

HISTORIC DISTRICT ORDINANCE

FOR THE

CITY OF SOMERVILLE

In accordance with the Historic Districts Act,  
Chapter 40C of the General Laws of Massachusetts

Adopted by Board of Aldermen (Ordinance #1985-2)

March 7, 1985

Approved by Mayor Brune

March 11, 1985

Amended by Board of Aldermen (Ordinance #1989-6)

October 26, 1989

Approved by Mayor Brune

October 31, 1989

Amended by Board of Aldermen (Ordinance #1990-7)

May 10, 1990

Approved by Mayor Capuano

May 16, 1990

Amended by Board of Aldermen (Ordinance #1993-2)

February 25, 1993

Approved by Mayor Capuano

March 2, 1993

SOMERVILLE HISTORIC DISTRICT ORDINANCE  
TABLE OF CONTENTS

Section 1. Purpose & Intent

- a-f Goals

Section 2. Definitions

- a. Commission
- b. Historic District
- c. Altered
- d. Building
- e. Constructed
- f. Exterior Architectural Feature
- g. Person Aggrieved
- h. Structure

Section 3. Establishment of Historic Districts

- a. Process
- b. Formation of Historic District Study Committee

Section 4. Historic Preservation Commission: Membership & Administrative Matters

- a. Terms
- b. Composition
- c. Compensation
- d. Conflict of Interest
- e. Officers
- f. Expenses
- g. Gifts
- h. Record Keeping and Rules
- i. Other Powers

Section 5. Amendments to Historic District Designations

- a. Enlargements or Reductions
- b. Additional District
- c. Notices
- d. Filing Requirements

Section 6. Applications for Certificates from the Commission

- a. Considerations of Commission
- b. Submission Requirements

## TABLE OF CONTENTS (Cont'd)

- c. Exclusions
- d. Commission Powers and Duties

Section 7. Meetings of the Commission

- a. Voting
- b. Review of Application
- c. Hearing on Application
- d. Period of Determination
- e. Waiver of Public Hearing

Section 8. Process of Appealing Determinations of the Commission

- a. Court Appeal
- b. Court Options
- c. Other Options
- d. Costs

Section 9. Enforcement

Section 10. Limited Coverage

Section 11. Amendments to Ordinance

Section 12. Severability

Section 13. Designation of Historic Districts

**AN ORDINANCE CREATING AND PROTECTING HISTORIC DISTRICTS  
IN THE CITY OF SOMERVILLE**

BE IT ENACTED BY THE BOARD OF ALDERMEN AND THE MAYOR, in accordance with the authority granted under the Historic Districts Act, Chapter 40C of the General Laws of Massachusetts

Section 1. Purpose and Intent

It is hereby declared a matter of public policy that the protection, enhancement, preservation and use of historical resources or value is a public necessity and is required in the interest of education, prosperity, safety and welfare of the people. The purpose of this ordinance is to:

- a. Protect, enhance and preserve cultural and historical resources, including those districts which represent or reflect elements of the City's cultural, social, economic, political or architectural history.
- b. Safeguard the City's historical and cultural heritage by improving historical and cultural resources by creating historic districts.
- c. Foster wider public awareness of and pride in accomplishments of the past.
- d. Encourage private efforts of Somerville citizens in support of such purposes.
- e. Promote the use of historic districts as a stimulus to local business and industry.
- f. Enhance the City's image to residents, visitors and tourists and make the City a more attractive and desirable place in which to live and work.

Section 2. Definitions

In the ordinance, unless the context clearly requires otherwise:

- a. Commission means the Historic Preservation Commission created under this ordinance.
- b. Historic District is an area designated in accordance with Section 3 that contains one or more parcels or lots of land, or one or more buildings or structures on one or more parcels or lots of land.
- c. Altered includes the words "rebuilt", "reconstructed", "restored", "removed" and "demolished" and the phrases "changed in exterior color" and "any alteration to exterior physical appearance or exterior architectural feature visible from a public way".
- d. Building means a combination of materials forming a shelter for persons, animals or property.
- e. Constructed includes the words "built", "erected", "installed", "enlarged" and "moved".

- f. 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 surfaces and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.
- g. Person Aggrieved means the applicant, an owner of adjoining property, an owner of property within the same historic district as property within one hundred feet of said property lines and any charitable corporation in which one of its purposes is the preservation of historic structures or districts.
- h. Structure means a combination of materials other than a building, including a sign, fence, wall, hitching post, terrace, walk or driveway.

### Section 3. Establishment of Historic Districts

The City of Somerville may, by ordinance adopted by two-thirds vote of the Board of Aldermen, establish historic districts subject to the following provisions:

- a. Process. Prior to the establishment of any historic district in Somerville, an investigation and report on the historical and architectural significance of the buildings, structures or sites to be included in the proposed historic district or districts shall be made by an historic district study committee or by an historic district commission, as provided in this section. The buildings, structures or sites to be included in the proposed historic district may consist of one or more parcels or lots of land, or one or more buildings or structures on one or more parcels or lots of land.

The study committee or the commission shall transmit copies of the report to the Planning Board, and to the Massachusetts Historical Commission for their respective consideration and recommendations.

Not less than sixty days after such a transmittal the study committee or commission shall hold a public hearing on the report after due notice given at least fourteen days prior to the date thereof, which shall include a written notice, given by certified mail, postage prepaid, return receipt requested, to the owners as they appear on the most recent real estate tax list of the Board of Assessors of all properties to be included in such district or districts. The committee shall submit a final report with its recommendations, a map of the proposed district or districts and a draft of a proposed ordinance to the Board of Aldermen.

- b. Formation of Historic District Study Committee. An historic district study committee may be established in Somerville by vote of the Board of Aldermen for the purpose of making an investigation of the desirability of establishing an historic district or districts therein. The study committee shall consist of not less than three nor more than seven members appointed by the Mayor, subject to confirmation by the Board of Aldermen including: a) one member from two nominees submitted by the Somerville Historical Society or, in the absence thereof by the Society for the Preservation of New England

Antiquities; b) one member from two nominees submitted by the local chapter of the American Institute of Architects; and c) one member from two nominees of the board of realtors, if any, covering the area. If, within thirty days after submission of a written request for nominees to any of the organizations herein named, no such nominations have been made, the appointing body may proceed to appoint the study committee without nominations by such organization.

#### Section 4. Historic Preservation Commission: Membership Terms and Administrative Matters

- a. Terms. The ordinance shall be administered by an Historic Preservation Committee with the following terms, composition and administrative matters. The Historic Preservation Commission shall consist of seven (7) members, and seven (7) alternates, appointed by the Mayor and subject to confirmation by the Board of Aldermen. All of the members and at least five (5) of the alternates shall be residents of the City. Each member and alternate shall serve for a term of three years; except that the initial appointments shall be for two members and two alternates to serve a term of one year, two members and two alternates to serve a term of two years, and three members and three alternates to serve a term of three years. Vacancies shall be filled in the same manner as the original appointment for the unexpired term. In case of the absence, inability to act or unwillingness to act because of self-interest on the part of a member of the Commission, his or her place shall be taken by an alternate member designated by the chairman. Each member and alternate shall continue in office after expiration of his or her term until a successor is duly appointed and qualified.
- b. Composition. The Commission membership shall be composed of the following: one member, preferably a professional architectural historian, chosen from three nominees submitted by the Somerville Historical Society or the Society for the Preservation of New England Antiquities; an architect, preferably a person registered in the Commonwealth, chosen from three nominees submitted by the local chapter of the American Institute of Architects; a licensed real estate broker chosen from three nominees submitted by the regional chapter of the Board of Realtors; a city planner, preferably with knowledge about allied local activities and boards; a lawyer with knowledge of real estate and historic preservation law; and two citizen members who, through education or experience, have demonstrated a commitment to historic preservation. Two or more of the members so appointed shall be residents of a designated historic district. The alternate members shall include: at least one resident of a designated historic district, one landscape architect, one licensed general contractor or building tradesperson and four with a background in any of the other categories represented by the regular members of the Commission. If, within thirty (30) days after the submission of a written request for nominees to any of the above-named organizations, no such nominations have been submitted, the Mayor may make such an appointment without nomination by said organization. To the extent a person meets more than one of the foregoing specific membership requirements, then each such specific membership requirement so met shall be satisfied by such person's membership on the commission.
- c. Compensation. No member or alternate shall receive compensation for his or her service on the Commission, but shall be reimbursed, subject to availability of

appropriated funds, for his or her actual expenses reasonably and necessarily incurred in performance of his or her official duties.

- d. Conflict of Interest. If any Commission member or alternate is employed or to be employed by the City or to have directly, or indirectly a financial interest in any contract with the City, the classification of "special municipal employee" should be obtained from the Board of Aldermen and all other requirements as set forth under Chapter 268A, Massachusetts General Laws, shall be met.
- e. Officers. The Commission shall elect before the end of its fourth regular meeting during the first year and every May thereafter, a chairman, vice-chairman, and a secretary. All officers, except the secretary shall be elected from its own members. Whenever the secretary shall not attend a meeting of the Commission, the Commission shall elect a secretary pro-tempore who shall take the minutes of the meeting. The records of the Commission shall set forth every determination made by the Commission, the vote of every member participating in such determination and the absence or failure to vote of every other member.
- f. Expenses. The Commission may enter into contracts and may, if necessary, subject to appropriation, employ clerical and technical assistance of consultants and incur other expenses appropriate to the carrying on of its work.
- g. Gifts. The Commission may accept money gifts and expend the same for the carrying on of its work. The Commission may also administer on behalf of the City any properties or easements, restrictions or other interests in real property which the City may have or may accept as gifts or otherwise and which the City may designate the Commission as the administrator thereof.
- h. Record Keeping and Rules. The Commission shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein, and may adopt and amend such rules and regulations not inconsistent with the provisions of this Ordinance and prescribe such forms as it shall deem desirable and necessary for the regulations of its affairs and the conduct of its business. The Commission shall file a copy of any such rules and regulations with the City Clerk. An annual report of the Commission's activities shall be filed with the Massachusetts Historical Commission under provisions of Chapter 40C, Section 15, and shall be submitted to the City Clerk for filing.
- i. Other Powers. The Commission shall have, in addition to the powers, authority and duties granted to it by this Ordinance, such other powers, authority and duties as may be delegated or assigned to it from time to time by vote of the Board of Aldermen.

#### Section 5. Amendments to Historic District Designations

- a. Enlargements or Reductions. An historic district may be enlarged or reduced or an additional historic district in the City created in the manner established under Section 3, for creation of the initial district, except that in the case of the enlargement or reduction of an existing historic district the investigation, report and hearing shall be by the

Historic Preservation Commission having jurisdiction over such historic district instead of by a study committee.

- b. Additional Districts. In the case of creation of an additional historical district the investigation, report and hearing shall be by the City Historic Preservation Commission instead of by a study committee unless the Commission recommends otherwise.
- c. Notice. If the district is to be reduced, written notice, as provided in section 3 for the creation of the initial district, shall be given to said owners of each property in the district.
- d. Filing Requirements. No changes to the boundaries of an historic district shall become effective until a map(s) setting forth the changes to the boundaries of the historic district has been filed with the City Clerk and has been recorded in the South Middlesex Registry of Deeds and the provisions of Section 13A of Chapter 36, of Massachusetts General Laws, shall not apply.

#### Section 6. Application for Certificates from the Commission

- a. Considerations of Commission. In passing upon matters before it the Commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure, the general design, arrangement, texture, material and color of the features involved, and the relation of such features to similar features of buildings and structures in the surrounding area. In the case of new construction or additions to existing buildings or structures, the Commission shall 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, and the Commission may in appropriate cases impose dimensional and set back requirements in addition to those required by applicable ordinance or by-law. The Commission shall not consider interior arrangements or the categories of exclusions specified in paragraph c of this Section.

The Commission may after public hearing set forth in such manner as it may determine the various designs of certain appurtenances, such as light fixtures, which will meet the requirements of an historic district and a roster of certain colors of paint and roofing materials which will meet the requirements of an historic district, but no such determination shall limit the right of an applicant to present other designs or colors to the Commission for its approval.

The Commission shall not make any recommendation or 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.

- b. Submission Requirements. Except for the exclusions noted in paragraph (c), no building or structure within an historic district shall be constructed or altered in any way that affects exterior architectural features unless the Commission shall first have issued a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship with respect to such construction or alteration.



Any person who desires to obtain a certificate shall file with the Commission an application for a certificate of appropriateness, a certificate of nonapplicability 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.

No building permit for construction of a building or structure or for alteration of an exterior architectural feature within an historic district and no demolition permit for demolition (full or partial) or removal of a building or structure within an historic district shall be issued by Inspectional Services thereof until the certificate required by this section has been issued by the Commission.

- c. Exclusions. The authority of the Commission shall not extend to the review of the following categories of buildings, structures or exterior architectural features of the historic district and, in this event, the buildings, structures or exterior architectural features so excluded may be constructed or altered within the historic district without review by the Commission:
1. temporary structures or signs, subject, however, to such conditions as to duration of use, location, lighting, removal and similar matters as the Commission may reasonably specify;
  2. storm doors and windows, screens, window air conditioners, lighting fixtures, antennae, lawn statuary and similar appurtenances, or any one or more of them;
  3. the color of paint;
  4. signs of one foot square or less in area in connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one sign in connection with the non-residential use of each building or structure which is not more than twelve square feet in area, is appropriately located and consists of letters and/or symbol or trademark compatible with the character of the area and if illuminated only indirectly; or either of them;
  5. the reconstruction, substantially similar in exterior design, type of use and size of a building, structure or exterior architectural feature damaged or destroyed by storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence; and upon request by an applicant, 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 above provisions.

- d. Commission Powers and Duties. The Commission shall have the following powers, functions and duties related to issuance of certificates:
1. If the Commission determines that the construction or alteration for which an application for a certificate of appropriateness has been filed will be appropriate for or compatible with the preservation or protection of the historic district, the Commission shall cause a certificate of appropriateness to be issued to the applicant. In the case of a disapproval of an application for a certificate of appropriateness the Commission shall place upon its records the reasons for such determination and shall forthwith cause a notice of its determination, accompanied by a copy of the reasons therefore as set forth in the records of the Commission, to be issued to the applicant. The Commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material, and similar features. Prior to the issuance if any disapproval the Commission may notify the applicant of its proposed action accompanied by recommendations of changes in the applicant's proposal which, if made, would make the application acceptable to the Commission. The Commission shall, as feasible, identify sources of additional information, technical assistance and financial incentives, which may eliminate the area of concern. If, within fourteen days of the receipt of such notice, the applicant files a written modification of his application in conformity with the recommended changes of the Commission, the Commission shall cause certificate of appropriateness to be issued to the applicant.
  2. In the case of determination by the Commission that an application for a certificate of appropriateness or for a certificate of non-applicability does not involve any exterior architectural feature, or involves an exterior architectural feature which is not then subject to review by the Commission in accordance with the provisions of Section Six, the Commission shall cause a certificate of non-applicability to be issued to the applicant.
  3. The commission shall determine if the construction or alteration for which an application for a certificate of appropriateness has been filed is inappropriate, or in the event of an application for a certificate of hardship, the Commission shall determine if, owing to conditions especially affecting the building or structure involved, (e.g. handicapped access), but not affecting the historic district generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant. The commission shall also determine whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Ordinance. If the commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, or, in the event of failure to make a determination on an application within the time specified in Section Seven, the Commission shall cause a certificate of hardship to be issued to the applicant.

4. Each certificate issued by the Commission shall be dated and signed by its Chairman, Vice-Chairman, Secretary or such other person designated by the Commission to sign such certificates on its behalf. Each certificate issued by the Commission shall also be accompanied by a document substantiating in sufficient detail, the basis of the determination. Certificates are valid for one full year from the date of issuance and must be revalidated by the Commission if substantial work has not been completed by the end of this period.
5. The commission shall file with the City Clerk and with the City Building Department a copy or notice of all certificates, determinations of disapproval and substantiating documents issued by it.

#### Section 7. Meetings of the Commission

- a. Voting: The Commission shall hold meetings at the call of the Chairman and at the request of two members of the Commission, and in such other manner as the Commission shall determine in its rules. A majority of the members of a Commission shall constitute a quorum. The concurring vote of a majority of the members of the Commission shall be necessary to issue a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship.
- b. Review of Application: The Commission shall determine promptly, and in all events within fourteen (14) days after the filing of an application for a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship, as the case may be, whether the application involves any exterior architectural features which are subject to approval by the Commission. If the Commission determines that such application involves any such features which are subject to approval by the Commission, the Commission shall hold a public hearing on such application unless such hearing is dispensed with as hereinafter provided.
- c. Hearing an Application: The Commission shall fix a reasonable time for the hearing on any application and shall give public notice of the time, place and purposes thereof at least fourteen (14) days before said hearing in such manner as it may determine, and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors, to the City Planning Board, to any person filing written request for notice of hearing, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice.
- d. Period of Determination: As soon as convenient after such public hearing, but in any event within forty-five (45) 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. If the Commission shall fail to make a determination within such period of time, the Commission shall thereupon issue a certificate of hardship.

- e. Waiver of Public Hearing: A public hearing on an application need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application may be waived by the Commission if the Commission determines that the exterior architectural feature involved or its category or color, as the case may be, is so insubstantial in its effect on the historic district that it may be reviewed by the Commission without public hearing on an application, provided, however, that if the Commission dispenses with a public hearing on an application, notice of the application shall be given to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as above provided and ten (10) days shall elapse after the mailing of such notice before the Commission may act upon such application.

#### Section 8. Process of Appealing Determinations of the Commission

- a. Court Appeal. A person aggrieved by a determination of the Commission may, within twenty (20) days after the filing of the notice of such determination with the City Clerk, appeal to the South Middlesex Superior Court.
- b. Court Option. The court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds the decision of the Commission to be unsupported by the evidence or to exceed the authority of the Commission, or may remand the case for further action by the Commission or make such other decree as justice and equity may require.
- c. Other Options. The remedy provided by this section shall be exclusive but the parties shall have all rights of appeal and exception as in other equity cases.
- d. Costs. Costs shall not be allowed against the Commission unless it shall appear to the court that the Commission acted with gross negligence, in bad faith or with malice in the matter from which appeal was taken. Costs shall not be allowed against the party appealing from such determination of the Commission unless it shall appear to the court that such party acted in bad faith or with malice in making the appeal to the court.

#### Section 9. Enforcement

The South Middlesex Superior Court shall have jurisdiction to enforce the provisions of Chapter 40C, General Laws and this ordinance enacted thereunder and the determinations, rulings and regulations issued pursuant thereto and may, upon the petition of the Mayor or the Board of Aldermen or of the Commission, restrain by injunction violations thereof; and, without limitation, such court may order the removal of any building, structure or exterior architectural feature constructed in violation thereof, or the substantial restoration of any building, structure or exterior architectural feature altered or demolished in violation thereof, and may issue such other orders for relief as may be equitable.

Whoever violates any of the provisions of this ordinance shall be punished by a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00). Each day during any portion of which a violation continues to exist shall constitute a separate offense.

Section 10. Limited Coverage

Nothing in this ordinance shall be construed to prevent the ordinary maintenance, repair, or replacement of any exterior architectural feature within an historic district which does not involve a change in design, material, color or the outward appearance thereof, nor to prevent landscaping with plants, trees or 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 historic district ordinance.

Section 11. Amendments to Ordinance

This ordinance enabling the creation of historic districts may from time to time be amended in a manner not inconsistent with the provisions of Chapter 40C, General Laws, by a two-thirds vote of the Board of Aldermen, provided that the substance of such amendment has first been submitted to the Historic Preservation Commission and the Massachusetts Historical Commission, for their recommendation and their recommendations have been received or sixty (60) days have elapsed without such recommendations.

Section 12. Severability

The provisions of this ordinance are severable, and if any of its provisions shall be held invalid or unconstitutional by any decision of any court or competent jurisdiction, such decision shall not impair or otherwise effect any other provisions of this act.

Section 13. Designation of Historic Districts

There are hereby established under the provisions of Massachusetts General Laws, Chapter 40C, as amended, the following Historic Districts bounded as shown on the map accompanying the inventory forms, which is attached and made a part of this ordinance.