

Town of Lunenburg



BULLETIN

NOTICE IS HEREBY GIVEN that at the Annual Town Meeting of the inhabitants of the Town of Lunenburg that convened on May 2, 2015, the General By-Laws of the Town of Lunenburg were amended as follows:

ARTICLE 26. VOTED (with amendments *italicised*) to amend the General Bylaws of the Town by adding Section XXXII, entitled Architectural Preservation District, as follows:

Section XXXII ARCHITECTURAL PRESERVATION DISTRICT

Section 1: Purpose

This bylaw is enacted under the Home Rule Amendment of the Massachusetts Constitution for the purposes of:

- (a) Preserving, restoring and protecting groups of historically and/or architecturally significant buildings and the characteristics of their neighborhoods that are important to the town's architectural, cultural, economic, political and/or social history;
- (b) Fostering wider public knowledge and appreciation of such neighborhoods and Contributing Properties;
- (c) Limiting the detrimental effect of alterations (substantial & minor), additions, and demolitions on the character of such Contributing Properties and their neighborhood settings;
- (d) Reviewing proposed alterations (substantial and minor) including demolition of or to any Contributing Property located within the APD, for appropriateness and compatibility with the existing buildings, setting and neighborhood character; and
- (e) Facilitating the protection of the APD through a regulatory review.

To achieve these purposes, the Town of Lunenburg may designate APDs to be administered as set forth in this bylaw.

Section 2: Definitions

For the purpose of this bylaw, the terms and words listed below shall have the following meaning:

ADDITION: Any addition to a principal or accessory Contributing Property that is enclosed by walls and which increases the existing gross floor area.

ADMINISTRATIVE REVIEW/DETERMINATION OF APPLICABILITY: Pursuant to Section 7 of this bylaw, a process to review proposed alterations to Contributing Properties and identify the need for Binding Review.

Remove AGGRIEVED PARTY: *The owner of the subject property or an owner of real property located within the APD or within three hundred feet of the subject property.*

ALTERATION, MINOR: Replacement, modification or material change to existing architectural features on a Contributing Property, which retains the character of the property as determined by the Architectural Preservation District Commission. Examples include, but are not limited to windows, doors, roof material and trim work.

ALTERATION, SUBSTANTIAL: A change to a Contributing Property or part thereof, such as removal, reconstruction, restoration, replication, rehabilitation, addition, or demolition; and/or a change to a site that includes, enlarging or moving a building and other similar activities.

ARCHITECTURAL PRESERVATION DISTRICT ("APD"): An area of historic and/or architectural significance determined by the Town's residents to be worthy of preservation.

BINDING REVIEW: Pursuant to Section 8 of this bylaw, a mandatory process which applies to substantial alterations of contributing properties, including demolition, in the APD.

BUILDING: A combination of materials having a roof, the purpose of which is the shelter of persons, animals, property, or processes, including any other permanent structure.

CERTIFICATE TO ALTER: A document issued by the APDC allowing Alterations pursuant to Section 8 of this bylaw.

CONTRIBUTING PROPERTY: Any building or stone wall within an APD, which is older than 75 years and contributes to the Architectural Preservation District's historical character as determined by the Architectural Preservation District Commission.

DEMOLITION: The act of removing or razing structures or significant parts of structures, or commencing the work of total or substantial destruction with the intent of completing the same.

DEMOLITION BY NEGLECT: Destruction by failure to maintain roof, siding, foundation or any other aspect that requires upkeep, which could ultimately result in the Contributing Property being condemned. These include but are not limited to:

1. Facades which may fall and injure members of the public or property.
2. Deteriorated or inadequate foundation, deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports.
3. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to deterioration.
4. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
5. Improper or insufficient waterproofing or exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering.
6. Any fault or defect in the Contributing Property caused by alteration or neglect of maintenance, which renders it not properly watertight or structurally unsafe.

7. Fireplaces or chimneys which list, bulge or settle due to deterioration.

DESIGN GUIDELINES: A public document which provides further detail and illustration of the design standards established in Section 9 of this bylaw. Such guidelines, by facilitating the APD/C's determination as to whether proposed alterations are appropriate and compatible with the existing Contributing Property's, setting and neighborhood character of the APD, will ensure fair, reasonable and objective preservation practices by the APD/C.

DRAFT MAP

Section 3: Designation of Architectural Preservation District (APD)

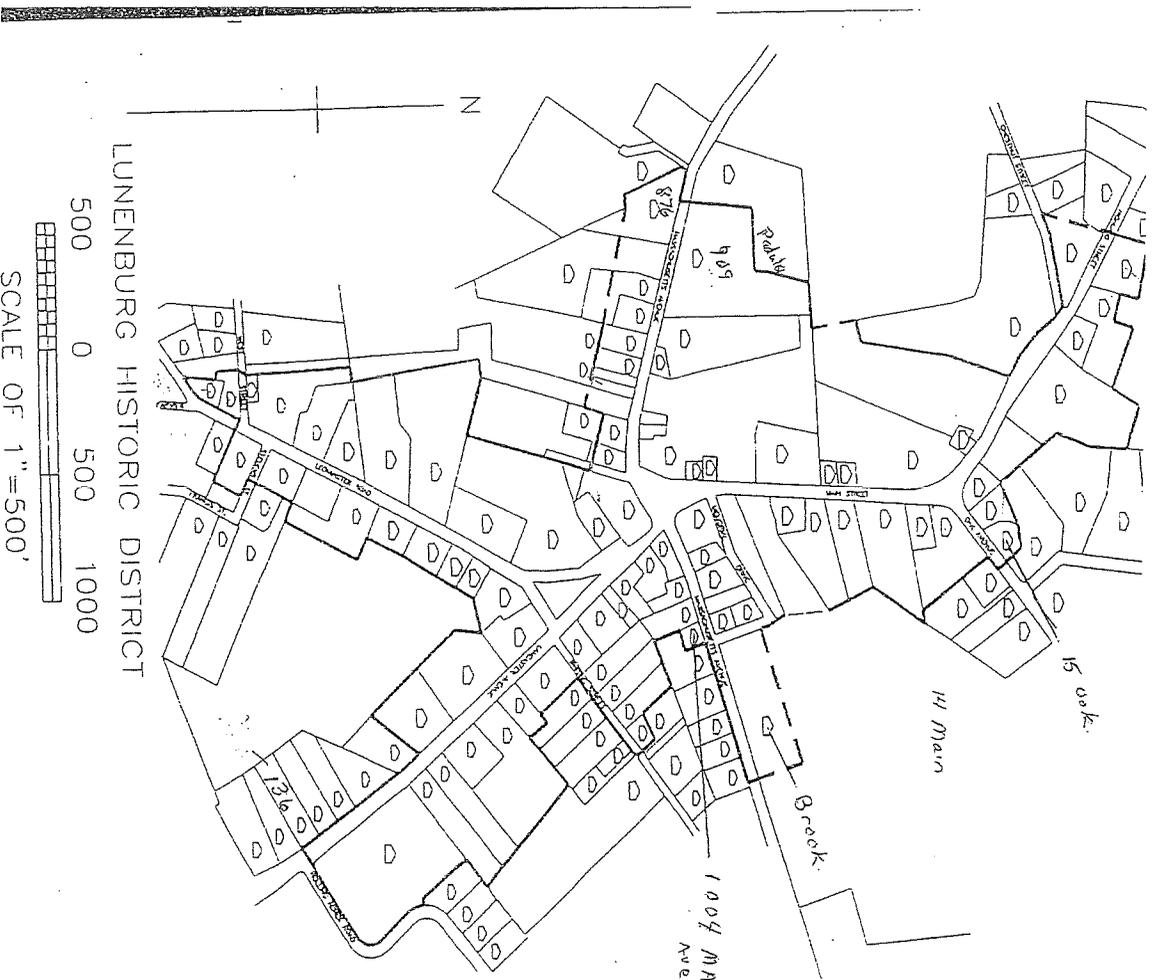
The APD shall, by Town Meeting vote, encompass the areas shown on the map entitled "Town of Lunenburg Historic District and the Lunenburg Village District," and appended to this bylaw. Amendments to the district boundaries may be made only by vote of Town Meeting.

Section 4: Architectural Preservation District Commission (APD/C)

The Board of Selectmen shall appoint a five-member APD/C to oversee the APD pursuant to this bylaw. Initially, two members shall be appointed for one year, two for two years, and one for three years; each successive appointment shall be made for three years. The Board of Selectmen may also appoint up to two alternate members, initially for terms of one, two and three years, and for three-year terms thereafter. If members are absent, unable to act, or recused from voting due to a conflict of interest, the APD/C chair may designate one or both of the alternate members to serve in their place. To the extent achievable, the APD/C shall be comprised of the following persons: a member of the Lunenburg Historical Commission; a design professional; a craftsperson or building contractor familiar with historic restoration; and two residents of the APD and one resident at large. Members and alternates of the APD/C shall by reason of experience and/or education have demonstrable knowledge, interest, and ability to effectively carry out the APD/C's responsibilities.

Section 5: APD/C Powers and Duties

The APD/C shall exercise its powers in reviewing the alteration (substantial or minor), including demolition of contributing



properties within the APD as set forth in this bylaw, and in accordance with the standards described in Section 9. Within 180 days of its establishment, the APDC shall adopt design guidelines to assist the APDC in determining whether the proposal satisfies the standards described in Section 9, as well as to facilitate owner understanding of and compliance with those standards. The APDC may also promulgate rules and regulations consistent with the provisions of this bylaw, or set forth such forms and procedures as it deems appropriate for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for certificates, hearing procedures and other matters. In adopting design guidelines and rules and regulations, including any subsequent amendments, the APDC shall first hold a duly posted public hearing advertised at least fourteen (14) days in advance within a newspaper of local circulation. The APDC shall not adopt or amend any design guidelines or rules and regulations until at least 35 days after the APDC has provided a copy of those proposed guidelines or rules and regulations to the Board of Selectmen.

Section 6: Exemptions

The following are exempt from the requirements of this bylaw:

- a) Routine maintenance of Contributing Properties.
- b) Repairs or improvements which do not require a building permit from the Building Inspector.
- c) Temporary buildings (subject to time and size limits imposed by the APDC).
- d) Interior building alterations.
- e) Exterior building colors.
- f) Installation, removal or replacement of storm windows and storm doors, screen windows and screen doors.
- g) Installation, removal or replacement of gutters, downspouts, window shutters and door shutters.
- h) Structures not defined as Contributing Properties.

Section 7: Administrative Review/Determination of Applicability

Minor alterations such as like for like replacement of architectural features and other minor work (as outlined in the APDC regulations) shall be reviewed through this process to ensure consistency of the property's character and appropriateness of the proposed materials. The APDC shall make a determination that the proposed work is exempt or that it does not retain the character of the Contributing Property. In the case where the work does not retain the character of the Contributing Property it shall be determined to equate to a substantial alteration and require a binding review per Section 8 of this Bylaw.

Property owners considering substantial alterations to a Contributing Property are strongly encouraged, but not required, to request an Administrative Review from the APDC. This review would focus on directing the applicant toward developing a proposal that would be compliant with the Binding Review Process in Section 8.

Administrative Review does not require a public hearing and can be requested electronically. In providing Administrative Review for a proposed Alteration, the APDC shall make a finding as to whether or not the proposed Alteration is compatible with the standards in Section 9 and the associated design guidelines. The APDC shall provide its finding in writing, as a Negative Determination or a Requirement of Binding Review, and within 45 days of receiving a request for Administrative Review. The Requirement of Binding Review may include recommendations on how the proposed Alteration could be made more consistent with the standards and the design guidelines.

Section 8: Binding Review

The following Alterations require the submittal of an application for binding review by the APDC:

- (a) Demolition of all or a part of a Contributing Property.
- (b) Substantial Alterations to a Contributing Property.

Applications should include a completed application form and photographs showing existing buildings and site conditions. For substantial alteration, including additions and demolition, applicants should also provide building elevations showing the proposed configuration and building materials; a plan showing the approximate footprint and relationships of buildings to other structures; exterior circulation, and points of entry; and any other plans which may help to demonstrate the proposed building design. Applications can be submitted electronically, but applicants shall also provide one hard copy of the application to the Planning Office. If appropriate, the APDC may waive any or all of the requirements for design submittal and review.

Within thirty (45) days of the application submittal, a copy of which shall be filed with the Town Clerk, the APDC shall hold a public hearing on the application, said hearing to be noticed by an ad published at least once in a newspaper with local circulation fourteen (14) days or more before the hearing. Following the hearing, the APDC shall determine whether or not the proposed Alteration is consistent with the standards set forth in Section 9 and the associated design guidelines. If the APDC determines by majority vote that the Alteration adheres to the standards and the design guidelines, it shall issue a Certificate to Alter, which may be subject to reasonable conditions that the APDC deems necessary and appropriate. If the APDC does not achieve a majority vote that the Alteration is compatible with the standards and the design guidelines, it shall make a negative determination. The APDC's written determination shall be submitted to the property owner within twenty (20) days of the close of the public hearing, and no later than ninety (90) days after the submittal of an application, unless granted a time extension by the owner. In making its determination, the APDC shall provide a rationale for its action, including a description of how the alteration does or does not meet the standards set forth in Section 9 and the design guidelines. If the APDC denies a Certificate to Alter, it may include non-binding advisory only, recommendations on how the proposed Alterations may be modified to satisfy the APDC. Once the applicant modifies the Alterations in a manner that the APDC finds acceptable, the APDC shall issue a Certificate to Alter. The determinations of the APDC relative to Alterations described in this Section 8, whether positive or negative, shall be binding on the applicant.

Section 9: Design Standards When reviewing an application, the APDC shall consider the following standards, which are intended to guide the property owner in the site development and building design, as well as the APDC in its review of proposed actions as described in Section 8 above:

- (a) **Height and Proportions** – The height, proportions, and relationship of height to width between windows, doors, signs and other architectural elements should be compatible with the architectural style and character of the building or structure.
- (b) **Relation of Structures and Spaces** – The relation of a structure to the open space between it and adjoining structures should be compatible with such relationships in the district.
- (c) **Shape** – The shape of roofs, windows, doors and other design elements should be compatible with the architectural style and character of the building.
- (d) **Scale** – The scale of a structure alteration should be compatible with its architectural design style and character and that of the district.
- (e) **Directional Expression** – Building facades and other architectural design elements should be compatible with those of others in the district with regard to the dominant vertical or horizontal expression or direction related to use and historical or cultural character, as appropriate.
- (f) **Garages and Accessory Buildings** – Garages and accessory buildings shall be sensitively integrated into the overall development, and should not be the predominant design feature when viewed from the street.

(g) **Materials & Methods of Construction** – Materials used shall be consistent with the appearance and character of the surrounding properties and contribute to historic nature of the area. Construction methods shall meet Building Code requirements and visually resemble historic patterns but may use contemporary technology.

Section 10: Procedures for Issuance and Filing of APDC Determinations: Each Certificate to Alter or negative determination issued by the APDC shall be dated and signed by its chair or such other person designated by the APDC to sign certificates on its behalf. The APDC shall send a written copy of its actions to the property owner and shall file other copies with the office of the Town Clerk and the Building Inspector. The date of issuance of a certificate or negative determination shall be the date of its filing of other said copy with the office of the Town Clerk. If the APDC should fail to submit a written determination within twenty (20) days of closing its public hearing, or within ninety (90) days of the submittal of a Certificate, or within such further time as the applicant may allow in writing, a Certificate to Alter shall be waived in favor of the property owner.

Section 11: Enforcement In addition to the duties previously set forth in this Bylaw, the APDC or the Building Inspector shall issue enforcement orders, with an immediate cease and desist order directing compliance with this Bylaw and shall undertake any other enforcement authorized by law.

Upon request of APDC, and with the approval of the Board of Selectmen, the Town Counsel shall take legal action on behalf of the Town for enforcement of this Bylaw, or any order issued hereunder, in any court of competent jurisdiction.

In the case of demolition, including demolition by neglect, without approval of the APDC no building permit shall be issued with respect to any Contributing Property within the APD that caused a demolition of its building, structure or Contributing Property for a period of up to two (2) years after the date of the violation.

The APDC or its designee may use any and all of the aforementioned enforcement methods to address the contributing factors of demolition by neglect for purposes of preventing a Contributing Property from becoming structurally deficient or economically infeasible to repair.

Section 12: Coordination with Other Town Boards and Bylaws

(a) Except as stated in "(b)" below, the APDC's authority as established in this bylaw shall not supersede or interfere with the regulatory authority of other local or state boards or APDCs.

(b) By exercise of this bylaw, the APDC assumes the authority of the Lunenburg Historical Commission pursuant to Chapter XVI of these General Bylaws, relative to the proposed demolition (including demolition by neglect) of buildings that are over 75 years of age and located within the APD.

(c) The APDC shall coordinate its review with that of other Town Boards.

(d) The APDC shall be included as an advisory review entity in new construction projects that move through the Planning Board Development Plan Review and/or Special Permit processes.

Section 13: Appeal Procedure

Any aggrieved party may appeal the action of the APDC in accordance with the General Laws.

Section 14: Validity and Separability

The provisions of this bylaw shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this bylaw shall continue to be in full force and effect.

Section 15: Appendices

Appendix A: The location and boundaries of the Town of Lunenburg Architectural Preservation District are defined and shown on the Town of Lunenburg Village Center District Map and the Town of Lunenburg Historic District Map, which is a part of this bylaw.

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The foregoing amendments were approved by the Attorney General of Massachusetts on October 16, 2015, such approval having been received by the Town Clerk on October 19, 2015.
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Claims of invalidity by reason of any defect in procedure of adoption or amendment may only be made within 90 days of this posting. Copies of these by-laws may be examined and obtained at the Town Clerk's office.


Kathryn M. Herrick, Town Clerk

I have this day posted copies of this bulletin in five (5) places in the Town of Lunenburg.


John A. Baker, Constable

Date OCT 27 2015