

## 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 buildings;
- (c) Limiting the detrimental effect of alterations, additions, demolitions and new construction on the character of such buildings and their neighborhood settings;
- (d) Reviewing proposed alterations, which include additions, and new construction, of or to any buildings 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 combination of binding and voluntary non-binding 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 building 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 architectural feature replacement and identify the need for Binding Review.

**ALTERATION, MINOR:** Replacement, modification or material change to existing architectural features on a building. These include, but are not limited to windows, doors, roof material and trim work.

**ALTERATION, SUBSTANTIAL:** A change to a building or part thereof, such as removal, construction, reconstruction, restoration, replication, rehabilitation, addition, or demolition; and/or a change to a site that includes constructing, placing, erecting, installing, 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 alterations, and new construction of buildings on contributing properties in an 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 which require review pursuant to Section 8 of this bylaw.

**CONTRIBUTING PROPERTY:** Any building within an APD that is older than 75 years and which contributes to its historical character, or any house lot within the APD which was either vacant prior to the adoption of this bylaw.

**DEMOLITION:** The act of pulling down, destroying, 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. **No house, building or structure which is over 75 years of age shall be approved for demolition within the APD.**

**DEMOLITION BY NEGLECT:** Destruction intentionally or unintentionally by failure to maintain roof, siding, foundation or any other aspect that requires upkeep:

1. Facades which may fall and injure members of the public or property.
2. Deteriorated or inadequate foundation, defective or 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 defective material or deterioration.
4. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
5. Defective 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 building which renders it not properly watertight or structurally unsafe.
7. Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with safety which jeopardize its structural integrity.

**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 APDC's determination as to whether proposed alterations are appropriate and compatible with the existing buildings, setting and neighborhood character of the APD, will ensure fair, reasonable and objective preservation practices by the APDC.

~~**NON-BINDING VOLUNTARY REVIEW:** A review offered by the APDC for Alterations as described in Section 7 of this bylaw.~~

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

**SUBSTITUTE SIDING:** A siding material that has been placed over or has replaced the wood siding of a building. This includes, but is not ~~necessarily~~ limited to, aluminum, vinyl, or asphalt siding.

### **Section 3: Designation of Architectural Preservation District (APD)**

The APD shall, by town meeting vote, encompass the area shown on the map entitled “Town of Lunenburg, Historic District and 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 (APDC)**

The Board of Selectmen shall appoint a **five-member** APDC 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 APDC chair may designate one or both of the alternate members to serve in their place. To the extent achievable, the APDC 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.** Members and alternates of the APDC shall by reason of experience and/or education have demonstrable knowledge, interest, and ability to effectively carry out the APDC’s responsibilities.

### **Section 5: APDC Powers and Duties**

The APDC shall exercise its powers in reviewing the construction and/or alteration of buildings 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 determine 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 buildings.
- (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 or replacement of storm windows and doors, screen windows and doors.
- (g) Removal or replacement of gutters, downspouts, window and door shutters.
- (h) Removal of substitute siding from a building.
- (i) Structures not defined as buildings or parts of buildings.
- (j) Reconstruction of a building damaged or destroyed by storm or other natural disaster, provided that the reconstruction is completed in a manner that is consistent with other local bylaws. For a Contributing Property the owner **shall** reconstruct the building, to the greatest extent possible, to conform to its original size and appearance; for a non-Contributing Property the owner **shall** reconstruct the building to conform to the design standards in Section 9 and the associated design guidelines.

#### **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) may be reviewed through this process to ensure consistency of the property's character and appropriateness of the proposed materials. The APDC may make a determination that proposed work equates to a substantial alteration and requires a binding review per Section 8 of this Bylaw.

Property owners undertaking substantial alterations to a Contributing Property are strongly encouraged, but not required, to request an Administrative Review advisory 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.

~~Advisory Administrative r~~Review does not require a public hearing, ~~is non-binding, and~~ can be requested electronically. In providing Administrative Review advisory 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 and within 20 days of receiving a request for advisory review. The advisory may include recommendations on how the proposed Alteration could be made more consistent with the standards and the design guidelines.

#### **Section 8: ~~Alterations Which Require APDC~~Binding Review**

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

- (a) Demolition of a part of a building on a Contributing Property.
- (b) Substantial Alterations to a Contributing Property.
- ~~(c) New construction of buildings on properties within the APD, including additions but not including the construction of accessory buildings that are less than 250 square feet in area.~~

Applications should include a completed application form and photographs showing existing buildings and site conditions. For new construction and substantial exterior alteration, 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 (30) 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 sixty (60) 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 makes a negative determination, it shall include 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 ~~should~~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 sixty (60) 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 and 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.

~~These enforcement actions can result in fines but if~~ In the case of demolition no building permit shall be issued with respect to any property within the APD that caused a demolition of its building, structure or contributing property for a period of two (2) years after the date of the violation.

### **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 make every effort to 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. Appeals shall be taken as provided by MGL Chapter 249, Section 4 as may be amended.

### **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: Rules and Regulations**

The APDC shall promulgate and publish such rules and regulations as are deemed appropriate and consistent with the provisions of this bylaw.

### **Section 16: Appendices**

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