

ACTON HISTORIC DISTRICT COMMISSION:

RULES AND REGULATIONS

1. GENERAL RULES; JURISDICTION

The Acton Historic District Commission shall be governed by the Acton Local Historic District Bylaw, Chapter P of the Acton Town Bylaws, and by Chapter 40C of the General Laws of Massachusetts, as amended. The Town's jurisdiction in regard to the Local Historic District Bylaw shall be delineated on the official Local Historic District Map of the Town of Acton, on file in the town Engineering Department and at the Middlesex County Registry of Deeds.

2. MEETINGS OF THE COMMISSION

Regular Meetings of the Commission generally will be held on the **Second** and **Fourth** Tuesdays of each month at 7:00 p.m. in Town Hall. 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 four members is required for the Commission to conduct any business and to vote on applications for certificates.

Special Meetings of the Commission may be held at the call of the Chairperson or at the request of two members. 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 at least 48 hours prior to the scheduled time.

3. COMMISSION REVIEW OF CHANGES TO PROPERTIES IN HISTORIC DISTRICTS

3.1 Changes not requiring Commission approval

Only a few types of exterior changes to properties may be undertaken without applying for a certificate from the Commission:

- exterior painting
- flags and flagpoles
- planting or removal of trees, shrubs, and other plants, with the exception of any plantings required by the Commission for screening purposes
- movable garden furniture, objects and ornaments, such as bird and bathhouses, bird feeders, rocks in rock gardens
- temporary play equipment (not set in cement or attached to a building)
- temporary signs, etc., including political and real estate signs

For any proposed changes not on this list or set forth in the list of exclusions at Par. 9.1 of Chapter P. Acton Town Bylaws, an application for Certificate must be filed before work can begin. (See attached General Information about Exterior Work in a Local Historic District.) Before undertaking any work of which there is any doubt as to Commission jurisdiction, the owner or applicant should contact the Commission via email at hdc@acton-ma.gov or by contacting the Town Clerk and requesting that the Commission be contacted.

3.2 Procedures regarding changes which require Commission approval Most changes in the exterior appearance of a building or site located within a Local Historic District shall require Commission approval, in the form of a Certificate issued by the

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Commission before the work begins. In order to obtain a Certificate of Appropriateness, a property owner must submit an Application for Certificate. In some cases, after examining an application or request, the Commission will determine that the proposed work falls into a category which is excluded from its jurisdiction, and will issue a Certificate of Non-applicability. In general, a Certificate of Non applicability is required only for work that is both out of the Commission's jurisdiction and which requires additional approval(s) from other town boards and departments.

3.2.1 Preliminary procedures

The Commission shall determine within 14 days of the filing of a written application or the receipt of a request for a Certificate of Non-applicability whether the work proposed involves any architectural or site features which are within its jurisdiction.

3.2.2 Certificate of Non-applicability.

If the Commission determines that the proposed work does not involve any features which are subject to its review under the terms of the Local Historic District Bylaw, it shall issue a Certificate of Non-applicability. The Chairperson, Vice-Chairperson, and Secretary are hereby designated to determine individually, without a vote of or consultation with any other members, the Commission's jurisdiction in regard to any applications for Certificates or to any requests for Certificates of Non-applicability. If the designated member of the Commission who has undertaken to review a request or application for determination of the Commission's jurisdiction finds that the work proposed in such an application or request qualifies for a Certificate of Non-applicability under the Acton Local Historic District Bylaw, he or she may issue such a certificate without the approval of a majority of the Commission, and without the Chairperson's signature. At the next regular meeting of the Commission, the Chairperson or other designee will provide copies of any Certificates of Non-applicability issued since the last meeting. Notwithstanding a finding of jurisdiction by the designated member of the Commission who has undertaken to review a request or application for determination of the Commission's jurisdiction, the full Commission may issue a Certificate of Non-applicability.

3.2.3 Categorical approval

The Commission shall exclude from its review all categories listed in the Acton Local Historic District Bylaw, Section 9 (Exclusions). In addition to those exclusions, upon the receipt of an application and the issuance of a Certificate of Non-applicability, the following categories of work may be undertaken without review by the Commission:

- shingle-covered roof ridge vents in re-roofing projects, if low in profile and extended all the way to the gable ends;
- Drip edges, finished to blend with architectural trim; alternatively, a starter course of cedar shingles.

3.2.4 Filing an application

Anyone seeking a certificate from the Commission for changes to a Historic District property shall file an application for certificate with the Commission and the Town Clerk. The application shall be accompanied by such plans, elevations, specifications, material and other information as may be deemed necessary by the Commission. (See **Instructions and Information for filing an application for a Certificate for work in a Local Historic District**. [Available on HDC website].)

An application fee, payable to the Town of Acton and collected by the Town Clerk, is required for all complete applications except those for work which the Commission determines is not within

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its jurisdiction, and for those submitted by municipal or non-profit applicants. The fee covers the costs of processing the application, and does not guarantee that a Certificate will be issued.

The Commission may appoint one or more of its members to initially screen applications to informally determine whether any application includes and/or is submitted with sufficient information upon which the Commission may conduct its review. Within 14 days following the first filing of an application, the Commission or its appointee/s may determine that insufficient information has been provided, in which case the application may be once returned to the applicant, with written advice as to what was considered to be lacking. The applicant will then be required to re-file the application before any further Commission action is required. Any second filing of essentially the same application must be formally acted upon by the Commission.

3.2.5 The Certificate of Appropriateness: property owners entitled to notice; waiver of public hearing.

Property Owners entitled to Notice.

If the Commission determines that an application requires Commission review, the Commission will obtain from the Board of Assessors a list of the following property owners entitled, as the case may be, to notice:

(a) If the Commission determines that an application requires a public hearing under the provisions of Ch. P, the Acton Local Historic District Bylaw, the owners of property within 300 feet of the property that is the subject of the application ("owners within 300 feet") are entitled to notice of any public hearing regarding that application.

(b) If the Commission waives a public hearing at the request of the applicant, the owners of property within 300 feet of the property that is the subject of the application ("owners within 300-feet") are entitled to notice of that decision and of their right to a public hearing on the application.

(c) If the Commission waives a public hearing on an application on the grounds that the exterior feature involved, or its category, is so insubstantial in its effect on the District that it may be reviewed without a public hearing, owners of property within 100 feet of the property that is the subject of the application ("owners within 100-feet") are entitled to notice of this waiver ("Notice of Waiver of Public Hearing").

Waiver of Public Hearing.

The Commission may waive a public hearing on an application requiring Commission review in the following circumstances:

If the applicant requests to proceed without a public hearing, and the Commission determines that it is appropriate to do so, (a) the applicant shall waive in writing her/his right to a public hearing within 45 days and a decision within 60 days of the application's filing, and (b) within such time as the Commission may allow, the applicant shall obtain from each of the listed owners within 300 feet, the Planning Board, the Building Commissioner and anyone else deemed by the Commission to be materially affected by the application a written Waiver of Public Hearing in such form as the Commission may require, and shall return such written waivers to the Commission.

Alternatively, the Commission may determine that the exterior feature involved, or its category, is so insubstantial in its effect on the District that it may be reviewed without a public hearing. In such a case, the Commission shall then send a Notice of Waiver of Public Hearing to the listed owners within 100 feet, the Planning Board, the Building Commissioner, and anyone else deemed by the Commission to be materially affected by the application of its intent to dispense with a public hearing on the application. No Certificate shall be issued on the application for 10 days after the mailing of the Notice of Waiver of Public Hearing.

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Between Commission meetings, the Chairperson, Vice-Chairperson or Secretary may determine whether an application may be reviewed without a public hearing on the grounds that the exterior feature involved, or its category, is so insubstantial in its effect on the District that a hearing is not necessary. At the next regular meeting of the Commission, the officers shall report on all applications for which such determination was made. Notwithstanding a decision by a designated member of the Commission to hold a public hearing on an application, the full Commission may decide to review an application without a public hearing.

3.2.6 Applications requiring public hearing.

If the Commission determines that an application requires a public hearing under the provisions of Ch. P, the Acton Local Historic District Bylaw, it shall hold such a hearing within 45 days of the date of the filing of the application. As above, the Commission will obtain from the Board of Assessors a list of owners of property within 300 feet of the property that is the subject of the application ("owners within 300 feet"). At least 14 days before the hearing, the Commission shall give public notice of the time, place, and purpose of the hearing by posting a notice in Town Hall and in a newspaper of general circulation in Acton. The cost of the public hearing notice shall be charged to the applicant. Concurrently, the Commission shall mail a copy of the public notice to the applicant, to the owners within 300 feet, and to the owners of all other properties, if any, deemed by the Commission to be materially affected thereby. The Commission shall distribute copies of the public notice to the Acton Building and Engineering Departments, Planning Board, Board of Selectmen, Historical Commission, Town Clerk, and Town Manager, as well as to any person filing a written request for notice of hearings, such request to be renewed yearly in December.

3.2.7 Review and hearing procedures

The Commission will consider applications in the order of their receipt. An applicant may appear in person or by agent at the Commission meeting. Review of an 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.

3.2.7 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

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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.

3.2.8 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 recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or architectural characteristics of the surroundings and the District.

(See also Sections 8, 9, and 10 of the Local Historic District Bylaw, Criteria for Historic District Commission Decisions, Design Guidelines, Guidelines for Solar Installations and the Instructions and information for Filing an Application for a Certificate.)

3.2.9 Commission decisions.

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 and filed in a subsequent application, 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 Bylaw. Within 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. The Commission shall send a copy of its Certificate or disapproval to the applicant and to the Building Commissioner, and shall file a copy of all Certificates and disapprovals with the Town Clerk. If the Commission should fail to issue a Certificate or disapproval within 60 days of the filing of an application, 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.

3.2.10 Conditions applicable to Par. 9.1.1 of Ch. P, Acton Town Bylaws

The COMMISSION specifies the following conditions pertaining to the duration of existence, use, location, lighting and removal of TEMPORARY BUILDINGS OR STRUCTURES, as those terms are defined in Ch. P, Acton Town Bylaws.

1. No such TEMPORARY BUILDING OR STRUCTURE shall be located within any DISTRICT on Town-owned land, including but not limited to the Town Common, for more than a six-hour period during any twenty-four-hour period without prior permission from the Board of Selectmen or other custodian of the Town property pursuant to M.G.L. c. 40, s. 3 or s. 9, as applicable.
2. No "Portable on Demand" or other such storage-type unit shall be located on any property within any DISTRICT and visible from a public way for longer than sixty days during any twelve month period.
3. No TEMPORARY BUILDING OR STRUCTURE on any property within any DISTRICT may be externally lighted or illuminated in a manner visible from a public way between the hours of 10:00 p.m. and 6:00 a.m.

3.2.11 Regulations regarding violations in progress

If the Chairperson, Vice-Chairperson or Secretary of the Commission becomes aware of planned

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or incomplete construction or other work in violation of Ch. P Acton Town Bylaws, or these Rules and Regulations, then acting through one or more of these officers the Commission shall promptly notify the Building Commissioner or other appropriate Town official(s). If incomplete violative work requires Town permits, such as from the Building Department or the Health Department, the Commission expects work to be stopped by the appropriate Town officials(s). If the incomplete violating work does not require a Town permit, the Commission will issue a notice to the violator that it intends to apply the enforcement remedies set forth in Ch. P, Acton Town Bylaws and these Rules and Regulations. A violator may apply for a Certificate from the Commission after violating work has begun, but neither the Commission nor the Town are deprived of any rights or remedies thereby, and the Commission is not obligated to approve any work or design that is not historically appropriate or fails to comply with Ch. P, Acton Town Bylaws and these Rules and Regulations.

3.2.12 Conditions applicable to certain signs

The Commission has determined that neon and other electric SIGNS mounted behind windows of a BUILDING or STRUCTURE and non-electric SIGNS affixed to the back of such windows fall within the definition of "EXTERIOR ARCHITECTURAL FEATURE" as set forth in Paragraph 2 of Ch. P, Town of Acton Bylaws, to the extent such signs are open to view from a public way. No such SIGN shall be placed, created affixed or used from the effective date of this paragraph. 3.2.12.

3.2.13 Conditions applicable to satellite dishes

The Commission has determined that satellite dishes for receiving television, radio or other electronic transmissions or signals are incompatible with the historic appearance of the DISTRICT if such satellite dishes are visible from the public way and are thus disfavored in the DISTRICT. Satellite dishes that are visible from a public way will only be approved by the COMMISSION in extraordinary circumstances and where there is no other feasible alternative for receiving such signals.

Sec. 3.2.14 Conditions applicable to solar equipment

The Commission has determined that solar energy systems, including but not limited to solar panels, are generally incompatible with the historic appearance of an Historic District if visible from the governing public way and are thus disfavored in a District. However, mindful of its responsibility to "consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access," see MGL Ch. 40C, sec. 7; Acton Bylaw Ch. P 8.3, the Commission will consider approving the installation within Historic Districts of solar energy systems which the Commission finds are appropriate for the particular building and site in question. Because the policy is to encourage the use of solar energy systems, a finding that the installation of solar equipment is appropriate in an Historic District is valid only for so long as the panels are in use, and any Certificate of Appropriateness for the installation of solar equipment shall be conditioned upon its removal once the system is no longer operable or in use. Any failure to meet that condition shall constitute a violation of Acton Bylaw P subject to the enforcement and penalties there provided. Because solar energy systems are disfavored, once approved, solar equipment may be replaced only with equipment of like kind. Replacement equipment that is not exactly like prior-approved equipment will constitute a change in design requiring a new application for a Certificate of Appropriateness.

3.2.15 Measures pertaining to limited review jurisdiction regarding minimizing the visual impact of driveways or other STRUCTURES SUBSTANTIALLY AT GRADE LEVEL per Ch. P, par. 9.1.3, Acton Town Bylaws

No driveway, parking area, parking lot or other STRUCTURE SUBSTANTIALLY AT GRADE LEVEL intended as residential parking for more than four motor vehicles shall be constructed or

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expanded if visible from a public way unless its visual impact is minimized by vegetation or other measure consistent with the character of the DISTRICT to the satisfaction of the COMMISSION.

4. TERMS OF CERTIFICATES

After approving an application, the Commission shall issue a Certificate of Appropriateness for the work proposed in the application. A Certificate is valid for work commenced within a period of one year from the date on which it is stamped by the Town Clerk, and shall remain in effect until such work is completed. If by the end of one year the authorized work has not been commenced and prosecuted with due diligence, or if such work is suspended in significant part for a period of one year after the time the work is begun, the Certificate shall expire. However, the applicant may request an extension or renewal of the Certificate, and at its discretion the Commission may grant, in writing, an extension or renewal of the Certificate for a period not to exceed one year.

If a property changes ownership during the time the Certificate of Appropriateness is in force, a new owner who wishes to continue the authorized work must apply to the Commission for a transfer of the Certificate to his or her own name.

(See the Instructions and Information for Filing an Application for a Certificate.)

The Commission may specify as a condition to any Certificate it issues that the applicant or his/her successor notify the Commission of the completion of work so that the Commission may ensure compliance with the terms of the Certificate.

5. THE CERTIFICATE OF HARDSHIP

In the case of either a disapproval or in the event of an application for a Certificate of Hardship, the Commission shall determine whether, owing to conditions affecting the building or structure, but not affecting the District, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant. It shall also determine whether the application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of Ch. P., the Local Historic District Bylaw. If it finds that both these conditions are met, the Commission shall, on a concurring vote of four members, issue a Certificate of Hardship.

6. APPEAL AND AGGRIEVEMENT PROCEDURES

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.

7. ENFORCEMENT AND PENALTIES

The Commission shall determine whether a particular activity is in violation of the terms of the Acton Local Historic District Bylaw. Upon a written complaint of any Acton resident or property owner, or upon its own initiative, the Commission shall institute any appropriate action or proceedings in the name of the Town of Acton to prevent, correct, restrain, or abate violation of the Bylaw. If, in response to a written request to enforce the Bylaw the Commission declines to

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act, it shall so notify, in writing, the party requesting such enforcement within 21 days of receipt of such request. The penalty for violation of the Local Historic District Bylaw is a fine of not less than \$10 nor more than \$500 for each offense, the amount in each instance to be determined by the Commission based on its review of the particular offense and its surrounding circumstances. Each day during any portion of which such violation continues to exist constitutes a separate offense. If an owner, owner's agent, or lessee continues to violate the provisions of the Acton Local Historic District Bylaw, Chapter 40C of the Massachusetts General Laws, these Rules and Regulations, or the decisions of the Commission, the Commission shall have recourse to the enforcement provisions of Section 13 of Chapter 40C of the Massachusetts General Laws.

8. AMENDMENTS

The Rules and Regulations of the Historic District Commission may be amended after public hearing by an affirmative vote of not less than four members of the Commission, provided that such amendment shall first have been presented in writing at a meeting preceding that at which the vote is taken. The Commission shall file a copy of any such amendments with the office of the Town Clerk.