

Olde Town Centre Historic District Commission Charge

SECTION 1. This by-law shall be known and may be cited as the Eastham Historic District By-Law and is adopted pursuant to Chapter 40C of the General Laws of the Commonwealth of Massachusetts Amended.

SECTION 2. Purpose: The purpose of this by-law is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of building and places significant in the history of the Town of Eastham or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

SECTION 3. Historic District: There is hereby established under the provision of Chapter 40C of the General Laws and historic districts be known as the “Olde Town Centre Historic District” which district shall be bounded as shown on map entitled “Olde Town Centre Historic District”, 1986, attached and made part of this by-law.

SECTION 4. Historic District Commission Membership: There is hereby established under Chapter 40C of the General Laws an Historic District Commission consisting of five unpaid regular members and two unpaid alternate members appointed by the Board of Selectmen within the Town of Eastham where at least one regular member, when possible, shall be a nominee of the local historical society: at least one regular member, where possible, shall be a nominee of the Chapter of the American Institute of Architects; a third regular member, when possible, shall be a nominee of the Board of Realtors covering the . If the above groups do not submit nominees, commission members may then be chosen from the categories listed below. When the Commission is first established, one regular and one alternate member shall be appointed for two years, and two regular members shall be appointed for three years. Successors shall each be appointed for a term of three years. Vacancies shall be filled within sixty days by the Board of Selectmen by appointment for the unexpired term. In the case of absence, inability to act, or unwillingness to act because of self-interest by a member, the Chairman shall designate an alternate member of the Commission to act for a specified time. The Commission shall elect annually a Chairman and Vice-Chairman from its own number and a Secretary from within or without its number.

*Additional membership suggestions: Lawyer, professional historian, residents of district, member of Planning Board, member of Conservation Commission, individuals interested in historic preservation.

SECTION 5. Duties and Powers of the Commission: The Historic District Commission shall have all the powers and duties of Historic District Commission as provided by the Historic Districts Act, General Laws, Chapter 40C, and of subsequent amendments thereto unless specifically limited by this by-law.

A. Rules and Regulations: The Commission may adopt rules and regulations not inconsistent with the provisions of the Historic District Act.

A. 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.

B. General Regulatory Powers: The Commission shall have control over new construction, reconstruction, alterations, movements and demolitions of all exterior architectural features of buildings and structures within the Historic District which are visible from any public street, public way or public park within the Historic District, except as limited by this by-law. The term “structure” includes stone walls, fences and appurtenant fixtures on lots, buildings or structures. For purposes of this by-law, and structure partially within the Historic District shall be considered wholly within the district.

C. Considerations: 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 of the features involved, and the relation of such features to similar features of building 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 applicable zoning by-laws.

D. The Commission may determine from time to time after public hearing that certain categories of exterior architectural features, or structures may be constructed or altered without review by the Commission.

SECTION 6. Limitations and Exemptions

A. The Historic District Commission shall not make any recommendation or requirement with regard to new construction, reconstructions or additions except for the purpose of preventing developments incongruous to the historic aspects of architectural characteristics of the surroundings and of the historic district.

B. The following are exempt from the control of an Historic District Commission:

1. Ordinary maintenance and repair of any exterior architectural feature if such repair and maintenance does not involve a fundamental change in design and materials.
2. Any constructions, demolitions or alterations under a permit issued by a building inspector or similar agent prior to the effective date of the establishment of the district.
3. Any constructions, demolitions or alterations under orders issued by a building inspector or similar agent of the purpose of public safety.
4. Landscaping with plants, tress, hedges or shrubs.
5. Terraces, walks, sidewalks and other similar structures, including driveways or parking lots provided that the structure is at grade level.
6. Storm doors and windows, screen doors and windows, air conditioners and conventional roof-top TV antennae. (Not exempt from Commission review would be TV satellite dishes and short-wave radio antennae).
7. 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 such reconstruction is begin within one year thereafter and carried forward with due diligence.
8. A. Signs used for residential occupation or professional purposes which are not more than one foot square in area are excluded from review, provided that:

- a) Only one sign is displayed for each building or structure.
- b) The sign consists of letters painted on wood without a symbol or trademark.
- c) If illuminated, is illuminated only indirectly.
- d) All signs should conform to the present Eastham Town Sign Code except as herein noted.

C. Signs used in connection with non-residential purposes which are not more than twelve square feet in area are excluded from review, provided that:

1. Only one sign is displayed for each building or structure.
2. The sign consists of letters painted on wood without a symbol or trademark;
3. If illuminated, is illuminated only indirectly.
4. All signs should conform to present Eastham Town Sign Code except as herein noted.

4.a) Temporary signs and structures up to thirty days.

SECTION 7. Procedures

A. Except as this by-law provides in Section 5, 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. Nor shall any building permit for demolition be issued for any building or structure within the historic district until the certificate required by this section has been issued by the Commission.

B. Applications for certificates shall be made in triplicate with the Historic District Commission. Applications shall be in the form specified by the commission, to include plans and elevations drawn to scale, detailed enough to show architectural design of the structure and its relation to the existing building, and other materials deemed necessary by the Commission Plot and site plans should be filed when application for certificates are made for improvements affecting appearances, such as walls and fences. In the case of demolition or removal, the application must include a statement of the proposed condition and appearance of the property thereafter.

C. Within fourteen (14) days of the filing of an application for any certificate, the Commission shall determine whether the application involves any features which are subject to approval by the Commission.

D. If the application requires the Commission's review or at the request of the application the Commission shall hold a public hearing, unless waived according to the provision of Chapter 40C of the General Laws, as amended. Public notice of the time, place and purposes of the hearing shall be given at least fourteen (14) days in advance and the Commission must notify by mail affected parties as provided in Chapter 40C of the General Laws, as amended.

E. The Commission shall decide upon the determination of any application within sixty (60) days of its filing or within such further time as the applicant may request 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 historic district. In the case of a disapproval or 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 the records of the Commission to be issued to the application, and the Commission may make recommendations to the applicant with respect to appropriateness of 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 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 issue a Certificate of Appropriateness to the applicant.

G. Upon request, the Commission may issue a Certificate of Non-Applicability to any applicant whose request does not require Commission approval.

H. If an application is deemed inappropriate or if application is made for a Certificate of Hardship, the Commission may issue a Certificate of Hardship if conditions especially affecting the building or structure involved, but no affecting the historic district generally, would make failure to approve an application involve a substantial hardship, financial or otherwise, to the applicant, and 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 on an application within the time specified in Section 7E of this by-law.

I. Each certificate shall be dated and signed, and the Commission shall keep a permanent record of its determinations and of the vote of each member participating therein, and shall file a copy or notice of certificates and determinations of disapproval with the Town Clerk and the Building Inspector.

J. An applicant may, within twenty (20) days of the filing of the decision of the Commission with the Town Clerk, appeal to a superior court. The Commission must pay costs only if it appears to the court that the Commission has acted with gross negligence, bad faith or malice.

K. Violation of any of the provision of this by-law shall incur a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00), each day constituting a separate offense.

SECTION 8. The Town of Eastham shall be subject to the provisions of this by-law notwithstanding any Town By-Law to the contrary.

SECTION 9. This by-law may be amended from time to time by a two-thirds (2/3) vote of the Town Meeting subject to the procedures as set forth in Chapter 40C, Section 3 of the General Laws.

SECTION 10. In case any section, paragraph or part of this by-law 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.

SECTION 11. Effective Date: Following Town Meeting approval, this by-law shall take effect immediately when the following conditions have been met:

- (a) approval by the Attorney general of the Commonwealth;
- (b) filing of a map of the boundaries of the Historic District with the Eastham Town Clerk, the Eastham Building Inspector and the Registry of Deeds for Barnstable County, *or take any action relative thereto.*

By Historic District Study Committee

Under the provisions of Chapter 40C, Massachusetts General Laws, as amended by Chapter 168, Acts of 1975 by-law was adopted at Annual Town Meeting 1986.