commission, the Commission shall issue a certificate of appropriateness to the applicant.
- G. Upon request, the Commission may issue a certificate of nonapplicability to any applicant whose proposed work does not require Commission approval.
- H. If an application is deemed inappropriate or if application is specifically made for a certificate of hardship, the Commission may issue a certificate of hardship if conditions especially affecting the building or structure involved, but not affecting the Historic District generally, would result in a substantial hardship, financial or otherwise, to the applicant and if approval would not result in a substantial detriment to the public welfare. A certificate of hardship shall also be issued in the event that the Commission does not make a determination on an application within the time specified in this bylaw.

- I. Each certificate shall be dated and signed and the Commission shall keep a permanent record of its determinations and of the vote of each member participating therein; and shall file a copy of notice of certificates and determinations or disapproval with the Town Clerk and Building Inspector.
- J. An applicant may, within 20 days of the decision by the Commission, appeal to a superior court sitting in equity. The Commission shall pay litigation costs only if the Commission is found to have acted in bad faith, with malice, or with gross negligence.

§ 104-8. Applicability.

The Town of Halifax shall be subject to the provisions of this bylaw notwithstanding any Town bylaw to the contrary.

§ 104-9. Amendment of provisions.

This bylaw may be amended from time to time by a 2/3 vote of the Town Meeting, subject to the procedures set forth in MGL c. 40C, § 3, as amended.

§ 104-10. Severability.

In case any section, paragraph, or part of this bylaw shall be declared invalid or unconstitutional by any court of last resort, every other section, paragraph, or part shall continue in full force and effect.

§ 104-11. When effective.

Following Town Meeting approval, this bylaw shall take effect immediately when the following conditions have been met: approval by the Attorney General of the Commonwealth, and filing of a map of the boundaries of the Historic District with the Halifax Town Clerk, the Halifax Building Inspector, and the Registry of Deeds for Plymouth County.