



EDGARTOWN HISTORIC DISTRICT BYLAW

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EDGARTOWN HISTORIC DISTRICT BYLAW

SECTION 1 – PURPOSE

The purpose of this bylaw is to promote the educational, cultural, economic and general welfare of the inhabitants and property owners of the Town of Edgartown through the preservation and protection of the distinctive characteristics of buildings and places of historical significance to the Town or the architecture of such buildings and places, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

SECTION 2-BOUNDARIES

There is hereby established in the Town of Edgartown an historic district pursuant to the provisions of Massachusetts General Laws Chapter 40C, set for the as shown on a map filed with the Town Clerk entitled “Edgartown Historic District, 1987”.

SECTION 3 –MAKEUP OF COMMISSION

There is hereby established an historic district commission for the historic district, consisting of seven (7) members appointed by the Board of Selectmen. All members of the historic district commission shall be residents of the Town of Edgartown, and the historic district shall, at all times, have at least one member who is a resident of or owner of property in the historic district to be administered by the commission. Prior to making any appointment to the original membership of the historic district commission, the Board of Selectmen shall submit a written request for two nominees from each of the following organizations: The Dukes County Historic Society, or if it no longer exists, the then existing local historical society; the chapter of the American Institute of Architects covering the Town of Edgartown; and the Cape and Islands Board of Realtors, or if it no longer exists, the then existing Board of Realtors covering the Town of Edgartown. The Board of Selectmen shall appoint to the original membership of the historic district commission one of the two nominees selected by each of said organizations. Thereafter, it shall, to the extent possible appoint successors to the historic district commission in the same manner as was used for the original appointment of the position that the new appointee will fill. However, if within thirty (30) days after submission of its written request for nominees to any of said organizations no such nominees have been made, the Board of Selectmen may proceed to appoint the members of the historic district commission without nominations by any such organization. The Board of Selectmen shall appoint three alternate members to the historic district commission, each of which shall be residents of the Town, and need not be selected from nominees of an organization entitled to nominate members. In making appointments of members to the historic district commission, the Board of Selectmen shall attempt to insure that a registered architect, a realtor and a lawyer are members thereof at all times; and, in making appointment of members and alternate members, the Board of Selectmen shall appoint individuals, who by virtue of their training, occupation or experience, are particularly qualified to further the intent and purposes of this bylaw. Each member of the historic district commission shall be appointed for a term of three years, except that when the historic district commission is first established, two of its members shall be appointed for a term of one year, two of its members shall be appointed for a term two years, and three of its members shall be appointed for a term of three years. Similarly, each alternate member shall be appointed for a term of three years, except that of the first group of alternate members, one member shall be appointed for a term of one year, one member shall be appointed for a term of two years, and the third member shall be appointed for a term of three years. Vacancies shall be filled in the same manner as the original appointment for the unexpired terms. In the case of absence, inability to act or unwillingness to act because of self-interest on the part of a member of the historic district commission, his or her place shall be taken by an alternate member designated by the Chairman of the historic district commission. Each member and alternate member of the historic district commission shall continue in office after the expiration of his or her term until his or her successor is duly appointed and qualified. All members and alternate members shall serve without compensation. The historic district commission shall annually elect a Chairperson and Vice-Chairperson from its members, and a Secretary from within or without its membership.

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SECTION 4 – DEFINITIONS

For purposes of the bylaw, the words listed below shall have the following meanings: the word “altered” shall include the words “rebuilt”, “reconstructed”, “restored”, “removed” and “demolished and the phrase “changed in exterior color”; the word “building” shall mean a combination of materials forming a shelter for persons, animals or property; the word “commission” shall mean the commission acting as the historic district commission; the word “constructed” shall include the words “built”, “erected”, “installed”, “enlarged” and “moved”; the word “structure” shall mean a combination of materials other than a building, including a sign, fence, wall, terrace, walk or driveway and sidewalks provided such structures are substantially at grade; and the words “exterior architectural feature” shall mean such a portion of the exterior of the building or structure as is open to view from a public street, public way, public park or public body of water, without reference to fences, hedges or other artificial or natural screenings, which shall not be considered sufficient to obscure a building or structure from the public view; 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 or paint or other materials applied to exterior surfaces and the type and style of windows, lights, signs and other appurtenant exterior features.

SECTION 5 – CERTIFICATES OR APPROPRIATENESS, NON- APPLICABILITY OR HARDSHIP

Except as this bylaw may otherwise provide in accordance with Section 8 or Section 9, 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 for 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 or demolition or removal of a building or structure within the historic district shall be issued by the Town or any department or official thereof until the certificate required by this Section has been issued by the commission.

SECTION 6 – STANDARDS OF REVIEW

In passing upon matters before it, the commission shall strive to advance the purposes of this bylaw, and shall consider, among other things, the historical and architectural value and significance of the site, building or structure, the general design, arrangement, proportions, texture, material and color of the features involved, the relation of such features to similar features of buildings and structures in the surrounding area, and the position of such buildings or structures in relation to the public streets, public ways, public parks or public bodies or water 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 the buildings and structures in the vicinity.

SECTION 7 – STANDARDS OF REVIEW

The commission shall not, in passing upon matters before it, consider interior arrangements or architectural features not subject to public view. In determining whether a feature is subject to public view from a public street, public way, public park or public body of water, fences, hedges and other artificial or natural screenings shall not be considered sufficient to obscure the feature from the public view. Further, the commission shall not make any recommendation or requirement with respect to any matter before it except for the purpose of preventing developments incongruous with the historic aspects or the architectural characteristics of the surroundings and of

SECTION 7 - Continued

the historic district. While the commission shall encourage owners of buildings and structures in the historic district to use historically authentic materials wherever feasible for any construction or alteration, the use of any particular material shall not be prohibited based upon its composition alone. It is not the intent of this bylaw to require that buildings and structures in the historic district be maintained as historic artifacts. Rather, the commission is required to apply the standards set for the herein, particularly those contained in this Section and Section 6, in order to protect and preserve the general flavor, and the distinctive characteristics and architecture of the historic district.

SECTION 8 – EXCLUSIONS

- (a) The authority of the commission shall not extend to the review of any 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:
 - (1) Temporary structures or signs, subject, however, to such conditions as to duration of the use, location, lighting, removal and similar matters as the commission may reasonably specify.
 - (2) Storm doors and storm window, screens, and antenna (except satellite dishes).
 - (3) Signs of not more than one square foot in area in connection with the use of a residence for a customary home occupation or for professional purposes, provided that only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly.
 - (4) The reconstruction, substantially similar in exterior design and materials, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and is carried forward with due diligence.
- (b) The Commission may determine from time to time after public hearing that certain categories of exterior architectural features, colors, structures or signs, may be constructed or altered without review by the commission without causing substantial derogation from the intent and purpose of this bylaw and of the Historic Districts Act, Massachusetts General Laws Chapter 40C, as amended.
- (c) The commission may further determine from time to time after public hearing that the authority of the commission shall be limited only to those exterior architectural features within the historic district subject to view from one or more specifically designated public streets, public ways, public parks or public bodies of water, as opposed to all exterior architectural features within the historic district subject to view from a public street, public way, public park or public body of water without substantial derogation from the intent and purposes of this bylaw and of the Historic Districts Act, Massachusetts General Laws Chapter 40C, as amended.
- (d) 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 (a), (b) or (c) of this Section.

SECTION 9 – ORDINARY MAINTENANCE

Nothing in this bylaw 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, material, colors 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 bylaw.

SECTION 9A – MINIMUM MAINTENANCE OF BUILDINGS AND STRUCTURES (April 2013)

- A. Owners of all buildings and structures in the Edgartown Historic District shall provide sufficient minimum maintenance as defined herein in Subsection B below, to the minimum extent necessary to keep such buildings from falling into a state of poor repair as may be identified hereinafter by the Edgartown Historic District Commission rules and regulations, as all buildings and structures contribute to the historic authenticity of the Edgartown Historic District. This provision shall only apply to the exterior architectural features of all buildings and structures as defined in Section 4 of the Edgartown Historic District bylaw and also to the interior portions of buildings and structures which, if not adequately maintained, would cause the exterior architectural features to deteriorate or become damaged.
- B. In carrying out the responsibilities set for the above, owners shall therefore be responsible for taking at least the minimum steps necessary to prevent the deterioration of the following items, which would, if allowed to deteriorate, cause a detrimental effect upon the character of the Historic District as to such contributing buildings and structures as follows:
 - (1) Foundations, exterior walls or other vertical supports (exterior or interior);
 - (2) Roofs or other horizontal members (including joists, beams, etc.)
 - (3) Chimneys or chimney support systems.
- C. In cases where deterioration has already progressed to an advanced stage, and where immediate removal is requested by the owner, the standard for a Certificate of Appropriateness for demolition or removal of a building, as defined in Section 5 of the Edgartown Historic District bylaw, shall apply.
- D. In all cases for such contributing buildings and structures, nonstructural exterior architectural features shall be repaired. In situations where it is impractical to repair the feature, or prohibitively expensive to replace it, it shall be stored safely until such time as it is possible to recreate the feature from the original pieces at reasonable expense.
- E. The Edgartown Historic District Commission upon application and after hearing, may grant a waiver from the requirements of this section upon a showing of impossibility, or financial hardship, or the occurrence of events beyond the owner's control, or such other exigent circumstances as the Commission may determine.
- F. Any person violating this section shall be subject to a fine or penalty in the amount of \$300, with each day to be considered as a separate violation. The enforcing person for purposes of this bylaw shall be the administrator of the Edgartown Building Department or his/her designee.

SECTION 10 – COMMISSION POWERS, FUNCTIONS & DUTIES

The Commission shall have the following additional powers, functions and duties:

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 the compatible with the preservation or protection of the historic district, the commission shall cause a certificate of appropriateness to be issued to the applicant.

SECTION 10 -Continued

- (a) 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 therefore as set forth in its records, 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 proposal, which, if made, would make the application acceptable to the commission. If within fourteen (14) 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.
- (b) 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 8, the commission shall cause a certificate of non-applicability to be issued to the applicant.
- (c) 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 purposes of this bylaw and of the Historic Districts Act, Massachusetts General Laws Chapter 40C, as amended. If the commission determines that owing to such conditions failure to approve an application will involve substantial detriment or derogation, or, in the event of failure by the commission to make a determination on an application within the time specified in Section 12 hereof, the commission shall cause a certificate of hardship to be issued to the applicant.
- (d) 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.
- (e) The commission shall keep a permanent record of its resolutions, transactions and determinations and the vote of each member participating therein, and shall adopt and amend such rules and regulations not inconsistent with the provisions of this bylaw and the provisions of the Historic Districts Act, Massachusetts General Laws Chapter 40C, as amended, 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.
- (f) The commission shall file with the town Clerk, and with any department or official of the Town having authority to issue building permits, a copy or notice of all certificates and determinations or disapproval issued by it.
- (g) The commission may, after public hearing, set for the in such manner as it may determine the various designs of certain appurtenances which will meet the requirements of the historic district and a roster of

- (h) certain colors of paint and roofing materials which will meet the requirements of the historic district, but no such determination shall limit the right of an applicant to present other designs, colors or materials to the commission for its approval.
- (i) The commission may, subject to appropriation, employ personnel and incur other expenses appropriate to the carrying on of its work, and may accept money gifts and expend the same for such purposes.
- (j) The commission shall have, in addition to the powers, authority and duties granted to it by this bylaw, such other powers, authority and duties as may be delegated or assigned to it from time to time by vote of the Town Meeting.

SECTION 11 – COMMISSION MEETINGS & RULES

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 as the commission shall determine in its rules. A majority of the members of the commission shall constitute a quorum. The concurring vote of the majority of the members of the commission shall be necessary to issue a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship.

SECTION 12 – PROCEDURE IN DECISION MAKING

The commission shall determine promptly, and in all events within fourteen (14) 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 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 subject to approval and shall give public notice of the time, place and purposes thereof at least fourteen (14) days before said hearing in such manner as it may reasonably 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 a person filing a written request for notice of hearing, 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 (60) 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 on 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.

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 or its category or color, 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 the commission dispenses with a public hearing on the 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 provided above, and ten (10) days shall elapse after the mailing of such notice before the commission may act upon such application.

SECTION 13 – APPEAL PROCEDURE

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 an appeal in the superior court sitting in equity for the County of Dukes County pursuant to the provisions of Massachusetts General Laws Chapter 40C, Section 12A, as amended.

SECTION 14 – ENFORCEMENT

The superior court sitting in equity for the County of Dukes County shall have jurisdiction to enforce the provisions of this bylaw and the determinations, rulings, and regulations issued pursuant thereto and may, upon the petition of the Board of Selectmen or of the commission restrain by injunction violations thereof, and without limitation, such court may order the removal of any building, structure or exterior architectural feature constructed in violation thereof, and may issue such other orders for relief as may be equitable.

Whoever violates any of the provisions of this bylaw shall be punished by a fine of not less than ten dollars nor more than five hundred dollars. Each day during any portion of which a violation continues to exist shall constitute a separate offense.

SECTION 15 – AUTHORITY FOR ENLARGEMENT, REDUCTION OR ADDITION

An historic district may be enlarged or reduced or an additional historic district in the Town may be created in accordance with the provisions of Massachusetts General Laws Chapter 40C, Section 3.

SECTION 16 – AMMENDMENT PROCEDURE

This bylaw may, from time to time, be amended in any manner not inconsistent with the provisions of Massachusetts General Laws Chapter 40C, by two-thirds vote of a Town meeting, provided that the substance of such amendment has first been submitted to the historic district commission having jurisdiction over such district for its recommendation and its recommendation has been received or sixty (60) days have elapsed without such recommendation.

SECTION 17 – SEVERABILITY PROVISIONS

In the event that any revision of this bylaw shall be held to be invalid or unconstitutional by any court or competent jurisdiction the remaining provisions shall continue in full force and effect.