

Town of Royalston

Massachusetts

ROYALSTON HISTORIC DISTRICT COMMISSION INTERNAL RULES AND REGULATIONS

A. GENERAL

Section 1. Introduction

The Royalston Historic District Commission (Commission) of the Town of Royalston, Massachusetts (Town), hereby adopts the following rules for the conduct of its business. A copy of these Rules and Regulations, and all amendments thereto, shall be filed with the Town Clerk.

Section 2. Powers, Functions and Duties of the Commission

The Commission without limitation has the following powers, functions and duties:

- a) To administer the Town Historic District in accordance with M.G.L. Chapter 40C (Historic Districts Act) and the Town Historic Bylaw of March 1980 (as amended) to preserve and protect the distinctive characteristics of significant buildings and places in the district and to maintain and improve the settings of such building and places.
- b) To serve as the Town's Historical Commission under M.G.L. Chapter 40, Section 8d, and, in that capacity, participate in research, advocacy, survey, and public education programs designed to preserve the Town's cultural assets.

B. COMMISSION ORGANIZATION

Section 1. Commission Membership

- a) Seven Commission Members (Commissioners) and three Alternate Members (Alternates) are appointed by the Selectboard to serve in staggered terms.
- b) Appointments to the Commission are regulated by the Town Historic District Bylaw and M.G.L. 40C.

Section 2. Tenure.

Commissioners and Alternates serve three-year terms, or residual parts thereof, which begin and end as determined by the Selectboard. Commissioners and Alternates continue to serve to the end of their terms and into the following term until reappointed or replaced.

Section 3. Officers

- a) The Officers of the Commission shall consist of a Chairperson, a Vice-Chairperson and a Secretary.

b) The Commission shall elect the Officers annually. The election should be held preferably at the first regularly scheduled meeting following July first. An election to fill a remaining term shall also be held in case of resignation of an officer.

c) Only a Commissioner may serve as Chairperson or Vice-Chairperson. Any person, including a Town employee, may hold the office of Secretary.

d) Except as otherwise provided by law or by these Rules and Regulations, the officers of the Commission shall hold office until their successors are chosen.

Section 4. Power and Duties of Chairperson

The Chairperson shall preside over all meetings and hearings of the Commission. Subject to the rules as stated herein, the Chairperson shall: appoint the members and chairpersons of Subcommittees; supervise the work of the Commission; arrange for necessary help; sign and date certificates issued by the Commission, except in conflict of interest situations; and appoint subcommittees and representatives.

Section 5. Powers and Duties of Vice-Chairperson

The Vice-Chairperson(s) shall act as Chairperson in the event that the Chairperson is absent, disabled, does not participate in a particular matter or is otherwise unable to perform his/her duties. The Vice-Chairperson(s) shall assist the Chairperson in supervising the work of the Commission.

Section 6. Powers and Duties of Secretary:

The duties of the Secretary shall include, without limitation, the following which the Secretary shall perform or cause to be performed: Provide public notice of meetings; Compile minutes of all meetings of the Commission; Maintain a permanent record of its resolutions, transactions, and determinations and of the vote of each Member participating therein;

Section 7. Alternates

Alternates shall take the place of Commissioners who are absent or recuse themselves for any reason. The chairperson acting at the time shall designate what Alternates shall act as replacements if the number of Members present and remaining active exceeds seven (7).

If voting for an absent Commissioner, the Alternate shall continue to vote until the Commissioner arrives and until the conclusion of the agenda item then under consideration.

Alternates when not taking the place of a Commissioner shall sit with the Commission and participate in discussions but shall neither make or second motions nor vote.

Alternates may be appointed as full voting Members of, and may chair, subcommittees.

Section 8. Resignation.

a) Any Commissioner or Alternate may resign by delivering his or her written resignation to the Selectboard. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

b) The Chairperson may request the resignation or non-reappointment of any Commissioner or Alternate who repeatedly fails to attend meetings, including site visits and/or sub-committee meetings, or repeatedly arrives late and/or leaves early without notification and/or satisfactory reason.

Section 9. Compensation.

All Commissioners and Alternates shall serve without compensation.

C. GENERAL REGULATIONS

Section 1. Conflict of Interest

All Commissioners and Alternates shall abide by the M.G.L. c. 268A, and other conflict of interest and ethics laws and guidelines.

Should a Member be an abutter with respect to a matter before the Commission, regardless of whether or not recusal is required by the conflict of interest law, it is preferred, as a matter of Commission policy, that said Member recuse him or herself with respect to that matter.

Section 2. Official Opinion

No Commissioner, Alternate, or staff member shall purport to express the official position or opinion of the Commission, except in accordance with a specific vote of the Commission. Personal opinions or beliefs shall be clearly identified as such.

Section 3. Amending these Rules and Regulations

These Rules and Regulations may be amended by an affirmative vote of the majority of the Commissioners (excluding alternates), provided that such an amendment shall first be presented in writing at a meeting preceding that at which the vote is taken. The Commission shall file a copy of the Rules and Regulations as amended with the Town Clerk

Section 4. Separability Clause

If any provision of this document or portion of such provision or the application thereof to any person or circumstances is held invalid, the remainder of the document (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.

D. PUBLIC HEARINGS AND MEETINGS

Section 1. Quorum

a) A quorum for all Commission activities shall consist of any four Commissioners and Alternates. A quorum for a subcommittee shall be a majority.

b) Commissioners and Alternates shall inform the Chairperson if they are unable to attend a meeting or there is a conflict of interest on a given case.

Section 2. Election of a meeting or hearing presiding officer.

In the event that neither the Chairperson nor the Vice-Chairperson is available, due to absence or recusal, to preside at a meeting or hearing on a particular matter, one of the remaining Commissioners shall be appointed to preside the meeting by a majority vote held as follows: if no more than seven (7) Commissioners and Alternates are available to vote at that meeting/hearing on particular matter, all shall vote; otherwise only Commissioners shall vote.

Section 3. Powers and Duties of a meeting or hearing presiding officer.

The person presiding a meeting or hearing shall determine the procedures of the meeting and decide all points of order, unless overruled by a majority of the Commission in session at the time.

In absence of a designated person, the presiding officer shall designate a person to compile the Minutes of the meeting or hearing.

The presiding officer shall designate Alternates to take the place of Commissioners who are absent, unable to act, or recuse themselves for any reason when the number of Members present and remaining active exceeds seven (7).

The presiding officer departing a meeting shall designate a replacement presiding officer among the Commissioners present.

If the Chairperson or Vice-Chairperson (in case a pro temp presiding officer was elected) arrives late at a meeting or hearing, he or she shall start presiding at the conclusion of the agenda item then under consideration.

Certificates and plans can be signed and dated by the officer presiding at the time they were voted on.

Section 4. Meetings

a) All meetings shall be open to the public and duly noticed in accordance with M.G.L. c. 39, §§23A-23C and 24, commonly referred to as the Open Meeting Law.

b) Regular meetings of the Commission shall be held on the third Thursday of each month at 7:30 p.m., at the Town Hall, or at such time, date or place as set forth in the notice for the meeting/hearing. Special meetings and hearings may be called by the Chairperson, the Vice-Chairperson in the Chairperson's absence, or at the request of two Commissioners.

c) In the event that the absence or departure of Commissioners and/or voting Alternates from a meeting of the Commission or of one of its subcommittees causes a lack of quorum, or that the business before the Commission or subcommittee cannot be completed at one sitting, the presiding officer may adjourn the meeting and subsequently continue the meeting by announcing a time and place, consistent with statutory deadlines, for resumption at such meeting. Motions for adjournment or continuance shall require concurrence of a numerical majority of Members present and voting.

d) If the date, time, and place for continuing a Commission meeting or public hearing or committee meeting is announced during a meeting or public hearing, then no additional notice shall be required for the continued meeting or public hearing provided that notice of the initial meeting or public hearing was adequately posted; however the continued meeting must be posted as specified by the Open Meeting Law.

Section 5. Vote

a) The presiding officer may propose to entertain a specific motion on an issue or may entertain such motions from the voting Members.

b) Motions need not be framed in the affirmative.

c) Each Member's vote shall be recorded in the minutes. The presiding officer shall normally participate in all votes.

d) The concurring vote of a majority of the Commissioners (including voting alternates), i.e. not less than four (4), shall be necessary to issue a Certificate of Appropriateness or a Certificate of Hardship or a Certificate of Non Applicability. A valid vote on all other matters, including denial of a Certificate, shall be a simple majority of the Commissioners and voting Alternates present, as long as there is a quorum. A tie vote shall be recorded as such. In case of a tie, the motion is not approved.

e) Commissioners, or Alternates designated to act for Commissioners, may abstain from any vote at their own discretion.

Section 6. Notice & Agendas

a) Pursuant to M.G.L. 40C, §11, at least fourteen (14) days before a hearing on any application for a Certificate of Appropriateness, a Certificate of Non-Applicability or a Certificate of Hardship, the Commission shall give public notice of the time, place, and purposes thereof by mailing a copy of said notice to the applicant, the owner of record if different from the applicant to owners of adjacent property (assuming each point in roads and other public spaces is included in the nearest property) and the owners of other property deemed by the Commission Secretary to be materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors, to the Town Planning Board to any person filing written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission Secretary shall deem entitled to notice.

b) Meeting agendas containing notice of the individual hearings shall be posted at the Town Hall at least one week prior to the meeting.

Section 7. Recusals

Should a Member miss a presentation and discussion at a public meeting related to an application, that Member shall recuse him/herself from the discussion and the vote on that application at that meeting. If said presentation is substantially recapitulated in the Member's presence prior to a discussion and vote at a subsequent meeting, the Member may participate in that subsequent discussion and vote.

E. LOCAL HISTORIC DISTRICTS

Section 1. Guidelines.

The Commission will follow the guidelines specified in *The Salem Historic District Handbook* and the Town Historic Bylaw.

Section 2. Application procedures

a) Application forms for certificates are available on the Commission web site and upon request to Commission Members.

b) Applicants are invited to come at a regular Commission meeting and discuss their proposals informally before submitting their application. Applications must have enough details so that the Commission can apply the criteria specified in the bylaw (e.g. design & sizes, material, color) and be accompanied by drawings or plans if appropriate.

c) As the Commission has neither office nor staff, applications can only be filed at posted times and places for Commission meetings. They can be filed by the applicant, or by an agent, or by giving or mailing the application to a Commission Member who will file it on behalf of the applicant but without acting as agent. Four copies of the application must be provided.

d) When the applicant or agent is filing an application in person, the Members will examine if enough details are provided and suggest additions and modifications, which can be made on the spot. If the applicant or agent chooses to make the modification later, the application shall be deemed not to have been filed and the Commission shall not keep any copy. If the applicant or agent is not present, or is present and decides to file a possibly amended application, a Commission Member will write the filing date on all copies and return a signed copy to the applicant, either immediately or by mail. The application will be assigned a number of the form year/month/sequence number.

e) If the Commission does not have a quorum at the scheduled meeting where an application is filed, the application will be transmitted to the Commission Chairperson. The Chairperson will examine if the application involves any exterior architectural features that are subject to approval by the Commission and so inform the applicant within 14 days of the filing date. Depending on the circumstances, the Chairperson may call a special meeting to discuss the application.

f) At the earliest opportunity (this step can be combined with step d above), the Commission will determine whether to accept the application for consideration. It will do so if the application is complete in all necessary respects. A filed application that is not accepted for consideration will be considered as rejected due to incompleteness, without prejudice. The reasons will be noted on the application. It will be filed with the Town Clerk and mailed or handed back to the applicant.

g) If an application is accepted for consideration, the Commission will decide one of the following four (4) courses of action:

- 1) If the application is for a Certificate of Non Applicability, issue the certificate immediately (this requires a majority and at least 4 votes in favor). Applications for Certificates of Non Applicability may also be the subject of a public hearing in marginal cases.
- 2) Accept the application as submitted and without a public hearing, subject to the condition that no owner of adjoining or materially affected property request a hearing within 10 days of being sent a notice of the application (this requires a majority and at least 4 votes in favor). If no hearing request has been received by the deadline, the Chairperson will issue the certificate. Otherwise the Chairperson will schedule a hearing. This procedure can only be used for simple matters where many precedents exist.
- 3) Consider the application at a specific future meeting, without calling a public hearing except if an owner of adjoining or materially affected property requests a hearing within ten (10) days of being sent a notice of the application (this requires a simple majority). The future meeting must be sufficiently far in the future to allow both the ten (10) day request deadline and the fourteen (14) day hearing notice. If this cannot be met in practice, the Secretary shall send public hearing notices without waiting for the end of the ten (10) day deadline.
- 4) Call a public hearing on the application at a specific date (this requires a simple majority).

If none of these 4 courses of action obtains the required majority, a public hearing shall be held at the next regular meeting scheduled at least 14 days after the next business day.

If the applicant or agent is not present, the course of action will be communicated in writing, possibly under the form of a hearing notice.

h) If no vote has taken place to approve or deny an application within 60 days after the application filing date or the latest continuation date approved by the applicant, if any, whichever is later, the Commission shall issue a Certificate of Hardship.

Section 3. Non-conforming conditions

a) The Commission shall accept the “grandfathered” condition of any building at the time of the creation of the Historic District even if said building may incorporate work inconsistent with its Guidelines for which no Building Permit can be documented.

b) In the event that an allegation is made that work requiring a Certificate of Appropriateness has been done at an unknown time without such Certificate, the Commission shall endeavor to document by whatever means may be available when the work was realized and whether the work existed at the date the Historic District came into existence. If the Commission determines that said work post-dates the creation of the Historic District, it may require an application for a retroactive Certificate. The transfer of ownership or of control of a property since the date when such work was completed shall not constitute “grandfathering” of said work.

c) If an existing violation or violations are present on a property that is the subject of an application for a certificate of appropriateness, the Commission may deny the application on that basis, if the property owner fails to modify the application to include acceptable curative action, or the Commission may approve the application subject to a condition requiring the property owner to cure any existing violations. Such conditional approval may: (i) require the property owner to cure any such violations before a building permit is issued for the work requested in the application, (ii) allow the curing work to proceed contemporaneously with the application work, or (iii) provide for some combination of (i) and (ii). The Building Inspector may issue a stop work order should he or she believe that the curing work is not occurring in the approved manner or if so requested by the Commission upon it making a similar determination. As used herein, "existing violation" means a previous change to the exterior architectural features of a structure that was effected without a certificate of appropriateness from the Commission under circumstances that required such a certificate to be issued, as determined by the Commission. The Commission at its sole discretion may relax its criteria when considering Hardship cases about violations that existed at the time an arm’s length transfer of ownership took place.

Section 4. Public Hearing and Design Review Process

a) An applicant may appear in person or be represented by an agent at the Commission meeting.

i) The presiding officer shall convene a Public Hearing;

ii) The presiding officer shall give a preliminary statement concerning the application;

iii) The applicant or agent shall present his or her application;

iv) The Commission Members may discuss the application, followed by public comments from anyone else with an interest in the proposal;

v) Commission Members may ask clarifying questions after each speaker;

vi) The Public Hearing shall be closed.

The Commission may then deliberate and make a determination but need not do so at that time.

b) If upon examination by the Commission, it determines that the application is not sufficiently complete, for whatever reason, for the Commission to make an informed determination, it must inform the applicant as to what additional materials are required and may continue the case with the applicant's written concurrence until they have been provided. If the applicant does not agree to a continuation, the Commission may reject the application.

c) In cases where more information is needed or when the Commission determines that revisions to the proposed designs are necessary, and with the written concurrence of the applicant, the case may be continued and may be referred to a subcommittee appointed by the Chairperson, which will meet with the applicant to review and comment on revisions or on more fully developed plans. Subcommittee meetings are subject to the Open Meeting Law. The subcommittee will make a recommendation to the Commission at a subsequent public hearing.

d) The Commission and its Subcommittees will make every effort to suggest ways in which an application can be amended so that it will be consistent with the guidelines. Discussion among Members and the applicant shall focus on arriving at a solution satisfying all concerned. However, Commission or Subcommittee Members may not undertake to impose a specific design upon a project in whole or in part beyond referring to the Guidelines and suggesting ideas or architectural precedents for consideration and the applicant should always consult with his or her architect or contractor about any such considered idea or detail.

e) No decision of the Commission shall be deemed to have set a "Precedent" in contradiction to the Guidelines.

f) A decision by the Commission on an application may be accompanied by binding written conditions and/or by recommendations. Any recommendations made by the Commission, beyond those imposed as conditions and/or limitations on the Certificate and/or beyond the approved drawings, are not binding on the applicant.

Section 5. Hardship Applications.

a) If an applicant claims financial hardship, he or she may be required to submit such personal financial records as the Commission deems necessary to make a determination.

b) It may be determined by the Commission that an asserted hardship is specific to the circumstances of an individual and the mitigation allowed by the Certificate may reasonably be limited in duration to the tenure of occupancy or ownership of the property by that individual in which case the Commission's decision may include a requirement that the changes it allows shall be reversed at the end of said tenure and that the decision shall be recorded with the deed.

Section 6. Issuance and Duration of Certificates

a) Any Certificate for work to be done is valid for work commenced within a period of one year from the date on which the Town Clerk stamps it. If by the end of one year the authorized work has not been commenced and prosecuted with due diligence, or if such work is suspended in significant part for a period of one year after the time the work is begun, the Certificate shall expire. However, the applicant may request an extension or renewal of the Certificate, and at its discretion the Commission may grant, in writing, an extension or renewal of the Certificate for a period not to exceed one year. If the

Commission does not grant an extension, any new application will need to fulfill all requirements and guidelines that may be in force at that time; there will be no grandfathering of previously approved plans that have not been completed.

b) Certificates for non-completed work shall expire when all the property owners no longer possess an ownership interest in the property. However said certificate shall remain valid if the applicant acquires an ownership interest in the property.

Any previously approved work not yet completed at the expiration time must be resubmitted to the Commission for approval.

Section 7. Final drawings and design development

a) For projects requiring working drawings or similar detailed technical information, approval based on design documents that are less detailed than working drawings shall be contingent upon continuing review and approval by a subcommittee, if appointed, or the entire Commission of details and of any proposed changes.

b) The Commission may approve applications, particularly for larger projects such as new buildings, “subject to review and approval of details by a subcommittee,” in which case the subcommittee may approve minor changes that would be apparent if shown on the approved drawings, as long as the subcommittee believes that the changes are reasonably justified, minor in character, and in keeping with the Commission’s intentions in approving the design. The subcommittee may consult with the Chairperson, or with the Commission at its next regular meeting, if in doubt.

c) If the Commission determines that a proposed change to an already issued Certificate of Appropriateness or Certificate of Hardship project is substantial, then a new public hearing and a new Certificate are required. Applicants may anticipate this requirement by applying for such a Certificate in a timely manner.

d) After approval at a public hearing and further development of the plans, if required, each page of two copies of the approved building plans shall be marked as “Approved” signed and dated by the Chairperson or acting Chair. One copy of the approved and signed plans shall be delivered to the Building Inspector and the second, along with any supporting material presented for the Commission’s consideration, shall be placed in the Commission files.

Section 8. Construction, Inspection, and verification of work performed

a) The Commission will request the Building Inspector to be notified before a certificate of occupancy is issued and, in cooperation with the Building Inspector, verify that the construction appears to be in conformity with the approved design. If any condition at variance with the approved design is observed, the Commission will request that the Certificate of Occupancy be withheld until the project is in conformity with the approved design. Any unauthorized work done outside the scope of the Certificate of Appropriateness and not promptly corrected renders the Certificate of Appropriateness null and void.

b) For alterations, construction, or demolitions subject to Commission review and which require a building permit, the Building Inspector is the *de facto* next line of enforcement of Historic District bylaw rules and Commission decisions. The Building Inspector ensures that no building permit is issued in the Historic District for projects that have not received a Certificate from the Commission. In addition

the Building Inspector must be attentive to the approved design and must notify the Commission in the event of any variations observed between the approved design and the as-built project.

c) In the event of differing views or uncertainties about what was approved by the Commission or possible conflicts between Building Code requirements and parameters established in the Certificate issued by the Commission or the plans as stamped and signed by the Commission, the Chairperson will consult with the Building Inspector to establish a mutually agreeable process to reach a solution on an expedited basis. The Chairperson will inform the Commission Members of any such occasions, and the Commission will meet, on an emergency basis if needed, to decide how to proceed.

Section 9. Enforcement and penalties

a) The Commission shall determine whether a particular activity not authorized by any certificate is in violation of the terms of the Historic District Bylaw. Upon a written complaint of any Town resident or property owner, or upon its own initiative, the Commission may initiate any appropriate action or proceedings to prevent, correct, restrain, or abate violation of the Bylaw.

b) If an owner of a property in the Historic District either: i) fails to obtain a Certificate for alterations, construction, or demolition under the Commission's purview, or ii) fails to observe the conditions of a Certificate, the Commission shall first notify the Building Inspector and owner in writing that the requirements of the Bylaw and/or Certificate are not being met. The owner will be given one week to respond to this notification with a plan to correct the situation. The owner will be requested to present the proposed plan at the next Commission meeting. If there is no satisfactory response from the owner within that time period or if the proposed plan (as it may be modified during the discussion at the Commission meeting) is found inadequate, the Commission may declare the situation on the site to be illegal under M.G.L. 40C §6 and apply the available remedies under M.G.L. 40C §13. The Commission may also refer the matter to the Building Inspector for enforcement of the conditions of the building permit or to remedy the absence of a permit if that is the case.

c) As provided by the Town Historic District and by M.G.L. 40C, section 13, as may be amended from time to time, whoever violates any of the provisions of this bylaw or of M.G.L. c. 40C, may be punished by a fine of not less than ten dollars (\$10) nor more than five hundred dollars (\$500). Each day any violation continues shall be deemed a separate offense.

Section 10. Filing.

The Commission shall file with the Town Clerk and with the Building Inspector a copy or notice of all certificates and determinations of disapproval issued by it.

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