

Acts, 1964. - Chap. 118.

Chap. 118. AN ACT ESTABLISHING A HISTORIC DISTRICT COMMISSION FOR THE TOWN OF BEDFORD, DEFINING ITS POWERS AND DUTIES, AND ESTABLISHING A HISTORIC DISTRICT THEREIN.

SECTION 1. *Purpose.* -

The purpose of this act is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of buildings, places and districts of architectural and historic significance through the development and maintenance of appropriate settings for said buildings, places and districts as sites and landmarks compatible with the historic traditions and architecture of the town of Bedford.

SECTION 2. *Establishment of District.* -

There is hereby established in the town of Bedford the Great Road/North Road/Springs Road/South Road/Maple Street/Elm Street historic district. The locations and boundaries of said historic district being shown on a map on file in the office of the town clerk entitled "Plan of Land in Bedford, Mass., Showing Historic District, Scale 1"=100', prepared by BSC-Bedford, Drawing Number 1340.30, dated January 17, 1986."

SECTION 3. *Definitions.* -

As used in this act, the following words and terms shall have the following meanings: -

"Building", a combination of materials having a roof and forming a shelter for persons, animals or property.

"Building inspector", the building inspector of the town of Bedford.

"Commission", the Historic District Commission established by section four.

"Erected", the word "erected", includes the words "built", "constructed", "reconstructed", "restored", "altered", "enlarged", and "moved".

"Exterior architectural feature", the architectural style and general arrangement of such portion of the exterior of a building or structure as is designed to be open to view from a public street, way or place including the kind, color and texture of the building materials of such portion and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such portion.

"Historic District", the district established by section two.

"Landscaping", the planting and removal of trees and the alteration of site topography.

"Person", the word "person" includes an individual, a corporate or incorporated organization or association and the town of Bedford.

"Structure", a combination of materials, other than a building, including a wall, fence, walk and driveway.

SECTION 4. *Creation and Organization of Historic District Commission.* –

An historic district commission in the town of Bedford is hereby established and shall consist of five members and two alternate members appointed by the board of selectmen, including one member from the Bedford historical society or the Bedford historical commission, one member shall be a resident of the historic district to be administered by the commission, and one member shall be a registered architect or a person experienced in the building trade. The appointments to membership in the Commission shall be so arranged that the term of at least one member shall expire each year and his successor shall be appointed in the same manner as the original appointment for terms of three years for each member. Alternate members shall serve for a term of three years. Nominations for appointment of members and alternate members shall be submitted to the board of selectmen by letter which shall contain a statement of the qualifications of the nominees. 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, his place shall be taken by an alternate member designated by the chairman. Each member and alternate member shall continue in office after the expiration of his term until his successor is duly appointed and qualified. All members shall serve without compensation. A member who shall absent himself from three consecutive meetings of the commission, without cause, shall be deemed to have vacated his office, and the secretary of the commission shall give notice thereof to the board of selectmen who shall thereupon proceed to fill the vacancy. The commission shall elect a chairman, vice-chairman, and secretary from its membership. In the case of absence of the chairman from any meeting, the vice-chairman shall preside.

SECTION 5. *Limitations.* –

- (a) No building or structure, except as provided under section six, shall be erected within the historic district unless and until an application for a certificate of appropriateness as to exterior architectural features which are subject to view from a public street, way or place shall have been filed with the commission and either a certificate of appropriateness or a certificate that no exterior architectural feature is involved, shall have been issued by the commission.
- (b) No building or structure within the historic district, except as provided in section six, shall be changed as to exterior color features which are subject to view from a public street, way or place unless and until an application for a certificate of appropriateness as to change in such color features shall have been filed with the commission and such certificate shall have been issued by the commission.
- (c) No building or structure within the historic district, except as provided under section six, shall be demolished or removed unless and until an application for a permit to demolish or remove the same shall have been filed with the commission, and such permit shall have been issued by the commission.

- (d) No occupational, commercial or other sign, except as provided under section six, and no billboard which is subject to view from a public street, way or place shall be erected or displayed within the historic district unless and until an application for a certificate of appropriateness shall have been filed with the commission, and such certificate shall have been issued by the commission. In the case of any such sign or billboard erected or displayed prior to the effective date of this act, there shall be allowed a period of five years, subsequent to said effective date, in which to obtain such certificate.
- (e) No landscaping within the historic district, and subject to view from a public street, way or place, except for ordinary maintenance, shall be undertaken until a certificate of appropriateness shall have been issued by the commission.
- (f) Except in cases excluded by section six: -
 - (1) No permit shall be issued by the building inspector for any building or structure to be erected within the historic district, until a certificate of appropriateness or a certificate that no exterior architectural feature is involved has been issued under section nine.
 - (2) No permit shall be issued by the building inspector for the demolition or removal of any building or structure within the historic district until a permit has been issued under said section nine.

SECTION 6. Exclusions. -

- (a) Nothing in this act shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any building or structure within the historic district; nor shall anything in this act be construed to prevent the erection, construction, reconstruction, restoration, alteration or demolition of any such feature which the building inspector shall certify is required by the public safety because of an unsafe or dangerous condition; nor shall anything in this act be construed to prevent the erection, construction, reconstruction, alteration or demolition of any such feature under a permit issued by the building inspector prior to the effective date of this act.
- (b) The following structures and signs may be erected or displayed within the historic district without the filing of an application for, or the issuance of, a certificate of appropriateness: -
 - (1) Temporary structures or signs for use in connection with any official celebration or parade, or any charitable drive in the town; provided, that any such structure or sign shall be removed within three days following the termination of the celebration, parade or charitable drive for which said structure or sign shall have been erected or displayed. Any other temporary structures or signs which the commission shall determine from time to time may be excluded from the provisions of section five without substantial derogation from the intent and

purposes of this act.

- (2) Real estate signs of not more than three square feet in area advertising the sale or rental of the premises on which they are erected or displayed.
 - (3) Occupational or other signs of not more than one square foot in area and not more than one such sign, irrespective of size, bearing the name, occupation or address of the occupant of the premises on which such sign is erected or displayed where such premises are located within a single residence district as defined in the zoning by-law of the town of Bedford.
- (c) The exterior color of any building or structure within the historic district may be changed to white without the filing of an application for, or the issuance of , a certificate of appropriateness or to any color or any combination of colors which the commission shall determine from time to time may be used without substantial derogation from the intent and purposes of this act.

SECTION 7. *Application to be filed with Commission.* –

Excepting cases excluded by section six, any person who desires to erect, build, construct, reconstruct, restore, alter, move, demolish, remove or change the exterior color features of any building or structure now or hereafter within the historic district, or to erect or display within the historic district any sign or billboard for which a certificate of appropriateness is required under paragraph (d) of section five, or to landscape within the historic district, for which a certificate of appropriateness is required under paragraph (e) of section five, shall file with the commission an application for a certificate of appropriateness or a permit for demolition or removal, as the case may be, together with such plans, elevations, specifications, material and other information drawn to scale, as shall be deemed necessary by the commission to enable it to make a determination on the application.

SECTION 8. *Meetings, Hearings, Time for making Determinations.* –

Meetings of the commission shall be held at the call of the chairman and also when called in such other manner as the commission shall determine in its rules.

The commission shall determine promptly, and in all events within fourteen days, after the filing of an application for a certificate of appropriateness as to exterior architectural features, whether the application involves any such features. If the commission determines that such application involves any exterior architectural features, the commission shall hold a public hearing on such application. The commission shall also hold a public hearing on all other applications required to be filed with it under this act, except that the commission may approve an application for a change in exterior color features without holding a hearing if it determines that the color change proposed is appropriate.

The commission shall fix a reasonable time for the hearing on any application and shall give public notice thereof by publishing notice of the time, place and purpose of the hearing in a local newspaper at least seven days before said hearing and also, within seven days of said hearing, mail a copy of said notice to the applicant, to the owners of all property deemed by the commission to be affected thereby as they appear on the most recent local tax list, to the planning board of the town, 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 forty-five days after the filing of the application, or within such further time as the applicant shall allow in writing, the commission shall make a determination on the application. If the commission shall fail to make a determination within said forty-five days, or within such further time allowed by the applicant, the commission shall be deemed to have approved the application.

SECTION 9. Powers, Functions and Duties of Commission. –

The commission shall have the following powers, functions and duties: –

(a) It shall pass upon: –

- (1) The appropriateness of exterior architectural features of buildings and structures to be erected within the historic district wherever such features are subject to view from a public street, way or place.
- (2) The appropriateness of changes in exterior color features of buildings and structures within the historic district wherever such features are subject to view from a public street, way or place.
- (3) The demolition or removal of any building or structure within the historic district. The commission may refuse a permit for the demolition or removal of any building or structure of architectural or historic interest, the removal of which in the opinion of the commission would be detrimental to the public interest.
- (4) The appropriateness of the erection or display of occupational, commercial or other signs and billboards within the historic district wherever a certificate of appropriateness for any such sign or billboard is required under paragraph (d) of section five.

In passing upon appropriateness, demolition or removal, the commission shall determine whether the features, demolition or removal, sign or billboard involved will be appropriate for the purposes of this act and, if it shall be determined to be inappropriate, shall determine whether, owing to conditions especially affecting the building, structure, sign or billboard 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 act. If the commission determines that the features, demolition or removal, sign or billboard involved will be appropriate or, although inappropriate, owing to conditions as aforesaid, failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without substantial detriment or derogation as aforesaid, the commission shall approve the application; but if the commission does not so determine, the application shall be disapproved.

In passing upon appropriateness the commission shall consider, among other things, the historic value and significance of the site, building or structure, the

general design, arrangement, texture, material and color of the features, sign or billboard involved, and the relation of such factors to similar factors of sites, buildings and structures in the immediate surroundings. The commission shall consider the appropriateness of the size and shape of the building or structure in relation to (a) the land area upon which the building or structure is situated, (b) the landscaping and planting features proposed by the applicant and (c) the neighboring sites, buildings or structures within the district. The commission shall also consider the applicable zoning and other by-laws of the town. The commission shall not consider detailed designs, interior arrangement and other building features not subject to public view.

In approving an application the commission may impose conditions which, if the certificate of appropriateness is acted upon, shall be binding upon the applicant, the owner of the property and his successors in title. Prior to approving an application subject to conditions, the commission may notify the applicant of its proposed action and permit the applicant to express his opinion thereon.

The concurring vote of three members of the commission shall be necessary to make a determination in favor of the applicant on any matter upon which the commission is required to pass under this act.

- (b) In the case of an approval by the commission of an application for a certificate of appropriateness or a permit for demolition or removal, or in the event an application is deemed approved through failure to make a determination within the time specified in section eight, the commission shall cause a certificate of appropriateness or a permit for demolition or removal, as the case may be, dated and signed by its chairman or vice-chairman, to be issued to the applicant.
- (c) In the case of disapproval of an application for a certificate of appropriateness or a permit for demolition or removal, the commission shall cause a notice of its determination, dated and signed by its chairman or vice-chairman in the absence of the chairman to be issued to the applicant, setting forth therein the reasons for its determination, and, as to applications for a certificate of appropriateness, the commission may make recommendation to the applicant with respect to appropriateness of design, arrangement, texture, material, color and similar factors. 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 ten days of the receipt of such a 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 or permit for demolition or removal, as the case may be, dated and signed by its chairman or vice-chairman in the absence of the chairman, to be issued to the applicant.

- (d) In the case of a determination by the commission that an application for a certificate of appropriateness does not involve any exterior architectural feature, the commission shall cause a certificate of such determination, dated and signed by its chairman or vice-chairman in the absence of the chairman to be issued forthwith to the applicant.
- (e) The commission shall keep a permanent record of its resolutions, transactions, and determinations, and may make such rules and regulations consistent with this act and prescribe such forms as it shall deem desirable and necessary.
- (f) The commission shall file with the town clerk a notice of all determinations made by it, and approvals of applications through failure of the commission to make a determination within the time allowed under section eight, except that no notice of a determination that an application for a certificate of appropriateness does not involve any exterior architectural feature shall be filed.
- (g) The commission may incur expenses necessary to the carrying on of its work within the amount of its appropriation.

SECTION 10. Appeals. --

Any person aggrieved by a determination of the commission or by an approval of an application through failure of the commission to make a determination within the time allowed under section eight, whether or not previously a party to the proceeding, or any officer or board of the town may, within twenty days after the filing of a notice of such determination or approval with the town clerk, appeal to the superior court sitting in equity for the county of Middlesex. The court shall hear all pertinent evidence and determine the facts and if, upon the facts so determined, such determination or approval is found to exceed the authority of the commission, the court shall annul such determination or approval and remand the case for further action by the commission. The remedies provided by this action 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 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 determination or approval of the commission unless it shall appear to the court that said party acted in bad faith or with malice in making the appeal to the court.

SECTION 11. *Enforcement.* –

Any person who violates any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than five hundred dollars. Each day such violation continues shall constitute a separate offense.

The superior court sitting in equity for the county of Middlesex upon the petition of the board of selectmen shall have jurisdiction to enforce the provisions of this act and the determinations, rulings and regulations issued thereunder and may restrain by injunction violations thereof and issue such other orders for relief of violations as may be required.

SECTION 12. *Changes in Historic District.* –

The district established by section two may be enlarged or reduced and new districts may be created by a two-thirds vote at any regular or special town meeting called for the purpose. Prior to any such action, the planning board of the town shall hold a public hearing, duly advertised, thereon and shall report its recommendations to the town meeting.

The commission shall file this act, amendments thereto, maps of historic districts created thereunder, annual reports and other publications of the commission, and a roster of membership with the Massachusetts historical commission.

SECTION 13. *Severability of Provisions.* –

The provisions of this act shall be deemed to be severable; and in case any section, paragraph or part of this act shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair the validity of any other sections, paragraphs or parts of this act.

SECTION 14. This act shall take effect upon its acceptance by the town of Bedford.

*Approved February 27, 1964
As amended by Acts of 1979, Chapter 180, Sec. 10,
approved May 18, 1979 and by Acts of 1987, Chapter
154 approved June 22, 1987*