

## PAXTON HISTORIC DISTRICT BYLAW

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The town of Paxton hereby establishes a Local Historic District, to be administered by the Paxton Historic District commission as provided for under the Massachusetts General Law Chapter 40C, as amended.

**1. Purpose.**

The purpose of this bylaw is to promote the cultural, economic, educational and general welfare of the inhabitants of the Town of Paxton through: 1.) the preservation and protection of the distinctive characteristics of buildings and places significant in the history and development of Paxton; 2.) maintaining and improving the settings of these buildings and places; and 3.) the encouragement of design compatible with buildings existing in the area, so as to continue to maintain the historic village, cultural, commercial and residential character and other qualities which distinguish the town as a desirable community for residents and visitors.

**2. District.** The District shall consist of the area shown on the map entitled Paxton Historic District, attached as Appendix 1.

**3. Commission Composition and Appointments**

**3.1 *Number of Commissioners, Terms of Appointments:*** The District shall be overseen by a Commission consisting of five members and two alternates to be appointed by the Selectboard, one member initially to be appointed for one year, two for two years, and two for three years, and each successive appointment to be made for three years. The alternates shall be appointed, one for two years and one for three years; and for three year terms thereafter.

**3.2 *Appointment Process:*** The Selectboard shall appoint one Commission member from up to two nominees solicited from the Paxton Historic Commission, one member from up to two nominees solicited from the Planning Board and one member who is a resident of the district. If, within 30 days after submission of a written request for nominees to any of the organizations herein named, no such nominations have been made, the Selectboard may proceed to make appointments as it desires.

- 3.3 *Alternate Commission Members*: The Selectboard shall appoint two alternate members to the Commission. In the case of the absence, inability to act or unwillingness to act because of self-interest on the part of a member of the commission, her/his place shall be taken by an alternate member designated by the chair.
- 3.4 *Background Recommendations*: It is recommended, but not required, that Commission members selected by the nominating entities, including the Selectboard, have a serious interest in preserving Paxton's past or educational and/or professional experience in one or more of the following fields: historic preservation, architecture, land use planning, architectural history, history, law or engineering.
- 3.5 *Term Expiration*: Each member and alternate shall continue to serve in the office after the expiration date of his or her term until a successor is duly appointed.
- 3.6 *Meeting schedule*: Meetings of the Commission shall occur as provided for under G.L. c. 40C sec. 11 and in any event shall be held at least bimonthly and more often as necessary and as provided for under any applicable rules and regulations promulgated by the Commission.
- 3.7 *Quorum*: Three members of the Commission shall constitute a quorum.

#### **4. Commission Powers and Duties**

- 4.1 *Powers of Commission*: The Commission shall exercise its powers in administering and regulating the Construction and Alteration of Structures or Buildings within the District as set forth under the procedures and Guidelines established pursuant to this Bylaw, and its duly adopted Rules and Regulations. This Bylaw is not intended to allow Alterations or Construction not in compliance with state and local laws and regulations.
- 4.2 *Rules and Regulations*: The Commission may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this Bylaw or M.G.L. Ch. 40C, setting forth such terms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of the Certificates, fees, hearing procedures and other matters. The Commission shall file a copy of such Rules and

Regulations with the Office of the Town Clerk after review by Paxton town counsel.

- 4.3 *Guidelines and Amendments:* The Commission, after a public hearing duly posted and advertised at least 14 days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation, may adopt and from time to time amend guidelines which set forth the designs for certain EXTERIOR ARCHITECTURAL FEATURES which are, in general, suitable for the issuance of a CERTIFICATE. No such design guidelines shall limit the right of an applicant for a CERTIFICATE to present other designs to the Commission for approval.
- 4.4 *Annual Meeting:* The Commission shall each year hold an organizational meeting and elect a Chair, Vice Chair, and Secretary, and file notice of such election with the office of the Town Clerk.
- 4.5 *Records:* The Commission shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.
- 4.6 *Public Education:* The Commission shall undertake educational efforts to explain to the public and property owners the merits and functions of the District, to the extent that time and appropriations allow.

## 5. Alterations and Construction Prohibited Without a Certificate

- 5.1 *Certificates:* Except as this Bylaw provides, no Building or Structure or part thereof within a District shall be Constructed or Altered in any way that affects the Exterior Architectural Features as visible from a Public Way, unless the Commission shall first have issued a Certificate with respect to such Construction or Alteration.
- 5.2 *Building Permits:* No building permit for Construction of a Building or Structure or for Alteration of an Exterior Architectural Feature within the District and no permit for demolition or removal of a Building or Structure within the District shall be issued by the Town or any department thereof until the Certificate as required under this Bylaw has been issued by the Commission. Nothing in this bylaw shall restrict the Building Commissioner from immediately ordering demolition of unsafe structures in accordance with provisions of M.G.L. Ch. 143.

## 6. Procedures for Review of Applications

- 6.1 *Applications:* Any person who desires to obtain a Certificate from the Commission shall file with the Commission an application for a Certificate of Appropriateness, of Non-Applicability, or of Hardship, as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information as may be reasonably deemed necessary by the Commission to enable it to make a determination of the application. The Commission shall determine whether said application involves any Exterior Architectural Features which are within the jurisdiction of the Commission. The Commission shall determine promptly, and in all events within 30 (thirty) days of the filing of an application for a Certificate whether said application involves any Exterior Architectural Features which are within the jurisdiction of the Commission, except for administrative approvals as provided in Section 6.5.
- 6.2 *Certificates of Non-Applicability:* If the Commission determines that an application for a Certificate does not involve any Exterior Architectural Features, or involves an Exterior Architectural Feature which is not subject to review by the Commission under the provisions of this Bylaw, as provided in Section 8, the Commission shall forthwith issue a Certificate of Non-Applicability within 14 business days.
- 6.3 *Hearings:* If the Commission determines that such application involves an Exterior Architectural Feature subject to review under this Bylaw, it shall hold a public hearing on the application, except as may otherwise be provided in this Bylaw. The Commission shall hold such public hearing within thirty (30) days from the date of the filing of the application if the Commission meets bi-monthly. At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in Town Hall and in a newspaper of general circulation in Paxton. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed by the town of Paxton to the applicant, to the owners of all adjoining properties and of other properties deemed by the Commission to be materially affected thereby as they appear on the most recent applicable tax list, to the Planning Board, or to any person filing a written request for notice of hearings, such request to be

renewed yearly in December. The concurring vote of a majority of the members of the Commission shall be required to issue a Certificate.

- 6.4 *Certificate of Appropriateness*: If the Commission determines that the Construction or Alteration for which a Certificate of Appropriateness has been filed conforms to the Bylaw and Guidelines and will be appropriate for or compatible with the preservation and protection of the District, the Commission shall issue a Certificate of Appropriateness.
- 6.5 *Administrative Approvals*: If an application for a Certificate involves an Exterior Architectural Feature which is subject to review by the Commission under the provisions of this Bylaw, but the proposed Alteration clearly conforms to the purposes of this Bylaw and Guidelines and, therefore, is insubstantial in its affect on the District, this application shall be placed upon the next available meeting agenda, with notice to abutters as provided in Section 6.3 for ratification. Ten (10) days shall elapse after the mailing of such notice before the Commission may act upon such application and issue a Certificate.
- 6.6 *Certificate of Hardship*: If the Construction or Alteration for which an application for a Certificate of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a Certificate of Hardship, the Commission shall determine whether, owing to conditions especially affecting the Building or Structure involved, but not affecting the District generally, failure to approve an application will involve substantial hardship, financial or otherwise, to the applicant. In such cases, the Commission shall issue a Certificate of Hardship provided such application may be approved without substantial detriment to the public welfare, and without substantial derogation from the intent and purposes of this Bylaw.
- 6.7 *Certificate Conditions*: In issuing Certificates, the Commission may impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose of this Bylaw and Guidelines.
- 6.8 *Issuance of Certificate*: As soon as convenient after such public hearing but in any event within sixty days after the filing of the application or within such further time as the applicant may allow in writing, the commission shall make a determination on the application.

The date of issuance of a Certificate or disapproval shall be the date of the filing of a copy of such Certificate or disapproval with the office of the Town Clerk.

- 6.9 *Failure to Act:* If the Commission shall fail to act upon an Application within sixty (60) days of the filing of the application for a Certificate, or within such further time as the applicant may allow, the Commission shall thereupon issue a Certificate of Hardship due to failure to act. The Commission shall file its determination with the Town Clerk as required under G.L. c.40C, Section 10(f).
- 6.10 *Appeals:* Any person aggrieved by a determination of the Commission may, within twenty (20) days of the issuance of a Certificate or disapproval, file a written request with the Commission for a review by a person or persons of competence and experience in such matters, acting as arbitrator and designated by the Central Massachusetts Regional Planning Agency. The finding of the person or persons making such a review shall be filed with the Town Clerk within forty-five (45) days after the request, and shall be binding on the applicant and the Commission, unless a further appeal is sought in the Superior Court as provided in Chapter 40C, section 12A. The filing of such further appeal shall occur within twenty (20) days after the finding of the arbitrator has been filed with the office of the Town Clerk.

## 7. Criteria for Determinations

- 7.1 *Criteria for Determinations:* In deliberating on applications for Certificates, the Commission shall consider, among other things, the historic, architectural and cultural value and significance of the site, Building or Structure; the general design, proportions, detailing, mass, arrangement, texture, and material of Exterior Architectural Features involved; and the relation of the work proposed in the application to similar features of Buildings and Structures in the surrounding area and the District as a whole. In the case of new Construction or additions to existing Buildings or Structures, the Commission shall consider the appropriateness of the scale, shape, proportions, siting and the materials of the Building or Structure both in relation to the land area upon which the Building or Structure is situated and in relation to Buildings and Structures in the vicinity. The degree of visibility from a

Public Way may be a consideration in determining the level of compliance with this Bylaw.

7.2 *Interiors*: The Commission shall not consider interior arrangements or architectural features not subject to view from a Public Way.

## 8. Exclusions

8.1 *Categorical Exclusions*: The Commission shall exclude from its purview the following:

8.1.1 Maintenance and repairs that do not alter or replace material, as defined in Section 8.2.

8.1.2 The color of paint.

8.1.3 The color of material used on roofs.

8.1.4 Storm windows and doors, screen windows and doors, and window air conditioners.

8.1.5 Satellite antennae, or similar equipment, provided they are located to minimize visibility from a Public Way.

8.1.6 Temporary Buildings or Structures subject, however, to conditions pertaining to the duration of existence and use, as the Commission may reasonably specify.

8.1.7 Terraces, walks, sidewalks and similar structures, provided that any such Structure is substantially at grade level.

8.1.8 Mailboxes (freestanding or attached), window boxes, house numbers, and garden furniture.

8.2 *Ordinary Maintenance and Repair*: Nothing in this Bylaw shall be construed to prevent the ordinary maintenance, repair or replacement of any Exterior Architectural Feature within a District which does not involve a change in design, material or to the outward appearance thereof, nor to prevent landscaping with plants, trees, and shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any Construction or Alteration under a permit duly issued prior to the effective date of this Bylaw.

8.3 *Categorical Approval*: The Commission may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14)

days in advance in the Town Hall and in a newspaper of general circulation that certain categories of Exterior Architectural Features may be constructed or altered without review by the Commission, provided such construction or alterations do not substantially derogate the intent and purposes of the District and of G.L. c.40C. The Commission may, upon conducting a public hearing, exclude from its purview Exterior Architectural Features, in addition to those listed in Section 8.1, which it determines do not significantly impact the purpose of the District.

8.4 Upon request the Commission shall issue a Certificate of Non-Applicability with respect to Construction or Alteration in any category not subject to review by the Commission in accordance with the above provisions.

## **9. Enforcement and Penalties**

9.1 *Violations:* The Commission shall determine whether a particular activity is in violation of this Bylaw, and the Commission shall be charged with the non-criminal enforcement of this Bylaw, and seeking civil enforcement under G.L. c.40C, section 12A, after obtaining the necessary authority to do so.

9.2 *Remedies:* The Commission, upon written complaint of any resident of Paxton, or owner of property in Paxton, or upon its own initiative, shall institute any appropriate action or proceedings in the name of Paxton to prevent, correct, restrain, or abate violation of this Bylaw.

9.3 *Fines:* Whoever violates any provision of this Bylaw shall be subject to a fine no less than \$10 and no more than \$250. Each day during which any portion of such violation continues to exist shall constitute a separate offense.

9.4 *Building Commissioner:* The Commission may designate the Building Commissioner as the enforcement officer under this Bylaw to pursue non-criminal disposition under G.L. c.40, Section 21D. The Commission shall have jurisdiction to pursue enforcement under G.L. c.40C, Section 13.

## **10. Validity and Separability.**



The provisions of this Bylaw shall be deemed separable. If any provision, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of the Bylaw shall continue to be in full force and effect.

## **11. Definitions**

The terms defined in this section are used throughout this Bylaw. As used in this Bylaw the following terms shall have the following meaning:

11.1 ALTERATION, TO ALTER: The act or the fact of rebuilding, reconstruction, restoration, renovating, remodeling, replication, removal, demolition, or other similar activities.

11.2 BUILDING: A combination of materials forming a shelter for persons, animals, or property.

11.3 CERTIFICATE: A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this Bylaw.

11.4 COMMISSION: The Paxton Historic District Commission.

11.5 CONSTRUCT, TO CONSTRUCT: The act or the fact of building, erecting, installing, enlarging, moving, and other similar activities.

11.6 DISPLAY AREA: The total surface area of a sign, including all lettering, wording, designs, and symbols, background and frame, but not including any support structure or bracing incidental to the SIGN.

11.7 DISTRICT: The Paxton Historic District as established by this Bylaw.

11.8 EXTERIOR ARCHITECTURAL FEATURE: Such portion of the exterior of a Building or Structure as is open to view from a Public Way, including but not limited to the architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, and other appurtenant exterior fixtures.

11.9 PERSON AGGRIEVED: The applicant; an owner of adjoining property; an owner of property within the same District; an owner of property within 150 feet of said District; and any charitable corporation in which one of its purposes is the preservation of historic places, structures, Buildings, or districts.

11.10 PUBLIC WAY: This term shall include a way accepted by the Town in accordance with G.L. c. 82 or a way dedicated to public use and maintained by the Town as a Town way.

11.11 STRUCTURE: A combination of materials other than a Building, including but limited to a sign, fence, wall, terrace, walk, or driveway.