

Town of Lunenburg, MA
Thursday, November 9, 2017

Chapter 113. Architectural Preservation District

[HISTORY: Adopted by the Town of Lunenburg 5-2-2015 ATM by Art. 26. Amendments noted where applicable.]

GENERAL REFERENCES

Demolition delay — See Ch. 134.

Zoning — See Ch. 250.

§ 113-1. Purpose.

- A. This bylaw is enacted under the Home Rule Amendment of the Massachusetts Constitution for the purposes of:
- (1) 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;
 - (2) Fostering wider public knowledge and appreciation of such neighborhoods and contributing properties;
 - (3) Limiting the detrimental effect of alterations (substantial and minor), additions, and demolitions on the character of such contributing properties and their neighborhood settings;
 - (4) 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
 - (5) Facilitating the protection of the APD through a regulatory review.
- B. To achieve these purposes, the Town of Lunenburg may designate APDs to be administered as set forth in this bylaw.

§ 113-2. Definitions.

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

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 § 113-7 of this bylaw, a process to review proposed alterations to contributing properties and identify the need for binding review.

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 § 113-8 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 § 113-8 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.

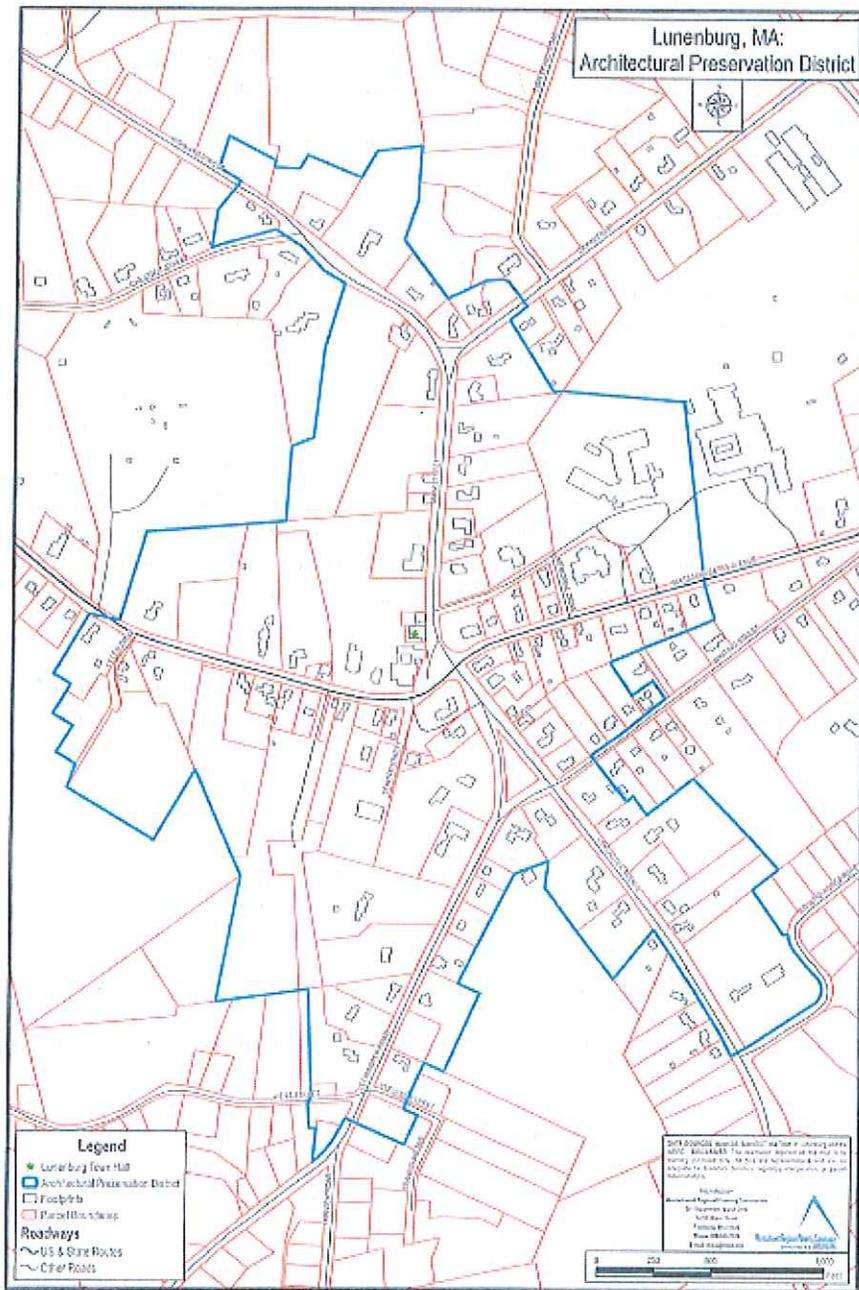
DEMOLITION

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.

§ 113-3. Designation of district.

[Amended 5-7-2016 ATM by Art. 42]

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



§ 113-4. Architectural Preservation District Commission (APDC).

[Amended 5-7-2016 ATM by Art. 42]

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 one resident of the APD and one resident at large. 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.

§ 113-5. APDC powers and duties.

- A. The APDC 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 § 113-9. 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 § 113-9, 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 14 days in advance within a newspaper of local circulation.
- B. 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.

§ 113-6. 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 Commissioner.
- 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.

§ 113-7. Administrative review/determination of applicability.

- A. 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 § 113-8 of this bylaw.
- B. 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 § 113-8.
 - C. 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 § 113-9 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.

§ 113-8. Binding review.

- A. The following alterations require the submittal of an application for binding review by the APDC:
 - (1) Demolition of all or a part of a contributing property.
 - (2) Substantial alterations to a contributing property.
- B. 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.
- C. Within 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 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 § 113-9 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 20 days of the close of the public hearing, and no later than 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 § 113-9 and the design guidelines. If the APDC denies a certificate to alter, it may include nonbinding, 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 § 113-8, whether positive or negative, shall be binding on the applicant.
[Amended 5-7-2016 ATM by Art. 42]

§ 113-9. 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 § 113-8 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 and methods of construction. Materials used shall be consistent with the appearance and character of the surrounding properties and contribute to the historic nature of the area. Construction methods shall meet Building Code requirements and visually resemble historic patterns but may use contemporary technology.

§ 113-10. 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 Commissioner. 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 20 days of closing its public hearing, or within 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.

§ 113-11. Enforcement.

- A. In addition to the duties previously set forth in this bylaw, the APDC or the Building Commissioner 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.

- B. 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 years after the date of the violation.
- C. 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.

§ 113-12. Coordination with other Town boards and bylaws.

- A. Except as stated in Subsection 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 134, Demolition Delay, 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 in the APD. [Amended 5-7-2016 ATM by Art. 42]

§ 113-13. Appeal procedure.

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

§ 113-14. Validity and severability.

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.

§ 113-15. Appendices.

[Amended 5-7-2016 ATM by Art. 42]

Appendix A: The location and boundaries of the Town of Lunenburg Architectural Preservation District are defined and shown on the map entitled "Town of Lunenburg Architectural Preservation District," which is a part of this bylaw.^[1]

[1] *Editor's Note: See § 133-3 above.*

