



ORDINANCES OF 1983, CHAPTER 18

ESTABLISHING THE BAY VILLAGE HISTORIC DISTRICT AND THE BAY VILLAGE HISTORIC COMMISSION

*In the Year Nineteen Hundred and Eighty-three*

*Be it ordained by the City Council of Boston, as follows:*

SECTION 1. City of Boston Code, Ordinances, Title 7, is hereby amended by inserting the following new chapter.  
Chapter 4. Bay Village Historic District.

The purpose of this ordinance is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places significant in the history of the City of Boston that are located in the area known as Bay Village, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

There is hereby established an historic district to be known as the Bay Village Historic District under the provisions of the Historic District Act, General Laws, chapter 40C and chapter 772, Acts of 1975, the boundaries of which are as shown on the map entitled "Bay Village Historic District," dated fall, 1979, which accompanies and is hereby declared to be part of the ordinance.

Section 75. Definitions. As used in this ordinance, the following words shall have the following meanings:

1. Exterior Architectural Feature. The architectural style and general arrangement of such portion of the

exterior of a structure as is designed to be open to view from a public way, including all elevations intended to be seen on freestanding buildings, and kind, color and texture of the building material of such portion and type of all windows, doors, lights, signs, and other fixtures appurtenant to such portion except those exempted from review in accordance with chapter 40C of the General Laws and this ordinance.

2. Structure. A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, framework, retaining wall, tank, tunnel, tent, stadium, reviewing stand, platform, bin, fence, sign, flagpole or the like. The word "structure" shall be construed, where the context allows, as though followed by the words "or part thereof."
3. Building Commissioner. Commissioner of Inspectional Services of the City of Boston or his assignee.
4. Sign. A sign, marquee, awning or other exterior feature protruding from any structure.
5. Commission. The Bay Village Historic District Commission.

Section 76. Bay Village Historic District Commission. There is hereby established an Historic District Commission, under the provisions of the General Laws, chapter 40C, and chapter 772, Acts of 1975, consisting of five members and three alternate members to be appointed by the Mayor and confirmed by the City Council. When the commission is first established, one member shall be appointed for a term of one year, two shall be appointed for a term of two years and two shall be appointed for a term of three years. When the commission is first established, one alternate member shall be appointed for a term of one year, one alternate member shall be appointed for a term of two years and one alternate member shall be appointed for a term of three years.

Successors to members and to alternate members shall be appointed for a term of three years, except that members and alternate members may be appointed during a term to fill vacancies occurring on the commission for the remaining portion of the term.

The membership of the commission shall be comprised of one member from two nominees submitted by

the Society for the Preservation of New England Antiquities; one member from two nominees submitted by the Boston Society of Architects; one member from two nominees serving on the Boston Landmarks Commission; one member from two nominees submitted by the Greater Boston Real Estate Board; one member, a resident of the Bay Village Historic District; two alternate members from four nominees who are residents of the Bay Village Historic District; one alternate member from two nominees serving on the Boston Landmarks Commission.

The Commission shall elect annually a chair and vice-chair from its own number and a secretary from within or without its number.

Alternates shall have all powers and duties of regular members when called to serve by the chair or vice-chair of the commission.

All members and alternates shall serve without compensation.

All members and alternates shall be residents of the City of Boston. It is preferred that the majority of membership be residents of the Historic District.

Without regard to chapter 31 of the General Laws and under the provisions of chapter 772, Acts of 1975, as amended, the City of Boston Environment Department shall provide the commission with an administrative staff adequate to carry on the functions of the commission as provided for in this ordinance.

Such staff shall be employees of the Environment Department, and notwithstanding the foregoing the commission may contract directly for such professional and expert technical assistance as such business shall require.

For the purposes of chapter 268A of the General Laws, every member of the commission, and every person who shall, on a part-time and consultative basis, perform any professional services for the commission, such as the services of architect, attorney, engineer, architectural historian, planner, environmentalist or expert in construction, finance, real estate or traffic, shall be deemed to be a special municipal employee.

The commission shall adopt bylaws which specify the standards and criteria included in the Bay Village Historic District Study Report. Amendments to criteria may be established by amendments to the bylaws of the com-

mission.

**Section 77. Administration of Historic Districts.**

No building, or property, or structure within the Historic District shall be constructed, demolished, moved or altered in any way that affects exterior architectural features, and no building shall be moved into the 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, demolition, alteration or movement. The building commissioner shall not issue a permit within an Historic District unless one of the certificates noted above has first been issued by the commission or the proposed improvement is exempted from these provisions by section 78.

**Section 78. Exemptions to Review:**

The Authority of the commission is not extended to the review of the following:

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 in the standards and criteria.
2. Decorative lighting fixtures within entryways.
3. Paint or stain of any color not on any masonry or brick surface.
4. Ordinary maintenance or repair of an exterior architectural feature which involves no change in design, material or outward appearance thereof.
5. Construction, reconstruction, alteration or demolition of any such feature which the building commissioner shall certify is required by the public safety because of an unsafe or dangerous condition.
6. Rear elevations except on free-standing buildings.
7. The Boston Redevelopment Authority shall administer the development of Urban Renewal Parcel R-7 in accordance with the September, 1980. Developers Kit (The Guidelines) for this parcel, whose guidelines are incorporated herein by reference. This exemption shall terminate upon completion of development, and the completed building and associated property shall then be subject to commission jurisdiction in all respects.

**Section 79. Applications for Certificates from Historic**

**District Commission.**

Any person who is required 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.

Within eight days after the filing for a Certificate of Appropriateness, Saturdays, Sundays and legal holidays excluded, the commission shall determine the properties materially affected by the application. Unless a public hearing on such application is waived in writing by all persons entitled to a notice, the commission shall require its secretary to give, by mail, reasonable notice of a public hearing before the commission on such application to the applicant, the owners of all property determined by the commission to be materially affected as they appear on the most recent real estate tax list, and any persons filing a written request for notice of hearings, such requests to be renewed yearly in December.

The commission, as soon as may be convenient following such public hearing, or the waiver thereof, but within thirty days, Saturdays, Sundays and legal holidays excluded, after the filing of the application for the Certificate of Appropriateness, or within such further time as the applicant may in writing allow, shall determine whether or not the construction, reconstruction, alteration, or demolition of the exterior architectural feature is consistent with the purpose of this ordinance and whether, notwithstanding that it may be inappropriate owing to conditions especially affecting the structure involved but not affecting the Historic Bay Village District generally, failure to issue a Certificate of Appropriateness will involve a substantial hardship to the applicant and such a certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this ordinance.

In passing upon appropriateness, the commission shall consider, in addition to other pertinent factors as specified in the standards and criteria section of the bylaws, the historical and architectural value and significance, architectural style, general design, arrangement, texture and material of the exterior architectural feature involved and the relationship thereof to the exterior architectural features of other structures in the immediate neighborhood.

If the commission determines that a Certificate of Appropriateness should be granted, the secretary of the commission shall issue to the applicant a Certificate of Appropriateness. If the commission fails to make a determination within the time hereinafter prescribed, the secretary of the commission shall issue to the applicant a Certificate of Hardship. If the commission determines that a certificate not be issued, then the commission shall include in its records the reasons for such determination and any recommendations it may have. The secretary shall then, by mail, give notice of such determination to the applicant and to every person filing a written request for such notice, enclosing with it an attested copy of the reasons and recommendations as contained in the records on the commission.

Every person about to apply to the building commissioner for a permit to construct any structure in the Historic District or to reconstruct, alter or demolish any structure now or hereafter in said district shall deposit with the secretary of the commission his application for such permit together with such plans, specifications and other materials as the commission may from time to time prescribe. Within eight days thereafter, Saturdays, Sundays, and legal holidays excluded, the commission shall consider such application, plans, specifications and other material and determine whether any exterior architectural feature is involved. If it is so determined that no exterior architectural feature is involved, the secretary of the commission shall endorse on the application a Certificate of Non-Applicability and return the application, plans, specifications and other material to the applicant.

#### Section 80. Appeals.

Under the provisions of the General Laws, chapter 40C, section 12A, any applicant aggrieved by a determi-

nation of the commission, may, within twenty days after the filing of the notice of such determination or such finding with the City Clerk, appeal to the Superior Court for Suffolk County. 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. 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. 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 the 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 the appellant acted in bad faith or with malice in making the appeal to the court.

Section 81. Enforcement.

Whoever, without the certificate required by and effective in accordance with this act, shall undertake any construction, reconstruction, restoration, exterior execution, exterior replacement or alteration or demolition with respect to any exterior architectural feature in Bay Village Historic District shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, and whoever, after having received from the Commissioner appropriate notice to desist, shall, in violation of this act, permit any exterior architectural feature in the historic district to continue to exist shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars. A separate offense shall occur every day during any portion of which any such violation shall transpire.

Upon petition of the commission, the Superior Court for Suffolk County may restrain any construction, reconstruction, restoration, exterior replacement, alteration, or demolition in violation of this act and may order the removal in whole or in part of any exterior architectural feature permitted to exist in violation of this act and may order such reconstruction or restoration as may be necessary or desirable to redress any alterations or demolition undertaken in violation of this act.

Section 82. Fees.

The fee that shall accompany an application for a Certificate of Appropriateness from the Bay Village Historic District Commission shall be set by ordinance.

Section 83. Other Functions of Commission.

The commission shall adopt rules and regulations for the conduct of its business, not inconsistent with chapter 40C of the General Laws, or with the purpose of this ordinance. The commission with approval of the Mayor and City Council may receive and accept appropriations, grants and gifts for the furthering of the purposes of this ordinance. It may establish an historic marker program, publish guides, maps and other appropriate publications to illustrate historical and architectural resources of the Historic District. The commission may propose changes in the Bay Village Historic District boundaries and additional historic districts as it deems appropriate, subject to the General Laws, chapter 40C and to chapter 772, Acts of 1975, as amended.

Section 84. Severability.

In case any section, paragraph or part of this ordinance 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 2. The commission shall notify, by mail, all property owners in the Historic District of the establishment of the district. After passage of this ordinance, and prior to establishment of the Bay Village Historic District Commission, the Boston Landmarks Commission may assume the powers and responsibilities of the Commission.

SECTION 3. This ordinance shall take effect thirty days following approval by the Mayor.

In City Council June 22, 1983. Passed.

JOHN P. CAMPBELL.

City Clerk.

Approved June 30, 1983.

KEVIN H. WHITE.

Mayor.

A true copy:

Attest:

*[Handwritten signature]*  
City Clerk.