

**Town of Lexington**

**Motion**

**Special Town Meeting 2021-1**

**ARTICLE 9**

**MT. INDEPENDENCE HISTORIC DISTRICT**

**MOTION:**

- a. That the Town establish a Mt. Independence Historic District to be administered by the Lexington Historic Districts Commission pursuant to Massachusetts General Laws Chapter 40C, Sections 3 and 4; and
- b. That the Code of the Town of Lexington be amended by adding a new Chapter as follows, and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Lexington:

**Chapter XX**

**HISTORIC DISTRICT COMMISSION AND HISTORIC DISTRICTS BYLAW**

**SECTION 1 PURPOSE**

This Bylaw is hereby enacted pursuant to MGL c. 40C to promote the educational, cultural, physical, economic and general welfare of the public through the preservation and protection of the architectural and other distinctive characteristics of buildings and places significant in the history of the Town of Lexington or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

**SECTION 2 DEFINITIONS**

As used in this Bylaw, the following words and phrases shall have the following meanings:

- a. "Altering" means rebuilding, reconstructing, restoring, removing, demolishing, changing exterior color, or any combination of the foregoing.
- b. "Building" means a combination of materials forming a shelter for persons, animals or property.
- c. "Commission" means the Lexington Historic Districts Commission as defined in Section 4.
- c. "Constructing" means building, erecting, installing, enlarging, or moving.

## Town of Lexington

### Motion

#### Special Town Meeting 2021-1

e. "Exterior architectural feature" means such portion of the exterior of a building or structure as is open to view from a public street, public way, public park or public body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, color and texture of exterior building materials, the color of paint or other materials applied to exterior surface and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

f. "Historic District" means a historic district created under MGL c. 40C or this Bylaw, but shall not, for the purposes of this Bylaw, include any Historic District created under the Special Act.

g. "Special Act" means Chapter 447 of the Acts of 1956, as amended, as defined in Section 3(b).

h. "Structure" means a combination of materials other than a building, including but not limited to a sign, fence, wall, terrace, walk or drive-way, tennis court and swimming pool.

### SECTION 3 ESTABLISHMENT OF HISTORIC DISTRICTS

#### a. Mount Independence Historic District

There is hereby established an Historic District pursuant to MGL c. 40C entitled the "Mount Independence Historic District," the boundaries of which are shown on the map entitled "Mount Independence Historic District," a copy of which is on file with the Town Clerk's office, and which also accompanies, and is hereby declared to be part of, this Bylaw.

#### b. Other Historic Districts

Additional Historic Districts within the Town may be established from time to time in accordance with the procedures set forth in MGL c. 40C; provided however, that nothing in this Bylaw shall impair the validity of an historic district established under Chapter 447 of the Acts of 1956, as amended (the "Special Act"). Historic districts established pursuant to the Special Act shall continue to be governed in all respects by the Special Act and not this Bylaw and nothing herein shall be construed to in any way limit or expand the Commission's powers under the Special Act with respect to historic districts not subject to this Bylaw.

**Town of Lexington**

**Motion**

**Special Town Meeting 2021-1**

**SECTION 4 HISTORIC DISTRICTS COMMISSION**

- a. Pursuant to MGL c. 40C, § 4, the Lexington Historic Districts Commission established pursuant to the Special Act (the “Commission”) shall serve as the Historic Districts Commission for the purposes of this Bylaw.
- b. The Commission shall have all the powers and duties of an Historic Preservation Commission as described in MGL c. 40C, § 10 with respect to a Historic District subject to this Bylaw.
- c. The Commission may adopt rules and regulations for the conduct of its business, not inconsistent with MGL c. 40C, the Special Act, or with the purposes of this Bylaw.

**SECTION 5 ADMINISTRATION OF HISTORIC DISTRICTS**

- a. No building or structure within an Historic District shall be constructed or altered in any way that affects exterior architectural features, and no building shall be moved into an Historic District, unless the Commission shall first have issued a certificate of appropriateness, a certificate of hardship or a certificate of non-applicability with respect to such construction, alteration or movement.
- b. Any person who desires to obtain a certificate from the Commission shall file with the Commission an application for a certificate of appropriateness, a certificate of non-applicability, or a certificate of hardship, as the case may be, in such form as the Commission may reasonably determine, together with such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.
- c. No building permit for construction of a building or structure or alteration of an exterior architectural feature within an Historic District shall be issued until the certificate required by this Bylaw has been issued by the Commission.

**SECTION 6 HEARINGS, TIME FOR MAKING DETERMINATIONS**

- a. The Commission shall determine promptly after the filing of an application for a certificate of appropriateness as to exterior architectural features, whether the application involved any such features. If the Commission determines that such application involves any exterior architectural features, the Commission shall hold a public hearing on such application. The Commission also shall hold a public hearing on all other applications required to be filed

## Town of Lexington

### Motion

#### Special Town Meeting 2021-1

with it under this Bylaw, except that the Commission may approve an application for a change in exterior color features without holding a hearing if it determines that the color change proposed is appropriate.

- b. The Commission shall fix a reasonable time for the hearing on any application and shall give public notice thereof by publishing notice of the time, place, and purpose of the hearing in a local newspaper and on the Town's website, at least fourteen (14) days before said hearing and also, within seven (7) days of said hearing, mail a copy of said notice to the applicant, to the owners of all property deemed by the Commission to be affected thereby as they appear on the most recent local tax list, to the planning board, and to such other persons as the Commission shall deem should be provided notice.
- c. As soon as convenient after such public hearing but in any event within sixty (60) days after the filing of the application, or within such further time as the applicant shall allow in writing, the Commission shall make a determination on the application. If the Commission shall fail to make a determination within said sixty (60) days, or within such further time allowed by the applicant, the Commission shall be deemed to have approved the application.

#### **SECTION 7 FACTORS TO BE CONSIDERED BY THE COMMISSION**

- a. In reviewing an application for a certificate under this Bylaw the Commission shall consider, among other things:
  - i. the historic and architectural value and significance of the site, building, or structure,
  - ii. the general design, arrangement, texture, material, and color of the features involved, and
  - iii. the relation of such features to similar features of buildings and structures in the surrounding area.
- b. In the case of new construction or additions to existing buildings or structures, the Commission shall also consider the appropriateness of the size and shape of the building or structure both in relation to the land area upon which the building or structure is situated and to buildings and structures in the vicinity.
- c. The Commission may in appropriate cases impose dimensional and set-back requirements in addition to those required by other applicable bylaws, including the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington.
- d. When ruling on applications for certificates of appropriateness for solar energy systems, as defined in MGL c. 40A, § 1(a), the Commission shall also consider the policy of the Commonwealth of Massachusetts and of the Town of Lexington to encourage the use of solar energy systems and to protect solar access.

## Town of Lexington

### Motion

#### Special Town Meeting 2021-1

- e. The Commission shall not make any recommendation or impose any requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the historic district.

#### **SECTION 8 EXEMPTIONS TO REVIEW**

The authority of the Commission is limited to the exterior architectural features within the district. Further, no certificate shall be required under this Bylaw for the construction or alteration of the following:

- a. Temporary signs or structures as defined by the Zoning Bylaw, Chapter 135 of the Code of the Town of Lexington, provided, however, that the Commission may impose such conditions as to duration of use, location, lighting, removal and similar matters as the Commission may reasonably specify with respect to such signs and structures.
- b. Real estate signs of not more than three square feet in area advertising the sale or rental of the premises on which they are erected or displayed, provided, however, that the Commission may impose such conditions as to duration of use, location, lighting, removal and similar matters as the Commission may reasonably specify with respect to such signs and structures.
- c. Occupational or other signs of not more than one square foot in area and not more than one such sign, irrespective of size, bearing the name, occupation or address of the occupant of the premises on which such sign is erected or displayed where such premises are located within a residential district as defined in the Zoning Bylaw.
- d. Non-commercial signs displaying political, religious, or other speech protected under the United States or Massachusetts Constitution.

Upon request the Commission shall issue a certificate of non-applicability with respect to construction or alteration in any category then not subject to review by the Commission in accordance with the provisions of Sections 8(a) through 8(d).

#### **SECTION 9 MAINTENANCE, REPAIR, REPLACEMENT, PLANTING**

Nothing in this Bylaw shall be construed to prevent:

- a. the ordinary maintenance, repair or replacement of any exterior architectural feature within an historic district that does not involve a change in design, material, color or the outward appearance thereof,

**Town of Lexington**

**Motion**

**Special Town Meeting 2021-1**

- b. landscaping with plants, trees or shrubs,
- c. 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
- d. any construction or alteration under a permit duly issued prior to the effective date of this Bylaw.

**SECTION 10 ENFORCEMENT**

- a. The Building Commissioner of the Town of Lexington shall enforce this Bylaw and, upon a determination by the Commission or the Select Board that a violation exists, may institute proceedings in Superior Court pursuant to M.G.L. c.40C § 13, for injunctive or other relief or the imposition of fines.
- b. Violations of this Bylaw or any regulation hereunder shall be punishable by a fine of not less than \$10.00 nor more than \$500.00 for each offense pursuant to M.G.L. c.40C § 13.

**SECTION 11 SEVERABILITY**

In case any section, paragraph or part of the Bylaw be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

**SECTION 12 SCHEDULE OF FEES**

A filing fee shall be included with all applications for certificates. Said fees shall be set, and may be amended from time to time, by the Select Board.

(10/14/2021)