

SECTION 3. OVERLAY DISTRICTS

SECTION 3.1. HISTORIC DISTRICTS

A. Purpose

The purpose of the Historic District is to promote the education, 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 Wellesley and the Commonwealth, or their architecture, and through the maintenance and improvement of settings of such buildings and places and the encouragement of design compatible therewith.

This Bylaw is not intended to conflict with any other Section of this Zoning Bylaw or other Bylaws of the Town of Wellesley. The requirements established herein do not relieve any person from also satisfying any and all applicable Zoning Bylaws or other applicable rules, regulations and laws.

B. Authority

Historic Districts in the Town of Wellesley shall be created and maintained in every respect under and according to the provisions of General Laws of the Commonwealth, Chapter 40C and all amendments thereto, and this Section shall be in every respect controlled by and subject to the provisions of said Chapter 40C of the General Laws and all amendments thereto.

C. Definitions

For the purposes of this Section, the following terms shall be defined as follows:

Altered - includes the words "rebuilt", "reconstructed", "restored", "removed" and "demolished" and the phrase "changed in exterior color".

Building - means a combination of materials forming a shelter for persons, animals or property.

Commission - means the commission acting as the Historic District Commission.

Constructed - includes the words "built", "erected", "installed", "enlarged", and "moved".

Exterior Architectural Feature - means 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.

Structure - means a combination of materials other than a building, including a sign, fence, wall, terrace, walk, or driveway.

D. Applicability

1. The boundaries of the Historic District are shown on a map of the Historic District which is filed with the Town Clerk of the Town of Wellesley and recorded in the Registry of Deeds. The Historic District is indicated on the Zoning Map of the Town of Wellesley.
2. Historic Districts shall be considered as overlapping other zoning districts.

E. Certification

1. Except as this Section may otherwise provide under Section 3.1.G., no building or structure within an Historic District shall be constructed or altered in any way that effects 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.
2. 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.
3. 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 the Zoning Board of Appeals or by the Building Inspector until the certificate required by this Section has been issued by the Commission.
4. 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 record 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 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.

5. In 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 3.1.G., the Commission shall cause a certificate of non-applicability to be issued to the applicant.
6. 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 purpose of this Bylaw. If the Commission determines in either such instance 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 if the Commission fails to make a determination on an application within the time specified in Section 11 of Chapter 40C of the General Laws, the Commission shall cause a certificate of hardship to be issued to the applicant.
7. 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.
8. The Commission shall file with the Town Clerk and with the Building Inspector, Zoning Board of Appeals, and the Planning Board a copy of all certificates and determination of disapproval issued by it.
9. 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. 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, to the Building Inspector, to the Planning Board of the Town, and 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.*

*See also Section 6.4.

10. 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 of time the Commission shall thereupon issue a certificate of hardship.
11. 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 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 a 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.

F. Guidelines.

1. 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 other applicable Bylaws. The Commission shall not consider interior arrangements or architectural features not subject to public view.
2. 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.
3. The 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.

G. Exceptions.

1. The authority of the Commission shall not extend to the 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:

- a. Temporary structures or signs, subject however, to the other applicable sections of this Zoning Bylaw.
 - b. Terraces, walks, sidewalks and similar structures, or and one or more of them, provided that any such structure is substantially at grade level.
 - c. One antenna per building, storm doors and windows, screens, window air conditioners, lighting fixtures and similar appurtenances.
 - d. The color of paint, provided that the paint color does not cause substantial derogation from the intent and purpose of the Bylaw and is in keeping with accepted aesthetic standards.
 - e. The color or materials used on roofs.
 - f. 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.
 - g. 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 that the exterior design is substantially similar to the original and that such reconstruction is begun within one year thereafter and carried forward with due diligence.
2. The 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 1., may be constructed or altered without review by the Commission without causing substantial derogation from the intent and purpose of this Bylaw.
 3. 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 paragraphs 1. and 2.

H. Ordinary Maintenance, Repairs or Replacement.

Nothing in this Section 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 the 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 adoption of this Section.

I. Further Review and Rights of Appeal.

Any applicant aggrieved by a determination of the Historic District 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 person of competence and experience in such matters, designated by the Metropolitan Area Planning Council.

The finding of the person or persons making 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 in Section 12A of Chapter 40C of the General Laws.

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