

ARTICLE XXIII Neighborhood Conservation District By-law

Section 1. Purposes

A. This Neighborhood Conservation District By-law of the Town of Lincoln is enacted under the Home Rule Amendment of the Massachusetts Constitution.

B. The purpose of this By-law is to enable the establishment in the Town of Lincoln of Neighborhood Conservation Districts (NCD), for the following purposes:

- 1) To preserve, conserve and protect the beauty and heritage of Lincoln, and the quality of its environment, through identification and conservation of particular neighborhoods and areas which constitute or reflect distinctive features of the architectural, aesthetic, cultural, political, economic or social history of Lincoln, to preserve the diversity of housing choices and neighborhoods within Lincoln, and to limit and restrain the detrimental effects of inappropriate alterations, demolitions and new construction adverse to this purpose;
- 2) To encourage preservation of existing buildings, to ensure that new construction will complement existing buildings, settings and neighborhood character, and to foster appropriate reuse, updating and upgrading of structures in such neighborhoods and areas.
- 3) To promote wider public knowledge and appreciation of such neighborhoods, areas or structures in Lincoln; and
- 4) By furthering these purposes, to promote the public welfare by making Lincoln a more diverse, attractive and desirable place in which to live.

C. The buildings in and characteristics of a neighborhood are not intended to be frozen in time by their designation as an NCD under this By-law; the neighborhood should be able to grow and change to meet the needs of current and future owners and of current and future times, while conserving the neighborhood's distinctive qualities as changes occur.

D. The designation of an NCD is intended as recognition of the significance to Lincoln of the neighborhood and its distinctive architectural and historical character.

Section 2. Designation of Districts

A. To be considered for an NCD, a neighborhood shall satisfy the following criteria:

- 1) The area as a whole constitutes a distinctive neighborhood or has a distinctive character; and
- 2) The area contains buildings, structures or landscapes which are significant to the architectural, aesthetic, cultural, political, economic or social history of Lincoln; or the area has generally cohesive features, such as the scale, size, type of construction, materials or style of its buildings, or its land use patterns, siting and landscaping.

B. The designation of an NCD shall be initiated by neighborhood residents. A petition shall be submitted to the Historical Commission, containing the signatures of the owners of at least fifty percent (50%) of the building lots in the area proposed to be included in the NCD (Area), which petition shall include: 1) a general statement of the historical; architectural or other qualities of the Area that make it appropriate for designation; 2) a map of the Area; and 3) a general outline of the scope of guidelines and review authority that would be proposed for an NCD for the Area.

C. Following receipt of a petition for designation, the Historical Commission shall appoint a Study Committee to investigate and report on the appropriateness of such a designation for the Area. The Study Committee shall consist of five (5) members, at least two (2) of which shall be residents of the Area. Notice of the appointment of the Study Committee shall be provided to all owners of building lots in the Area and all owners of building lots abutting the Area, at the address for such owners as listed in the real estate tax list of the Board of Assessors.

D. The Study Committee shall, working with residents of the Area, prepare a Report, which shall include: 1) an overview of the significant historical, architectural or other qualities of the Area; 2) a map of the boundaries of the proposed NCD, and 3) guidelines (Guidelines) for the proposed NCD.

Each NCD shall have its own Guidelines which are applicable only to that NCD. The Guidelines shall, as and to the extent appropriate for the conservation of the particular qualities of the particular neighborhood: 1) establish design guidelines for the NCD; and 2) establish the scope of review authority under this By-law for activities within the NCD (including categories and types of changes which are exempt from review or are subject to review, as provided for in **Section 4** below). The Guidelines shall be based to the extent appropriate on the guidelines proposed in the petition submitted by the neighborhood residents.

E. The Historical Commission shall, within sixty (60) days after receipt of the completed Report, hold a public hearing to present the Report, including the proposed Guidelines, for the Area. Public notice of the hearing shall be given at least fourteen (14) days before the hearing date, in such manner as the Historical Commission may determine, and by mailing said notice, together with copies of the Report, to all owners of building lots in the Area and of building lots abutting the Area, at the address for such owners as listed in the real estate tax list of the Board of Assessors. At least fourteen (14) days prior to the hearing date, the Historical Commission shall also transmit notice of the hearing, together with copies of the Report, to the Planning Board for its consideration and recommendations, which shall be advisory only.

F. Following the public hearing, the Historical Commission may, by majority vote, recommend the Area for designation as an NCD. If the Historical Commission does not vote to recommend the Area for designation, or if, at or prior to the public hearing, the owners of at least thirty-three percent (33%) of the building lots in the Area object in writing to the proposed designation, then the proposed designation shall be deemed rejected. If the NCD is recommended by the Historical Commission, and not deemed rejected, the designation of the NCD shall be brought to Town Meeting for approval.

G. The establishment of an NCD, and the adoption of its Guidelines, under this By-law shall be by a majority vote at an Annual or Special Town Meeting.

H. The establishment of an NCD shall not be construed to prevent the construction or alteration of a structure in the NCD under a building permit, zoning permit or other municipal approval (Permit) duly issued prior to the date of the establishment of the NCD by the Town Meeting; provided, following the submission of a petition by a neighborhood and until the establishment or rejection of the NCD, other Town Boards shall give due and appropriate weight to the pendency of such petition with respect to any Alterations within the Area which come before such other Boards during such period.

I. Subsequent amendments to the Guidelines of a designated NCD may be initiated either by residents of the NCD, by the submission of a petition signed by the owners of at least fifty percent (50%) of building lots in the NCD to the Commission, or by the Commission (established in **Section 3** below), and shall follow the same procedures governing the creation of an NCD, except that no Study Committee shall be established. Subsequent amendments changing the boundaries of a designated NCD shall follow the same procedures governing the creation of an NCD.

Section 3. Neighborhood Conservation District Commission

A. Following the designation of an NCD, a Neighborhood Conservation District Commission (Commission) shall be appointed for the NCD. The Commission shall consist of five (5) members and at least 2 alternates. Three (3) of the members and one (1) of the alternates shall be current members or alternates of the Historic District Commission, as designated by the Historical Commission, and two (2) of the members and 1 or more of the alternates shall be appointed by the Board of Selectmen. At least two (2) of the members and at least one (1) of the alternates shall, if possible, be residents of the NCD.

B. Members and alternates of the Commission designated by the Historical Commission shall serve for a term co-terminus with their term as a member or alternate of the Historic District Commission. Members and alternates appointed by the Board of Selectmen shall initially be appointed to staggered terms, and to terms of three (3) years thereafter. Each member or alternate shall continue to serve in office after the expiration of his or her term until a successor is duly appointed.

C. Members of the Commission shall annually elect a Chair. In the case of absence, inability to act or recusal due to conflict of interest of a member, his or her place shall be taken by an alternate member designated by the Chair (if available) or by a majority vote of members present.

D. A quorum shall consist of three (3) members of the Commission. The Commission shall act by majority vote, provided if less than five (5) members are present, at least three (3) affirmative votes shall be required for any approval.

E. Meetings of the Commission shall be held at the call of the Chair, or at the request of two (2) members.

F. The Commission, after a public hearing, may adopt and from time to time amend rules and regulations not inconsistent with the provisions of this By-law or the Guidelines for any of the NCDs, including setting such forms and procedures as it deems necessary and desirable for the regulation of its affairs and the conduct of its business.

Section 4. Review Of Alterations

A. The Guidelines for each NCD shall establish separately the extent of review of alterations, additions, changes, demolitions or new construction (Alterations) that will be required within that NCD.

B. Except as otherwise provided in the By-law, and except as otherwise provided in the Guidelines of an NCD, no Alterations to any building or other structure or feature within an NCD shall be permitted unless the Commission shall first have issued a Certificate of Compatibility.

C. Exemptions from Review.

- 1) None of the following categories or types of Alterations shall require review by the Commission:
 - a) Temporary structures.
 - b) Interior Alterations.
 - c) Storm windows, doors, and screens.
 - d) Colors.
 - e) Accessory structures of less than one-hundred (100) square feet of floor area and less than fifteen (15) feet in height.
 - f) Alterations not visible from a public way or other areas open to public access.
 - g) The ordinary maintenance, repair or replacement of exterior architectural features; the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition; or the reconstruction, substantially similar in exterior design to the prior structure, of a structure damaged or destroyed by fire, storm or other casualty.

In addition, the Guidelines for an NCD may provide for other categories or types of Alterations within such NCD which shall not require review by the Commission.

Although not a condition of obtaining a Permit for Alterations which do not require review by the Commission, at the request of any owner, the Commission shall issue a Certificate of Exemption for any Alterations that are exempt from the review of the Commission pursuant to the foregoing.

D. Review.

- 1) All Alterations that are not exempt from review shall be subject to review by the Commission.
- 2) Any person wishing to perform Alterations which require review, shall first file an application for a Certificate of Compatibility, in such form as the Commission may reasonably determine, together with such plans, elevations, specifications, material and other information as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.
- 3) Following the submittal of an application for an Alteration deemed by the Commission to be complete, the Commission shall hold a public hearing. Public notice of the hearing shall be given at least fourteen (14) days before the hearing date, in such manner as the Commission may determine, and by mailing said notice to all owners of building lots in the NCD and building lots abutting the property subject to the hearing, at the address for such owners as listed in the real estate tax list of the Board of Assessors.

- 4) Following the hearing, the Commission shall determine whether the proposed Alteration is appropriate for the NCD and compatible with the Guidelines for the NCD and the purposes of this By-law. If the Commission decides that the proposed Alterations are compatible, the Commission shall issue a Certificate of Compatibility. A Certificate of Compatibility may be granted subject to such reasonable conditions as the Commission may deem necessary or appropriate, which conditions shall be included in the Certificate of Compatibility. If the Commission decides that the Alteration is not compatible, the Commission shall provide the applicant a written statement with the reasons for their disapproval.
- 5) If the Commission shall fail to make a determination within sixty (60) days after the complete application is filed, or such further time as the applicant may allow in writing, the Certificate of Compatibility applied for shall be deemed granted.
- 6) The Guidelines for the NCD may provide that certain categories or types of Alterations shall be subject to advisory, non-binding review by the Commission, or an owner may request such non-binding review of otherwise exempt Alterations, in which event the foregoing procedures applicable to a review hereunder shall be followed, but without the Commission voting or rendering a binding decision thereon.

E. Except to the extent the Guidelines for an NCD provide otherwise, the Commission, after a public hearing, may determine from time to time that certain additional designated categories or types of Alterations may be undertaken in the NCD without review by the Commission, or with only advisory, non-binding review, without causing substantial derogation from the intent and purposes of the By-law.

Section 5. Factors

- A. In passing upon matters before it, the Commission shall consider, among other things:
 - 1) The historical and architectural value and significance of the particular structures, and their settings, being affected, as well as the effects of same on the NCD;
 - 2) The suitability of the general design, arrangement, composition, scale, massing, texture and material of the features involved in the Alterations, as well as the effects of same on the NCD;
 - 3) The siting and landscape characteristics, including relation to the street, topography and existing vegetation, of the particular site involved in the Alterations, as well as the effects of same on the NCD;
 - 4) For demolitions, the structure proposed to replace the existing structure; and
 - 5) The standards, factors and other matters contained in the Guidelines for the NCD.
- B. In making its determination, the Commission shall, among other things:
 - 1) Allow for and encourage appropriate architectural diversity and individualized Alterations while respecting the characteristics of the neighborhood; and
 - 2) Encourage the compatible updating, expansion and renovation of structures in the neighborhood, consistent with the foregoing.

Section 6. Judicial Review, Enforcement, Lapse

- A. [Disallowed by the Attorney General.]
- B. The provisions of the By-law may be enforced in the same manner as, and violations shall carry the same penalties as are applicable to, a violation under the Historic District By-law.
- C. Certificates of Compatibility shall lapse within a period of 18 months (plus such time as is required to pursue or await the determination of a judicial review as provided above) from the date of the issuance thereof, if construction has not begun by such date except for good cause.

Section 7. Coordination With Other Town Boards And By-laws

A. The provisions of the Demolition Delay By-law of the Town of Lincoln shall not be applicable to the demolition of any structure within the NCD if the Commission has issued a Certificate of Compatibility permitting the demolition of such structure. Except as provided in (a) above, nothing in this By-law is intended to waive any of the provisions of any other Town By-laws, general or zoning, or limit the jurisdiction of any other Town Boards

B. The Commission shall use reasonable efforts to coordinate its reviews with those of other Town Boards.

C. Other Town Boards shall give due and appropriate weight to the determinations of the Commission made hereunder with respect to any Alterations within the NCD which come before such other Boards.