LOCAL HISTORIC DISTRICT RULES AND REGULATIONS


GENERAL REFERENCES

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ARTICLE I - Authority; Historical Information; Purpose

A. Authority
These rules and regulations governing the Local Historic Districts in the Town of Falmouth have been adopted pursuant to Section 7 of Chapter 654 of the Acts of 1975 and its amendments (hereinafter referred to as the Historic District Act or “Act”) and are published to assist property owners, contractors and architects in complying with the provisions of the Act. Reference should be made to the Act for applicable provisions not set out in these regulations.

B. Historical information
Regulation of local historic districts was initiated in Falmouth 1975 when the Town Meeting voted to petition the General Court to enact the Historic District Act. The Historic District Act was approved by the General Court in October 1975. The General Court’s recent petition to amend the Act was approved by Town Meeting in November 2013, approved by the General Court in May 2014 and was approved by the Governor on May 23, 2014.

C. Purpose
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The local historic districts were established to promote the general welfare of the inhabitants of the Town of Falmouth through the:

i. preservation and protection of historical buildings, places and districts of historical interest;
ii. development and preservation of appropriate settings for such buildings, places and districts;
iii. and through the benefits resulting to the economy of Falmouth by preserving and enhancing the amenities and historical aspects of the villages and areas of Town which make Falmouth a desirable place to live and for tourists to visit.

ARTICLE II - Definitions

A. Definitions

For the purpose of these regulations, the following terms shall have the meaning here-in-under assigned to them:

APPLICANT – The person who applies for a certificate of Appropriateness form the Historic District Commission. An “applicant” must be the owner of record of all the property subject to the Certificate of Appropriateness. An agent of his assigns may act for an owner provided that written evidence of such a fact is submitted.

AS-BUILT PLAN – A plan/profile with sections showing the actual location and elevations of all improvements installed on the site.

CERTIFICATE OF APPROPRIATENESS – A written decision issued by the Historic District Commission to document that a proposed sign, building alteration, new construction or demolition are considered by the HDC to contain appropriate exterior design and appearance that is reasonably consistent with the general character of other buildings and strictures in the vicinity within an historical district.

COMMISSION – The Historic District Commission of the Town of Falmouth.

EXTERIOR ARCHITECTURAL FEATURE – Such portion of the exterior of a building or structure as is open to view from a public street of way1, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color and texture of the 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 features.

LOCAL HISTORIC DISTRICT – areas established through the Falmouth Historic District Commission Act which are under the jurisdiction of the Historic District Commission.

PUBLIC STREET OR WAY – A road, highway, passage or path established, accepted and/or maintained under public authority or a privately maintained road, passage or path that is subject to a public access; not including bicycle paths.

SIGN – Any display of lettering, logos, colors, lights, flags, banners, pennants, ribbons, spinners (or similar devices) or illuminated neon tubes visible to the public from outside of a building or from a

1 The public view from the waterway is included in the instance of the Quissett Harbor District

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travelled way, which either conveys a message to the public or intends to advertise, direct invite, announce or draw attention to, directly or indirectly, a use conducted, goods, products, services or facilities available, either on the lot or on any other premises, This shall not include vending machine signage or temporary holiday displays or dingle signs under two (2) square feet.

STRUCTURE – Anything constructed or erected, the use of which requires fixed location on the ground or attachment to something located on the ground, including tennis courts, swimming pools, gas or storage tanks if principally aboveground, stonewalls, retaining walls, fences of any height, gates, memorials and paved driveways or other paved areas.

TEMPORARY SIGN – A sign intended to be used for a period of no more than thirty (30) days.

NATIONAL REGISTER DISTRICT – areas established by the National Park Service that are deemed important in American history, culture, architecture or archaeology and are administered by the Secretary of the Interior through the Massachusetts Historical Commission. {Note: in some instances National Register Districts are inclusive of the Local Historic Districts. Only those properties that are included in the Local Historic District are within the jurisdiction of the Historic District Commission. See maps available online at www.falmouthmass.us or in the Planning Office.

ARTICLE III – HDC Administration: Conduct of Meetings and Commission Membership

A. Conduct of Meetings
   1. There shall be at least one regular meeting each month. Additionally, the Commission shall meet as necessary, but in no case more than twenty (20) days after submission of an application for Certificate of Appropriateness or to demolish (§7).
   2. Notice of all meetings shall be duly posted with the Town Clerk in compliance with the Open Meeting Law (MGL Chapter 39 §23A). Additionally, notice of all public hearings shall be posted with the Town Clerk 7 days before the meeting.
   3. A quorum of at least three voting members (which may include alternate members) is necessary to hold a meeting.
   4. In the absence of one or more permanent members, alternate members shall be appointed by the Chairman, to vote at the meeting. Alternate members who are present and who are not appointed to vote in place of an absent permanent member shall be entitled to otherwise participate in all meetings and hearings.
   5. All meetings shall have minutes with records of vote that shall be filed with the Town Clerk.

ARTICLE IV – Application Requirements

A. Application Requirements
   1. Any person who submits an application for certificate of Appropriateness shall file with the Commission the items listed in the relevant subsection below. Any application which omits any of the required items may not be accepted at the discretion of the Commission. Applications shall be filed in the Planning Office of Town Hall during regular business hours.
   2. All applications requiring a public hearing shall submit the required filing fee.
3. All applications requiring a public hearing shall submit a certified list of abutters and 1 set of mailing labels from the Assessing Department. The list shall identify all property owners within 100’ of the subject property whose property is also within a local historic district.

a. **New Building Construction**
   i. A completed “Application for Certificate of Appropriateness”
   ii. A completed “Addendum 1 – Certificate of Appropriateness Specification Sheet”
   iii. A plot plan showing proposed building, dimensions and setbacks
   iv. Plans and elevations
   vi. Photographs of lot from the public way showing adjacent properties

b. **Existing Building Alterations, Additions, Renovations**
   i. A completed “Application for Certificate of Appropriateness”
   ii. A completed “Addendum 1 – Certificate of Appropriateness Specification Sheet”
   iii. Photographs of existing conditions of areas to be altered; photos from public way
   iv. Elevation plans, if changed

c. **Demolition** – As well as a completed “Application for Certificate of Appropriateness” and “Addendum 1-Certificate of Appropriateness Specification Sheet” and photographs, the Commission will take into consideration the significance of the structure and contribution to the district. The Commission may request additional information, as may be necessary and reasonable including a narrative description of the structure, including year built, architect, current conditions and existing materials.

d. **Signs** – In addition to the “Application for Certificate of Appropriateness” a Town of Falmouth Sign Permit Application must be filled out. Include photos of the building and sign location, size, materials, lighting and color.

e. **Stone walls, Fences, Hardscapes**
   i. A completed “Application for Certificate of Appropriateness”
   ii. A completed “Addendum 1 – Certificate of Appropriateness Specification Sheet”
   iii. Plot plan, drawings, elevations and photographs

**Article V—Criteria for Review**

A. **Criteria for Review by the Commission at a Public Hearing**
   1. The Commission shall consider the appropriateness of exterior architectural features of buildings and structures or signs. The Commission shall consider the general exterior design, arrangements and appearance of the proposed building, structure or enlargement, extension or external structural alteration thereof. The Commission shall issue a **Certificate of Appropriateness** if such features are of appropriate exterior design and appearance reasonably consistent with the general character of other buildings and structures in the vicinity within a historic district.
      a. The Commission shall not make any recommendation or requirements except for the purpose of preventing structural developments obviously incongruous to the area and to the purposes set forth in this act.
2. In their review, the Commission shall only consider those architectural features that are subject to public view from a public street or way.

3. In their review of applications, appropriateness will be considered under the “Falmouth Historic District Design Review Guidelines” (effective December 2014), enclosed herein as Appendix “D” and incorporated here and made part of these regulations.

4. In cases of demolition, the Commission shall consider the permissibility of the razing or demolishing of any building or structure within a historic district.

B. Criteria for Administrative Review

1. The Commission may authorize the chairman, or the vice-chairman (in the chair’s absence) to review and approve certain applications, as defined in paragraphs 2 and 3 below.
   a. The chairman must evaluate the proposal based on the existing conditions of the property and find that a determination of non-applicability is appropriate. Absent such a finding by the chairman, the applicant must appear before the Commission at a public hearing.

2. If the applicant represents that the proposed work is not visible from the public way, he or she may request that the chairman review the application administratively. Any administrative review would only apply to the work described at the time of application.
   a. The burden of proof is on the applicant to demonstrate that an architectural feature or building elevation is not visible from a public street or way. In reviewing visibility, the chairman shall consider plot plans and photographic documentation. The chairman will conduct site visits as necessary. The chairman will issue a determination of non-applicability for any proposed work that is not visible from the public way.
   b. All work approved administratively by the chairman shall be identified by the applicant’s name and property address on the next public meeting agenda of the Commission. Furthermore, a letter describing the scope of approved work shall be filed with the Town Clerk.

3. The Commission shall not consider, nor be required to issue Certificates of Appropriateness for details of design, interior arrangements, ordinary repairs to and maintenance of existing buildings or structures.
   a. If the applicant represents that the HDC is not required to issue a Certificate of Appropriateness based on paragraph B.3 above, he or she may request that the chairman review the application administratively. Any administrative review would only apply to the work described at the time of application.
      i. The burden of proof is on the applicant to demonstrate that the proposed work is either a: design detail, interior arrangement, ordinary repair, or maintenance.
      ii. The application for administrative review must contain photographic documentation of the existing condition of the building.
      iii. The scope of work must clearly define and specifically list all proposed items, including, but not limited to: materials, dimensions, colors, and manufacturer (if applicable).
iv. The chairman will issue a determination of non-applicability for any proposed work that is found to be warranted under paragraph B.3 above.

v. All work approved administratively by the chairman shall be identified by the applicant’s name and property address on the next public meeting agenda of the Commission. Furthermore, a letter describing the scope of approved work shall be filed with the Town Clerk.

Article VI – Issuance of Certificate Appropriateness

A. The Commission shall take final action on an application and notify the applicant in writing of their decision within sixty (60) days after the date of filing. This time period may be extended by mutual agreement between the Commission and the applicant. The number of days in the extension period shall be specified and documented in writing and filed with the Town Clerk. If the Commission fails to take final action on any application within the specified timeframe, the application shall be deemed to have been approved and a constructive approval for a Certificate of Appropriateness or permission to demolish shall be issued by the Town Clerk.

B. Certificates of Appropriateness are issued by the Historic Districts Commission following approval of an application which may include conditions and exhibits to be made a part thereof.

C. Each Certificate shall be signed by the Commission chairman or his/her designee. The list of authorized signatories shall be kept on file with the Town Clerk.

D. Each Certificate shall be filed with the Town clerk and a copy shall be sent to the applicant and Building Commissioner. A copy shall also be on file with the Commission.

E. A Certificate is valid for a period of two years from the date of issuance.

F. After a Certificate has been issued, any changes shall be considered as a modification and shall require a new application.

G. In the case that an application has been disapproved, the Commission shall record the reasons for the disapproval and shall send notice of these reasons to the applicant, Building Commissioner and Town Clerk. See §8(f) of the HDC Act.

H. A majority vote shall be required for approval of an application.

I. The Town Clerk shall keep a permanent record of all applications, Certificates of Appropriateness, disapprovals and constructive approvals granted.

Article VII – Issuance of Permits

The following apply to the issuance of permits within Historic Districts, per §§4-6 of Chapter 654 of the Acts of 1975.

A. No building permit for the construction of a building or structure or for the alteration of an exterior architectural feature which is subject to public view from a public street or way shall be issued by the Town or any department thereof until a Certificate of Appropriateness has been issued by the Commission (§4).
B. No permits for demolition, razing or removal of a building or structure within a Local Historic District shall be issued by the Town or any department thereof until Certificate of Appropriateness has been issued by the Commission (§4).

C. The erection or display of an occupational or other sign exceeding two square feet in area or the erection or display of more than one such sign, irrespective of size, on any lot, building or structure located within a historic district must be approved in advance by the Commission. Evidence of such approval shall be a Certificate of Appropriateness issued by the Commission.

ARTICLE VIII – Compliance with Certificates of Appropriateness
As per §9 as amended by Chapter 41 of the Acts of 2009

A. Before issuing a Certificate of Appropriateness, the Commission may require that construction or other authorized site activities be secured by one of the following methods which method may be selected and from time to time varied by the applicant upon receiving written approval from the Commission.

1. By a proper bond or deposit of money sufficient in the opinion of the Commission to secure performance of the conditions of its decision as noted in the Certificate of Appropriateness or accompanying plans.

2. By a covenant executed and duly recorded by the owner of record, running with the land, whereby the conditions of its decision as noted in the Certificate of Appropriateness or accompanying plans shall be accomplished prior to the issuance of occupancy permits or any conveyance, sale, rental or similar disposition of property.

B. Release of bond or covenant

1. Guarantees may be released in whole or, from time to time, in part when the required work has been satisfactorily completed in accordance with the rules and regulations of the Commission.

2. Requests for all releases shall be by letter to the Commission and shall be accompanied by an “as built” plan along with the engineer or architect’s certification that the work has been done in accordance with these rules and regulations.

3. The Commission shall then release the interest of the Town in such bond and return the bond or deposit to the person who furnished the same or release the covenant by the appropriate instrument, duly acknowledged, which shall be recorded.

ARTICLE IX – Enforcement
As per §9 as amended by Chapter 41 of the Acts of 2009

A. The Building Commissioner is authorized to enforce the provisions of the Historic District Act, subject to a vote of the Commission that determines that construction, alteration, demolition or moving of any building or structure would be in violation of the Historic District rules and regulations. The Building Commissioner is authorized to withhold any permit for construction, alteration, demolition or the moving, use or occupancy of any building or structure until the Commission has issued a determination.
that compliance with Certificate of Appropriateness has been accomplished or that the Commission has received either a proper bond or covenant, described in Article 8, items A 1 and 2 above.

B. Furthermore, the superior court has jurisdiction to enforce the provisions of the Historic District Act and may restrain violations by injunction. Any person violating any of the provisions of the Historic District Act shall be guilty of a misdemeanor and upon conviction, fined no more than $500 for each offense. Each day that such violation continues shall constitute a separate offense.

ARTICLE X – Appeals
As per §10 of Chapter 654 if the Acts of 1975, as amended

A. Any appeal of a decision of the Commission or any appeal of a constructive approval must be made pursuant to the Historic District Commission Act and must be filed with superior court within twenty (20) days of the filing of the decision with the Town Clerk.

B. No application which has been denied by the commission shall be approved within one year, unless the commission finds by a 4/5 vote, specific and material changes in the conditions upon which the previous denial was based.

ARTICLE XI – Severability
A. The provisions of these rules and regulations are separable from each other and the invalidity of any provision or section shall not invalidate any other provision or section thereof.