

ARTICLE II. - LANDMARKS PRESERVATION COMMISSION

Footnotes:

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Cross reference— *Boards and commissions, § 2-306 et seq.*

Sec. 54-36. - Created; appointment; qualifications; terms; compensation; filling vacancies; reappointment.

- (a) A landmarks preservation commission is created consisting of seven members. At least two members, but not more than three members, of such commission shall be registered architects in the state. In the event there are, in the discretion of the town council, no bona fide applicants who are registered architects in the state, the town may solicit and appoint architects registered outside the state to fill one of the architect seats. A majority of the members shall have, to the highest extent practicable, a special knowledge of and a known interest in landmarks preservation. Each member shall be a registered voter in the town, however, one member may be a non-resident of the town in the event it is determined by the town council that said individual has a special expertise in historic landmarks preservation. Each member other than the individual, if any, appointed by the town council as an expert, shall be a registered voter in the town. The members shall serve staggered terms of three years, and each will serve without compensation, except in the event of the appointment of an outside expert who will serve a term of only one year, but who may be reappointed by the town council on an annual basis for up to six total years. Each member shall serve without compensation. The town council shall appoint the members. If a vacancy shall occur otherwise than by the expiration of a term, it shall be filled by the town council for the unexpired term.
- (b) A member shall not be appointed for more than two consecutive three-year terms but shall be eligible for reappointment upon the lapse of nine months after the expiration of the member's second consecutive three-year term.

(Code 1982, § 16-35; Ord. No. 12-95, § 1(a), 9-12-95; Ord. No. 8-99, § 1, 11-9-99; Ord. No. 7-00, § 1, 6-13-00; Ord. No. 6-01, § 1, 4-10-01; Ord. No. 19-01, § 1, 10-9-01; Ord. No. 19-2013, § 1, 10-8-13; Ord. No. 09-2020, § 1, 5-13-20)

Sec. 54-37. - Alternate members.

- (a) *Appointment.* The town council may, in its discretion, appoint three alternate members with similar qualifications who shall serve when called upon the chair of the commission in the absence of any regular members.
- (b) *Attendance requirements.* Alternate members are required to attend all meetings of the commission and are subject to the same attendance requirements, as regular members with the same provisions relating to excused absences being applicable.

- (c) *Voting.* Alternate members shall not vote on any matter unless they are sitting to fill the position of a regular member of the commission in the absence or in the event of a conflict of interest; however, alternate members may participate in the discussion of matters coming before the commission whether they are sitting as a voting member or not.
- (d) *Terms of office.* Although an alternate member may not serve more than two three-year terms as an alternate, an alternate member may be appointed to serve as a regular member of the commission and, in the event of such appointment, shall be entitled to serve two full three-years terms thereafter.

(Code 1982, § 16-35; Ord. No. 12-95, § 1(b), 9-12-95; Ord. No. 8-99, § 2, 11-9-99; Ord. No. 6-01, § 2, 4-10-01)

Sec. 54-38. - Removal provisions; absences; conflicts of interest.

- (a) All members of the commission, including alternates, serve at the pleasure of the town council and may be removed from the commission with or without cause. Members of the commission shall be automatically removed for lack of attendance, which is defined as failure to attend three regularly scheduled meetings in any one calendar year. Excused absences due to illness, a death in the family, religious holidays and requirements of legal process shall not constitute lack of attendance. The member shall notify the director of planning, building and zoning office in writing of the board member's intended absence at least seven business days prior to the regularly scheduled meeting. Failure to do so, absent an emergency which prevents timely notice, will cause the absence to be unexcused. Excused absences shall be entered into the minutes at the next regularly scheduled meeting of the commission after the absence. A member may petition the town council, in the event of extenuating circumstances, to excuse an absence otherwise not automatically excused pursuant to the provisions of this article.
- (b) In the event of excessive conflicts of interest during any one calendar year, the commission member shall be subject to being removed by the town council upon the council's review and consideration of the matter. The town council shall have the sole discretion as to whether removal shall be required. Excessive conflicts of interest are defined as five or more conflicts of interest in any one calendar year. Continuing conflicts of interest on a single application, once declared, shall not be counted as additional conflicts of interest. This rule shall apply from the date of adoption to the end of the 2013 calendar year and shall be applicable, thereafter, on a calendar year basis.
- (c) If a member of the commission has a conflict of interest resulting from that member or the member's firm representing an applicant before the commission, it shall be the duty and obligation of the member having the conflict to comply with the following requirements:
 - (1) Notification of the conflict of interest shall be noted on the application form at the time of the submission of the application. The conflict will be identified on the commission agenda.
 - (2) The member having the conflict of interest shall not participate in the discussion and shall leave the chamber until the item is concluded.

- (3) The member having the conflict shall not present the project to the commission, except in a case where the commission member is a sole proprietor who is unable to represent a client through an associate.

(Code 1982, § 16-35; Ord. No. 12-95, § 1(c), 9-12-95; Ord. No. 8-99, § 3, 11-9-99; Ord. No. 18-04, § 4, 10-1-04; Ord. No. 13-09, § 5, 7-14-09; Ord. No. 19-2011, § 1, 9-13-11; Ord. No. 9-2013, § 1, 7-9-13; Ord. No. 10-2021, § 1, 6-9-21)

Sec. 54-39. - Officers, rules of procedure for commission.

The commission shall elect a chair and a vice-chair and may adopt rules for the conduct of its meetings. Four voting members of the commission shall constitute a quorum; however, the affirmative or negative vote of a majority of the entire membership of the commission shall be necessary for it to take action. In cases of emergency, if a quorum cannot be obtained, the chair, or vice-chair in his absence, and one other member of the commission may act to prevent an imminent or irreparable violation of the provision of this chapter.

(Code 1982, § 16-36; Ord. No. 19-2011, § 2, 9-13-11)

Sec. 54-40. - Commission enforcement powers.

- (a) In the performance of their duties, members of the commission or their designees shall have the right to enter upon properties in the town at reasonable times and upon reasonable notice to the owners thereof.
- (b) Upon request of the commission, the building official shall aid the commission in making necessary inspections in connection with the enforcement of this chapter, shall furnish the commission with copies of reports of his inspections, and shall send notices to all persons who may be in violation of the provisions of this chapter to inform them of such violations.
- (c) Failure to comply with the provisions of this chapter shall constitute a violation hereof, and the violator shall be prosecuted under the provisions of chapter 2, article V of this Code.

(Code 1982, § 16-45)

Sec. 54-41. - Appeals and review.

The applicant or any interested party may file an appeal to the town council on any ruling by the commission or the building official made pursuant to this chapter. The appeal shall take the form of a letter addressed to the town clerk and shall be based upon the record. The appeal shall be filed or made within ten days. Appeals shall set forth the alleged inconsistency or nonconformity with procedures or criteria set forth in this chapter. The town council shall decide an appeal within 45 days of the filing of such appeal unless an extension of time is consented to by the applicant, and such filing shall

suspend any building permit issued pursuant to the ruling of the commission or building official until the town council has decided the appeal. The town council may review any decision of the commission or the building official, and their disposition of the matter shall be final. Appeals filed pursuant to this section shall be based on the record of the proceedings below and shall not be presented de novo. The time allotted for presentation of an appeal shall be determined by the town council president.

(Code 1982, § 16-46; Ord. No. 6-06, § 1, 7-11-06; Ord. No. 15-2014, § 1, 10-14-14)

Secs. 54-42—54-70. - Reserved.

DIVISION 2. - PROCEDURES AND EFFECT

Sec. 54-91. - Design guidelines.

The commission shall prescribe the procedure for making application for a certificate of appropriateness and may develop design guidelines necessary to provide a framework for studying plans submitted.

(Code 1982, § 16-40(a))

Sec. 54-92. - Preliminary conference.

The applicant for a certificate of appropriateness shall, upon request, have the right to a preliminary conference with a member of the commission or of the commission staff for the purpose of making any changes or adjustments to the application that might be more consistent with the commission's standards.

(Code 1982, § 16-40(b))

Sec. 54-93. - Uniform development review procedures.

- (1) *Application.* All applications for development review, being either a certificate of appropriateness for a landmarked building or structure, or a review of a historically significant building, shall be filed with the director of planning, zoning and building by the property owner or a designee, agent, or representative who is authorized to file an application by power of attorney, which must be filed with the director of planning, zoning and building. Applications shall be completed and submitted per the application instructions and shall include all items identified in the application checklist, which can be amended by town staff from time to time. All applications shall include the application fee as set forth in the town fee schedule.
- (2) *Determination of sufficiency.* The director of planning, zoning and building, or their designee, shall review the application and required documents and determine whether it is competent and complete. If the director, or their designee, determines that the application is not competent or complete, the director of planning, zoning and building, or their designee, shall notify the applicant as to the nature of the deficiency. In this case, no other action shall be taken on the application until the deficiency is remedied. If the director, or their designee, determines that the application is competent and complete, the department will process the application.
- (3) *Schedule of meetings and deadlines.* The director of planning, zoning and building shall produce each year a schedule of public meetings and

deadlines for all development review applications, which can be amended from time to time. The director shall place the schedule of meetings and deadlines on the town website.

- (4) *Notice of public hearings.* Public hearings for all development review projects, which includes the architectural review commission major projects, landmarks preservation commission certificates of appropriateness, and town council special exceptions, variances, and site plan review, shall be noticed in accordance with the following provisions:
- (a) *Advertisement.* At least 30 days prior to the public hearing date, a description of the project or request, the date, start time of the meeting and location of the hearing shall be noticed in a newspaper of general circulation. The notice will be prepared and placed in the newspaper by Town staff.
 - (b) *Mail notice.* At least 30 days prior to the public hearing date, the applicant shall mail a notice containing a description of the request, the date, start time of the meeting and location of the hearing, to the owners of record of property lying within 300 feet of the property subject to the application. Applicants shall submit all information and certifications necessary to meet this requirement, as determined by the department and identified in the application instructions.
 - (c) *Posting.* At least 30 days prior to the public hearing, the town will post a copy of the hearing notice within a conspicuous place in Town Hall.

(Ord. No. 07-2021, 1(Exh. A), 6-9-21)

Editor's note— Ord. No. 07-2021, 1(Exh. A), adopted June 9, 2021, repealed the former § 54-93, and enacted a new § 54-93 as set out herein. The former § 54-93 pertained to public hearing; notice and derived from Code 1982, § 16-40(c); Ord. No. 15-08, § 1, adopted May 12, 2008.

Sec. 54-94. - Duration of approval; time extension; denial of application; determination; clarification; deferral.

- (1) The applicant's approval will expire 12 months from the date of the meeting at which the decision was rendered, unless a building permit has been obtained. If the building permit expires or is voided, or if a building permit has not been issued within 12 months from the date of approval, the commission approval becomes void. In the event such approval becomes void, an application for approval shall be required in the same form and manner as if submitted as a new project.
- (2) A time extension from any of the requirements in subsection (1) may be granted or denied by the landmarks preservation commission for just cause. Said time extension request shall be submitted in writing to the planning, zoning and building department at least two weeks prior to an landmarks preservation commission meeting, which must occur prior to the expiration date, or said approval shall expire.
- (3) If the application is denied, an application in substantially the same form may not be submitted until 12 months has elapsed from the date of denial.

- (4) Determinations of the landmarks preservation commission shall be rendered in writing.
- (5) Should a question arise as to compliance with the conditions as outlined by the landmarks preservation commission actions, a clarification hearing before the landmarks preservation commission may be called at the request of the director of the planning, zoning and building department, or by the applicant, and placed on the next available agenda.
- (6) Deferrals for a specific application shall not exceed one year cumulatively for all such deferrals made by the landmarks preservation commission, or the application shall be deemed null and void.
- (7) An initial deferral request received by the town more than seven days prior to scheduled commission hearing date may be granted for one month only or the next succeeding regular commission meeting, if that should occur on a different date. Any deferred action request received seven days or less from the scheduled meeting date shall be made in person at the commission meeting at the time the action item appears on the agenda. The applicant must explain or justify the request, which the commission may approve or deny. A second request for deferral shall be made in person at the commission meeting at the time the item appears on the agenda. The applicant must explain or justify the request, which the commission may approve or deny. A third request for deferral shall be denied unless the applicant can demonstrate to the commission that a compelling reason exists.

(Ord. No. 07-2021, 1(Exh. A), 6-9-21)

Editor's note— Ord. No. 07-2021, 1(Exh. A), adopted June 9, 2021, repealed the former § 54-94, and enacted a new § 54-94 as set out herein. The former § 54-94 pertained to commission action and derived from Code 1982, § 16-40(d).

Sec. 54-95. - Certificate required for exterior changes.

- (a) No building permit for exterior changes shall be issued by the building official that affects a building or site in an historic district or a landmark or a landmark site or a property under consideration for landmark designation without a certificate of appropriateness, except for those changes specifically exempted under the provisions of section 54-71(e).
- (b) The commission shall have the right to make such recommendations for changes and modifications as it may deem necessary in order to enable the applicant to meet the requirements.

(Code 1982, § 16-40(e), (f))

Sec. 54-96. - Emergency demolition or repairs.

Nothing contained in this division shall prevent the demolition or making of any temporary construction, reconstruction, or other repairs on a landmark, landmark site or a building in an historic district pursuant to the order of any governmental agency or a court of competent jurisdiction for the purpose of remedying emergency conditions determined to be dangerous to life, health or property, as determined by the building official, provided that in case of demolition prior notice of such action shall be given to the commission.

(Code 1982, § 16-40(g))

Sec. 54-97. - Variances authorized.

Where by reason of topographical conditions or irregularly shaped lots, or because of unusual circumstances applicable solely to the particular applicant strict enforcement of the provisions of this article would result in serious undue hardship particularly affecting an applicant for a certificate of appropriateness, the commission, in passing upon his application, shall have the power to vary or modify adherence to this chapter provided always that its requirements ensure harmony with the general purposes of this chapter and will not adversely affect an historic district, landmark or landmark site. Guidelines for the application of this section may be developed by the commission.

(Code 1982, § 16-40(h))

Sec. 54-98. - Stop work order authorized.

If work is being performed not in accordance with a certificate of appropriateness, the building official or his designated representative shall issue a stop work order, and all work shall cease. No person shall undertake any work on such project as long as such stop work order shall continue in effect.

(Code 1982, § 16-40(i))

Sec. 54-99. - Construction screening plan.

Depending upon the size and scope of a project, staff may request a construction screening plan to be submitted as part of Certificates of Appropriateness (COA) applications that demonstrates how the adjacent neighbors and public right-of-ways will be screened from the construction activity through the use of landscape, hardscape, and construction fencing/gates. For those projects where existing landscape and hardscape will remain in place during construction, which provide the necessary screening, this should be identified on the construction screening plan, and photographs of said landscape and/or hardscape screening shall also be provided. The construction screening plan must be approved by the Landmarks Preservation

Commission, and the applicant must submit a permit for the approved additional landscaping and/or fencing/gates, install said material, have it pass inspection, and the permit closed-out prior to the issuance of a building permit for the new construction and/or renovation work associated with the major COA application.

(Ord. No. 14-2019, § 1, 4-10-19)

Secs. 54-100—54-120. - Reserved.