

SECTION VI. APPENDIX

BEDFORD-LANDING WATERFRONT HISTORIC DISTRICT ORDINANCE

GUIDELINES FOR THE BEDFORD-LANDING -WATERFRONT HISTORIC DISTRICT NEW BEDFORD HISTORICAL COMMISSION BY-LAWS

Adopted by the Commission July 7, 1976

Article I. Name

The Commission's name shall be the New Bedford Historical Commission.

Article II. Purpose

To promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of architecture of New Bedford and through the maintenance and improvement of settings for such buildings and places, and the encouragement of design compatible therewith.

Article III. Powers and Duties

The New Bedford Historical Commission shall have the following powers and duties, subject to appropriation or receipt of money, gifts, and may in exercise of any of its powers or duties accept and expand such gifts and employ clerical and technical assistants, or consultants:

1. to issue Certificates of Appropriateness, Certificates of Non-Applicability, and Certificates of Hardship without which no building or structure within the Bedford-Landing — Waterfront Historic District shall be constructed or altered in any way that affects exterior architectural features; according to Massachusetts General Laws, Chapter 40C, Section 6;

2. to administer on behalf of the City of New Bedford any properties or easements, restrictions or other interests on real property which the City may have or may accept, or gifts or otherwise and which the City of New

Bedford may designate the Commission as the administrator thereof;

3. to conduct a survey of New Bedford buildings and sites for the purpose of determining those of historic significance architecturally or otherwise. Copies of this continuing survey shall be placed in the hands of the City Planning Department, the Redevelopment Authority, the Building Department, and the Public Library and periodically updated by the Commission;

4. to propose from time to time as the Commission deems appropriate the establishment, in accordance with the provisions of the Historic District Act, Chapter 40C, Section 3, of additional historic districts and changes in historic districts;

5. to determine an appropriate system of markers for selected historic sites and buildings not already sufficiently marked, to arrange for preparation and installation of such markers, and to arrange for maintenance of historic markers;

6. to arrange for preparation and publication of maps and brochures and descriptive material about New Bedford historic sites and buildings;

7. to cooperate with and advise the Planning Department, the Redevelopment Authority, the Public Works Department, and other City agencies in matters involving historic sites and buildings;

8. to cooperate with and enlist assistance for New Bedford from the National Park Service, the National Trust for Historic Preservation, the Society for the Preservation of New England Antiquities, and other agencies, public and private, from time to time concerned with historic sites and buildings;

9. to advise owners of historic buildings in the city on problems of preservation;

10. to recommend to the Mayor from time to time, as needed the appointment of advisory committees of historians and persons experienced in architecture or other arts or in historic preservation or restoration;

11. to formulate and publish guidelines for construction or alterations of buildings or structures or appurtenant fixtures in the New Bedford-Landing — Waterfront Historic District;

12. such other powers, authority and duties as may be delegated or assigned to it from time to time by vote of New Bedford City Council.

Article IV. Membership

Composition

The New Bedford Historical Commission shall consist of seven (7) members and seven (7) alternates appointed by the Mayor and confirmed by the City Council. Commission membership shall include where possible (a) one representative and alternate from the New Bedford Planning Department; (b) one (1) representative and alternate from the National Park Service; (c) two (2) members and two (2) alternates from nominees of recognized local historical societies including the New Bedford Port Society, the Old Dartmouth Historical Society and the Waterfront Historic Area League; (d) one (1) architect and alternate from two (2) candidates, one (1) nominated by the American Institute of Architects covering New Bedford and one (1) nominated by the Society of Landscape Architects covering New Bedford; (e) one (1) member and alternate from two (2) nominees of the Greater New Bedford Board of Realtors; (f) one (1) member and alternate from among the land owners and tenants of the Bedford-Landing — Waterfront Historic District.

Terms

Membership terms will be three (3) years. Each member and alternate shall continue in office after the expiration of the term until his successor is duly appointed and qualified.

Vacancies

Vacancies shall be filled by Mayoral appointment and City Council confirmation for the length of the unexpired terms.

Voting Rights

Voting rights are reserved to the seven (7) primary members of the New Bedford Historical Commission or, in their absence, the alternate selected in the manner prescribed in Article VII. The voting membership shall elect annually a Chairman, Vice-Chairman, and other officers necessary to carry out the duties and responsibilities of the Commission.

Resignation

Any member or alternate may at any time resign by delivering notice thereof in writing to the Secretary of the Commission. Such resignation shall be effective upon receipt unless a later time is specified therein, and acceptance thereof shall not be necessary to make it effective unless the resignation so states.

Article V. Officers

The Chairman

The Chairman shall call and preside at all meetings of the Commission and appoint members to all committees and perform all duties incident to his office. He may sign, with any other proper officers of the Commission any deeds, mortgages, bonds, contracts or other instruments which the New Bedford Historical Commission authorized for execution except in cases prohibited by law.

Vice-Chairman

Duties of the Vice-Chairman shall be the same as those of the Chairman in the absence of the Chairman.

The Secretary

The Secretary, who need not be a member of the Commission, shall keep the records, shall file necessary reports, shall send and keep written correspondence of the Commission, give all notices required by the by-laws or by-law and shall perform such other duties as are assigned by the Chairman or by the Commission.

Compensation

No member or alternate of the New Bedford Historical Commission shall be compensated by the Commission for services provided; the Commission may provide reimbursement for expenses and disbursements made on behalf of the Commission.

Article VI. Committees

The New Bedford Historical Commission shall establish such committees as necessary to carry out the Commission's duties and responsibilities. One member of each committee shall be appointed committee chairman by the

Chairman of the Commission. Members of all committees shall abide by all the rules and regulations established by the New Bedford Historical Commission for its own meetings or such other rules as may be prescribed by the Chairman.

Article VII. Meetings

The New Bedford Historical Commission shall hold regular meetings on the first Wednesday of each month. Special meetings of the Commission shall be held as necessary.

How Called

Meetings of the Commission shall be held at the call of the Chairman or shall be called at the written request of two members of the Commission.

Quorums and Votes

A majority of the members of the Commission shall constitute a quorum. Decisions shall be made by a concurring majority of members present.

Alternate

In the case of any member being unable to attend Commission meetings for any reason, that member shall propose an alternate member for designation by the Chairman. If the alternate member is not proposed at least two (2) days in advance of a scheduled meeting, then the Chairman may choose an alternate to substitute for said meeting.

Open Meeting and Public Hearings

All meetings of the New Bedford Historical Commission shall be open to the public. Notice of such meetings will be posted in the office of the New Bedford City Clerk at least two (2)

working days prior to such meetings. The New Bedford Historical Commission shall hold a public hearing when deciding on Certificates of Appropriateness, Certificates of Non-Applicability, or Certificates of Hardship as prescribed in Article VIII, or other such purpose, as the Commission deems necessary. The Commission shall give notice of such public hearings by (a) posting notification of such hearing in the Office of the New Bedford City Clerk at least fourteen (14) days prior to such hearing; (b) by advertising in the New Bedford Standard Times at least fourteen (14) days before the hearing; (c) by mailing at least fourteen (14) days before the hearing, postage prepaid, a copy of such notification to (1) applicant, (2) to the owners of all adjoining property materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors, (3) to the New Bedford Planning Board, (4) to any person filing written request for notice of hearings, such request to be renewed yearly in December, and (5) to such persons as the Commission shall deem entitled to notice.

Executive Session

The New Bedford Historical Commission reserves the right to enter into executive session in accordance with the Open Meeting Law, excerpt from Chapter 303, Acts of 1975, as may be amended from time to time.

Agenda

Items other than an application for Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship must be submitted to the Secretary at least five (5) working days before the Commission meeting in order to be placed on the agenda for said meeting. Notification for public hearings shall include that portion of the agenda that deals with application for a Certificate of Appropriateness, a Certificate of Non Applicability, or a Certificate of Hardship.

Article VIII . Certificates

No building or structure within the “Bedford-Landing — Waterfront 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 Non-Applicability, or a Certificate of Hardship, or a Certificate of Appropriateness with respect to such construction or alteration.

Certificate of Non-Applicability

A Certificate of Non-Applicability shall be issued (a) for proposed construction or alteration of interior arrangements or exterior architectural features not subject to public view; (b) for the ordinary maintenance, repair or replacement of any exterior architectural feature which does not involve a change in design, material, color, or the outward appearance thereof; (c) for landscaping with plants, trees, or shrubs; (d) for the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition; and (e) for construction or alterations conforming to such guidelines as may be established by the New Bedford Historical Commission from time to time. For all of the items listed above, the Commission hereby establishes the following procedures with regard to a Certificate of Non-Applicability. Application for said certificates may be filed during any working day with the Secretary of the Commission. Within one working day of the filing of said application, the Secretary of the Commission shall poll the members of the Commission to obtain their judgment concerning the application. If a majority of the members of the Commission concur with the application, a Certificate of Non-Applicability shall be issued. In cases when there is doubt by a majority of the members of the Commission as to whether a Certificate of Non-Applicability or a Certificate of Appropriateness shall govern, or in cases when a majority of the members of the Commission do

not concur with the application, the Secretary shall so notify the applicant within one (1) week of the time of the filing of the application and the application shall be brought before the next regular meeting of the Historical Commission.

Certificate of Hardship

A Certificate of Hardship shall be issued when (a) owing to conditions especially affecting the building or structure 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 when approval will not cause substantial detriment to the public welfare nor cause substantial derogation from the intent and purposes of this chapter; and (b) when the Commission fails to make a determination on an application within sixty (60) days after the filing of such application.

Certificate of Appropriateness

A Certificate of Appropriateness shall be issued when the Commission determines that the construction or alteration for which a Certificate of Appropriateness has been filed will be appropriate or compatible with the preservation or protection of the historic district.

Disapproval of an Application

In the case of a disapproval of an application the Commission shall record the reasons for such determination and shall notify the applicant of its determination and the reasons therefore.

Recommendations

The Commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material, and similar features. Prior to the issuance of any disapproval the Commission may notify the applicant of its proposed action accompa-

nied by recommendations of change in the applicant's proposal, which would make the application acceptable.

Modification and Application

If within fourteen (14) days of the receipt of such notice the applicant filed a written modification of his application in conformity with the commended changes, the Commission shall issue a Certificate of Appropriateness.

Determination of Applications

The Commission shall determine within fourteen (14) days after the filing of an application for a Certificate of Appropriateness, Non-Applicability, or Hardship whether the application involves exterior architectural features that are subject to approval by the Commission.

If affirmative, the commission shall hold a public hearing on the application unless such hearing is dispensed with as provided in the following section entitled "Waiver of Public Hearing." The Commission shall fix a reasonable time for the hearing on an application and shall give public notice of the time, place and purpose thereof at least fourteen (14) days before said hearing as prescribed in Article VII, section entitled "Open Meetings and Public Hearing." Each applicant whose application shall require a public hearing with advertisement in the Standard Times shall be required to submit to the Commission a fee of twenty-five (\$25.00) dollars per application to defray the cost of advertising.

Waiver of Public Hearing

A public hearing need not be held if (a) such hearing is waived in writing by all persons entitled to notice thereof as prescribed in Article VII or (b) the Commission determines that the exterior architectural feature involved, or its color or category, is insubstantial in its effect

on the Historic District. If the Commission waives the public hearing, notice of the application must be sent to the owners of adjoining property and other property deemed by the Commission to be materially affected; and ten (10) days shall elapse after the mailing of such notice before the Commission may act on such application.

Validation of Certificates

Each certificate issued by the New Bedford Historical Commission shall be dated and signed by its Chairman or other such person designated by the Commission to sign such certificates on its behalf. The Commission shall file with the New Bedford City Clerk and with the New Bedford Building Department, a copy or notice of all certificates and determinations of disapproval issued by it.

Appeal

Any applicant aggrieved by a determination of the Commission may, within twenty (20) days after the filing of the notice of such determination with the New Bedford City Clerk, appeal to the Superior Court of Bristol County.

Violations and Penalties

The Bristol County Superior Court shall have jurisdiction to enforce the provisions of Chapter 40C of the Massachusetts Legal Code, local ordinances enacted thereunder, and determinations, rulings, and regulations of the New Bedford Historical Commission and may, upon petition of the Mayor of New Bedford, the New Bedford City Council, or the New Bedford Historical Commission, restrain by injunction violations thereof; and, without limitation, the Court may order the removal of any building, structure or exterior architectural feature constructed in violation thereof, or the substantial restoration of any building structures or exterior architectural feature altered or demolished in violation thereof, and may issue such other

orders for relief as may be equitable. Violators shall be punished by a fine of not less than ten (\$10.00) dollars nor more than five hundred (\$500.00) dollars. Each day during any portion of which a violation continues to exist shall constitute a separate offense.

Article IX. Definitions

For the purpose of these by-laws, the following definitions shall apply:

- 1) the word "altered" shall be defined so as to include the words "rebuilt", "reconstructed", "restored", "removed", and "demolished" and the phrase "changed in exterior color";
- 2) the word "building" shall be defined to mean a combination of materials forming a shelter for persons, animals, or property;
- 3) the word "commission" shall be defined to mean the commission acting as the historic district commission;
- 4) the word "constructed" shall be defined to include the words "built", "erected", "installed", "enlarged", and "moved";
- 5) the words "exterior architectural feature" shall be defined to mean such portion of the exterior of a building or structure as is open to view from a public street, public way, public park or public body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color and texture of 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 fixtures;
- 6) the word "structure" shall be defined to mean a combination of materials other than a building, including a sign, fence, wall, terrace, walk or driveway.

Article X. Parliamentary Authority

Meetings of the New Bedford Historical Commission shall be conducted in accordance with the latest editions of *Robert's Rules of Order*.

Article XI.

No article or section of these by-laws shall be interpreted so as to be inconsistent with the provisions of the Historic District Act, Chapter 40C, Massachusetts General Laws, or with the provisions of the City of New Bedford Ordinance Establishing a New Bedford Historical Commission.

Article XII. Severability

The provisions of these by-laws shall be deemed to be severable; if any of its provisions shall be held to be invalid or unconstitutional by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Amendments to the By-Laws

1. Adopted November 3, 1976 — Article VIII, Determination of Application, shall have the following paragraph added: Each applicant whose application shall require a public hearing with advertisement in the Standard Times shall be required to submit to the Commission a fee of ten (\$10.00) dollars per application to defray the cost of advertising.

2. Adopted March 18, 1977 — Article VIII, Certificate of Non-Applicability, shall have the following paragraph added: For all of the items listed above, the Commission hereby establishes the following procedures with regard to a Certificate of Non-Applicability. Application for said certificates may be filed during any working day with the Secretary of the Commission. Within one working day of the filing of said application, the Secretary of the Commission shall poll the members of the Commission

to obtain their judgment concerning the application. If a majority of the members of the Commission concur with the application, a Certificate of Non-Applicability shall be issued. In cases when there is doubt by a majority of the members of the Commission as to whether a Certificate of Non-Applicability or a Certificate of Appropriateness shall govern, or in cases when a majority of the members of the Commission do not concur with the application, the Secretary shall so notify the applicant within one (1) week of the time of the filing of the application and the application shall be brought before the next regular meeting of the Historical Commission.

3. Adopted February 22, 1979 — Article VII, Open Meetings and Public Hearings, paragraph two shall read as follows: The New Bedford Historical Commission shall hold a public hearing when deciding on Certificates of Appropriateness, Certificates of Non-Applicability, or Certificates of Hardship as prescribed in Article VIII, or other such purpose as the Commission deems necessary. The Commission shall give notice of such public hearings by (a) posting notification of such hearing in the Office of the New Bedford City Clerk at least fourteen (14) days prior to such hearing; (b) by advertising in the New Bedford Standard Times at least fourteen (14) days before the hearing; (c) by mailing at least fourteen (14) days before the hearing, postage prepaid, a copy of such notification to (1) applicant, (2) to the owners of all adjoining property materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors, (3) to the New Bedford Planning Board, (4) to any person filing written request for notice of hearings, such request to be renewed yearly in December, and (5) to such persons as the Commission shall deem entitled to notice.

4. Adopted March 7, 1979 — filing fee for a public hearing shall be changed from ten

(\$10.00) dollars to twenty-five (\$25.00) dollars. Article VIII, Determination of Application. Also see Amendment Number 1.

5. Adopted May 2, 2001 — Article IV, Commission membership shall be amended by deleting “one (1) representative and alternate from the New Bedford Redevelopment Authority” and replacing it with “ one (1) representative and alternate from the National Park Service.”