

§53: Central Street Historic District.

1. Title. This Bylaw shall be known as and may be cited as the Central Street Historic District Bylaw, pursuant to authority granted by Chapter 40C of the Massachusetts General Laws.
2. Purpose. The purpose of this Bylaw is to promote the educational, cultural, physical, economic, and general welfare of Andover by preserving and protecting the architectural and historical assets of Andover, including buildings and sites of historical and architectural significance. It encourages design and construction that harmonizes with these assets. This Bylaw intends for the Central Street Historic District Commission, through its design guidelines and other lawful actions, to fulfill its duties pragmatically in a manner that reasonably balances historic preservation with striving to collaboratively accommodate the particular desires, burdens, and circumstances of those who submit applications under this Bylaw.
3. Establishment of District.

A. Central Street Historic District

The boundaries of the Central Street Historic District are established and located as shown on the plan of land entitled “Boundaries of the Central Street Historic District,” dated November 1, 2024. Said plan of land is on file with the Office of the Town Clerk, and shall be recorded with the North Essex Registry of Deeds.

B. Plan of Land

The plan of land referred to in paragraph A, above, is hereby declared to be part of this Bylaw.

4. Historic District Commission

A. Establishment and Membership

There is hereby established the Central Street Historic District Commission, hereinafter referred to as the Commission, which shall consist of seven (7) members and two (2) alternate members to be appointed by the Town Manager and approved by the Select Board.

The membership of the Commission shall, whenever possible, include the following:

One member selected from two (2) nominees submitted by the Andover Center for History and Culture.

One member selected from two (2) nominees submitted by the Chapter of the American Institute of Architects covering Andover.

One member selected from two (2) nominees submitted by the Board of Realtors covering Andover.

One member selected from two (2) nominees submitted by the Andover Planning Board.

One member, wherever possible, who is both a resident and owner of property in the Central Street Historic District during that person's term of office.

If, however, within thirty (30) days after the submission of a written request for nominees to any of the aforesaid groups, no such nominations have been made, then the Town Manager and Select Board may proceed to make the appointment or appointments to the Commission without nominations by such group or groups. Alternate members need not be selected from nominees submitted by any particular group or organization. All members of the Commission and all alternate members shall be residents of the Town of Andover during their term of office.

B. Terms

When the Commission is first established, two (2) members shall be appointed for one-year terms; two (2) members shall be appointed for two-year terms; and the remaining three (3) members shall be appointed for three-year terms; each of two (2) alternate members shall be appointed for three-year terms. At the expiration of the respective terms, the Town Manager shall appoint successors for three-year terms in the manner described in paragraph A., above. Vacancies shall be filled within 60 days by the Town Manager by appointment with approval by the Select Board for the unexpired term. Each member and alternate shall continue in office after the expiration of his term until their successor is duly appointed and qualified.

C. Officers

The Commission shall elect annually a Chair, Vice Chair, and Clerk from its own number.

D. Alternate Members

In case of the absence, inability to act or unwillingness to act because of self-interest on the part of a member of the Commission, the member's place shall be taken by an alternate member designated by the Chair.

E. Quorum and Voting

Meetings of the Commission shall be held only if attended by a quorum of at least five members, including alternate members designated to act as members. If the Chair is absent from a meeting, the Vice Chair shall act as Chair. Decisions of the Commission at a meeting require a majority vote of the members, including designated alternates, who are present at the meeting.

F. Compensation

All members and all alternates shall serve without compensation.

5. Powers and Duties of the Historic Commission

The Commission shall have all the powers and duties conferred and imposed on Historic District Commissions by the General Laws of the Commonwealth of Massachusetts, including the following:

- A. The Commission shall have jurisdiction over the review of new construction, reconstruction, alterations, relocation and demolition of all exterior architectural features of buildings and structures visible from a public way within the Central Street Historic District, except as limited by this Bylaw.

No building or demolition permit for activities falling within the jurisdiction of the Commission shall be issued by the Town or any department thereof until the certificate required by this Section has been issued by the Commission.

- B. In passing upon matters before it, the Commission shall consider, among other things, the historical and architectural value and significance of the site, building or structure, the general design 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 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 setback requirements in addition to those required by any applicable Town bylaw.
- C. The Commission, at all times, shall act with a clear understanding of the needs and hardships of the property owners, businesses and residents of the Central Street Historic District to enjoy the amenities of modern life in the use of their homes and properties.
- D. The Commission may, subject to appropriation, employ clerical and technical assistants or consultants and incur other expenses appropriate to the carrying on of its work and may accept money gifts and expend the same for such purposes when reviewed by Town Counsel and approved by the Select Board.
- E. The Commission may administer on behalf of the Town any properties or easements, restrictions or other interests in real property which the Town may have or may accept as gifts or otherwise and which the Town may designate the Commission as the administrator thereof.
- F. The Commission may advise the Select Board, the Planning Board, the Zoning Board of Appeals, the Massachusetts Historical Commission and any other public agency in matters pertaining to or affecting any historic structures or sites in any of the Central Street Historic District.

As used in this Section, the words "building", "structure", "constructed", "altered", and "exterior

architectural features", shall have the meanings set forth in Section 5 (Definitions) of Chapter 40C of the Massachusetts General Laws.

6. Limitations and Exemptions

- A. The Commission shall not act to prevent or unnecessarily delay new construction, reconstruction or alterations except for the purpose of preventing developments incongruous to historical considerations and architectural features of value, viewed in relation to the surrounding area.
- B. The authority of the Commission shall not extend to the review of the following:
 - 1. Temporary structures or signs, to be in use for not more than ninety (90) days, if not in conflict with such regulations as may be adopted by the Commission. However, temporary signs shall further comply with the requirements of Article VIII, Section 5.0, Subsection 5.2, Paragraph 5.2.6, of the Town of Andover Zoning Bylaw, as amended from time to time. Temporary structures shall further comply with the Commonwealth of Massachusetts State Building Code 780 CMR.
 - 2. Terraces, walks, driveways, sidewalks and similar structures, or any one or more of them, provided that any such structure is substantially at grade level. However, parking lots or parking areas require Commission review and must be in compliance with the provisions of Article VIII, Section 5.0, Subsection 5.1, of the Town of Andover Zoning Bylaw.
 - 3. Landscaping with plants, trees or shrubs.
 - 4. Storm doors, storm windows, screens, window air-conditioners, lighting fixtures, conventional antennae, roof-mounted solar panels, and similar appurtenances.
 - 5. The re-construction, substantially similar in exterior design, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such re-construction is begun within one (1) year thereafter and carried forward with due diligence. Reconstruction must also meet all applicable requirements of the Town of Andover Zoning Bylaw and the Commonwealth of Massachusetts State Building Code, 780 CMR.
 - 6. Color and type of paint.
 - 7. Color of roofing materials and siding.
 - 8. Fences.
 - 9. Signs used for residential occupation or professional purposes, of not more than two square feet in area, provided that a) no more than one sign is displayed on or near any one building or structure; b) the sign consists of lettering painted on wood without a

symbol or trademark; and c) all signs must comply with all applicable requirements of Article VIII, Section 5.0, Subsection 5.2, of the Town of Andover Zoning Bylaw. In addition, signs for commercial and institutional purposes require Commission review.

10. Ordinary maintenance, repair or replacement, as defined by the Commonwealth of Massachusetts State Building Code 780 CMR, of any exterior architectural feature if such repair, maintenance or replacement does not involve a substantial change in design or materials.

11. Any other work specifically exempt from the requirements of a building permit as provided in the Commonwealth of Massachusetts State Building Code, 780 CMR, except that the Commission shall review masonry walls and one-story detached accessory structures used as tool and storage sheds, playhouses, and similar uses visible from a public way.

C. 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 without causing substantial derogation from the intent and purposes of the General Laws, Chapter 40C.

D. The Commission may determine from time to time after public hearing that the authority of the Commission be limited to exterior architectural features within the Central Street Historic District which are subject to view from one or more designated public streets, public ways, public parks, although other portions of buildings or structures within the district may be otherwise subject to public view, without substantial derogation from the intent and purposes of the General Laws, Chapter 40C.

7. Procedures

A. In accordance with Section V, and except as this Bylaw provides in Section VI, no building or structure within the Central Street 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.

B. Applications for certificates shall be made with the Inspector of Buildings. Copies of applications shall be forwarded to the Commission. Applications shall be in a form specified by the Commission that adequately describes the proposed work. This may include plans and elevations, drawn to scale, detailed enough to show the architectural design of the structure and its relation to the existing building. Plot and site plans should be filed when an application is made for improvements involving applicable landscape features such as walls and fences. In the case of demolition or removal, the Inspector of Buildings shall forward one copy of the demolition permit application to the Commission.

- C. Within 14 days of the filing of an application for any certificate, the Commission shall be required to determine whether the application involves any exterior architectural features which are within the jurisdiction of this Bylaw.
- D. If the application requires the Commission's review or at the request of the applicant, the Commission shall hold a public hearing (though a hearing may be waived according to the provisions of Chapter 40C of the General Laws, as amended). The Commission shall fix a reasonable time for the hearing on any application. The Inspector of Buildings shall give public notice of the time, place and purposes thereof at least 14 days before said hearing in such manner as may be determined. A copy of said notice shall be mailed, postage prepaid, 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 Town Planning Board and to such other persons as the Commission shall deem entitled to notice.
- E. The Commission shall decide upon the determination of any application within 60 days of its filing or within such further time as the applicant may choose to allow in writing.
- F. A certificate of appropriateness shall be issued to the applicant if the Commission determines that the proposed construction or alteration will be appropriate for or compatible with the preservation or protection of the Central Street Historic District. In the case of a disapproval of an application for a certificate of appropriateness, the Commission shall place upon its records the reason for such a determination and shall forthwith cause a notice of its determinations, 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 the appropriateness of the design. 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 14 days of the receipt of such notice, the applicant files a written modification of the application in conformity with the recommended changes of the Commission, as confirmed by the Chair of the Commission in his or her judgment, the Commission shall issue a certificate of appropriateness to the applicant.
- G. Only upon request will the Commission issue a certificate of non-applicability to any applicant whose application does not require Commission approval.
- H. If an application is deemed inappropriate or if an application is made for a certificate of hardship, the Commission may issue a certificate of hardship if conditions particularly affecting the building or structure involved, but not affecting the Central Street Historic District generally, would make failure to approve an application involve a substantial hardship, financial or otherwise, to the applicant; and if approval would not involve 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 of an application within the time specified in Subsection VII.E of this Bylaw.

- I. Each certificate shall be dated and signed, and the Commission shall keep a permanent record of its determination and of the vote of each member participating therein and shall file a copy of notice of certificates and determinations of disapproval with the Town Clerk and the Inspector of Buildings.
- J. Any person aggrieved by a determination of the Commission may, within 20 days after filing of the notice of determination with the Town Clerk, file a written request with the Commission for a review by a person or persons of competence and experience in such matters, designated by the Merrimack Valley Planning Commission.

The finding of the person or persons making such review shall be filed in triplicate with the Town Clerk, the Inspector of Buildings and the Commission within 45 days after the request and shall be binding on the applicant and the Commission, unless a further appeal is sought as provided in Subsection VII.K of this Bylaw.

- K. Any person aggrieved by a determination of the Commission or by a finding by the person or persons making a review may, within 20 days after filing of the notice of such determination or such finding with the Town Clerk, appeal to the Superior Court sitting in equity for Essex County. The Court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds the decision of the Commission to be unsupported by the evidence or to exceed the authority of the Commission or may remand the case for further action by the Commission or make such other decree as justice and equity may require. The remedy provided by this section shall be exclusive, but the parties shall have all rights of appeal and exception as in other equity cases.

Costs shall not be allowed against the Commission unless it shall appear to the Court that the Commission acted with gross negligence, in bad faith or with malice in the matter from which the appeal was taken. Costs shall not be allowed against the party appealing from such a determination of the Commission unless it shall appear to the Court that such party acted in bad faith or with malice in making the appeal to the Court.

- L. The Superior Court sitting in equity for Essex County shall have jurisdiction to enforce the provisions of this Bylaw and the determinations, rulings and regulations pursuant thereto and may, upon the petition of the Commission or the Select Board, restrain by injunction violations thereof; and, without limitation, such Court may order the removal of any building, structure or exterior architectural feature constructed, altered or demolished in violation thereof and may issue such other orders for relief as may be equitable.
- M. Whoever violates any of the provisions of this Bylaw shall be punished by a fine of not more than \$100 for each offense. Each day during any portion of which a violation continues to exist shall constitute a separate offense.

8. Other Provisions

- A. The Town of Andover shall be subject to the provisions of this Bylaw, notwithstanding any Town bylaw to the contrary.

- B. Except to the extent specifically provided in this Bylaw, the definition of terms and the powers and rules of conduct of the Commission shall be as set forth in Chapter 40C of the General Laws.
- C. This Bylaw may be amended from time to time by a two-thirds vote of the Town Meeting, subject to the procedures as set forth in Chapter 40C, Section 3, of the General Laws.
- D. The Select Board may set reasonable fees for the administration of this Bylaw based on the recommendations of the Commission.
- E. Following Town Meeting approval, this Bylaw takes effect immediately when the following conditions have been met: approval by the Attorney General of the Commonwealth of Massachusetts; filing of a map of the boundaries of the Historic District with the Andover Town Clerk, the Andover Inspector of Buildings and the Essex North Registry of Deeds.
- F. In case any section, paragraph or part of this Bylaw be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.