Chapter 10

HISTORIC DISTRICTS*

Cross references-Administration, Ch. 2 buildings and building regulations, Ch. 5; planning, Ch. 18; zoning, App. A; LHD-Local historic district, App. A, § 29-30.c.
State law reference-Historic districts, M.G.L c. 40C.
(*Ord. No. 33, 1-8-2003)

ARTICLE I. IN GENERAL

Sec. 10-1. Short title.

This chapter shall be known and may be cited as the historic districts ordinance promulgated under authority of M.G.L. chapter 40C.
(Rev. Ords. 1973, § 30-1)

Sec. 10-2. Purpose.

The purpose of this chapter is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics or architecture of buildings and places significant in the history of the Commonwealth and the city, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.
(Rev. Ords. 1973, § 30-2)

Sec. 10-3. Established.

(a) There is hereby established under the provisions of M.G.L. chapter 40C, as amended, an historic district to be known as: Fish Flake Hill I Historic District, shown on a plan entitled, "Plan showing Fish Flake Hill I Historic District, located off Cabot Street between Stone, Bartlett and Water Streets, Beverly, Mass., dated November, 1971 and signed by Edgar G. Mitchell, Acting Commissioner of Public Works," which plan is on file in the offices of the city clerk on the building inspector and is recorded in Essex South District Registry of Deeds, and described as follows:

Beginning at the most northwesterly corner of Front Street, being the intersection of the easterly line of Cabot Street and the northerly line of Front Street, thence running easterly along the northerly line of Front Street, a distance of about 100.0 feet to the southwesterly corner of Lot #2 on said plan, thence turning and running in a general northerly direction on three courses by Lot #2, a distance of about 111.5 feet to the southeasterly line of Cabot Street, thence turning and running in a northeasterly direction along the southeasterly line of Cabot Street, a distance of about 32.5 feet to the northeastern corner of Lot #3 on said plan, thence turning and running in a general northeasterly direction several courses, by the rear lot lines of Lots #3, #4, #5 and #6, a distance of about 394.9 feet to the northerly line of Lot #6 on said plan, thence turning and running along the northerly line of Lot #6, a distance of about 35.8 feet to the westerly line of Davis Street, thence turning and running in a northerly direction along the westerly line of Davis Street, a distance of about 119.1

feet to Cabot Street, thence turning and running in an easterly direction by the end of Davis Street, a distance of about 53.0 feet to the easterly line of Davis Street, thence turning and running in a southeasterly direction along the southerly line of Stone Street, a distance of about 95.0 feet to the easterly line of Lot #4 on said plan, thence turning and running in a southerly direction along the rear lot line of Lot #41, a distance of about 60.0 feet to the northerly side line of Lot #42, thence turning and running in an easterly direction along the northerly side line of Lot #42, a distance of about 20.0 feet to the rear lot line of Lot #42, thence turning and running in a southerly direction along the rear lot lines of Lots #42, #43, #44 and #45, a distance of about 160.0 feet to the northerly line of Lot #34, thence turning and running in an easterly direction along the rear lot lines of Lots #34 and #35, a distance of about 92.7 feet to the westerly line of South Street, thence turning and running in a southerly direction along the westerly line of South Street, a distance of about 50.0 feet, thence turning and running in an easterly direction across South Street and along the rear lot line of Lot #46, a distance of about 128.5 feet to the westerly line of Lot #47 on said plan, thence turning and running in a northern direction along the western line of Lot #47, a distance of about 38.0 feet to the southerly line of Cottage Lane, thence turning and running in an easterly direction along the southern line of Cottage Lane, a distance of about 85.0 feet to the easterly line of Lot #47 on said plan, thence turning and running in a southern direction along the easterly line of Lot #47, a distance of about 40.00feet to the rear lot line of Lot #48, thence turning and running in an eastern direction along the rear lot lines of Lots #48, #49 and #50, a distance of about 179.0 feet to the western line of Lot #51 on said plan, thence turning and running in a northerly direction along the westerly line of Lot #51, a distance of about 40.0 feet to the southerly line of Cottage Lane, thence turning and running in an eastern direction along the southerly line of Cottage Lane, a distance of about 55.0 feet to Bartlett Street, thence turning and running along the western line of Bartlett Street in a southern direction, a distance of about 80.0 feet to Front Street, thence turning and running in a southeasterly direction along the eastern end of Front Street, a distance of about 70.0 feet to the southern line of Front Street, thence turning end running in a general southeastern direction along the southwesterly line of Bartlett Street on several courses, a distance of about 406.8 feet to Lothrop Street, thence turning and running in a southerly direction along the westerly line of Lothrop Street and across Water Street, a distance of about 60.0 feet to the southerly line of Water Street, thence turning and running in a general westerly direction along the southerly line of Water Street, a distance of about 1314.6 feet to a point about 200.0 feet western of the eastern line of Lot #83 as shown upon said plan, thence turning and running in a northwestern direction across Water Street, by Lot #1-82 and across Front Street, a distance of about 120.0 feet to the point of beginning.

(b) The establishment of the historic district under this section shall not take effect until all the commissioners are appointed by the mayor and confirmed by the City Council.
(Rev. Ords. 1973, § 30-6)

Sects 10-4 - 10-25. Reserved.

Sec. 10-26. Establishment; powers and duties; composition.

(a) In accordance with the Historic Districts Act, M.G.L. chapter 40C as amended, there is hereby established the Beverly Historic District Commission, which shall have all powers and duties of an historic district commission under the General Laws.

(b) All members and alternate members of the commission shall be appointed by the mayor, subject to confirmation by the City Council. The commission shall consist of not less than five (5) nor more than seven (7) members and up to three (3) alternate members including one (1) member, where possible, from two (2) nominees submitted by the Beverly Historical Society; one (1) member, where possible, from two (2) nominees, one (1) of whom shall be submitted by the Massachusetts Chapter of the American Institute of Architects and one (1) of whom shall be submitted by the Boston Society of Landscape Architects; and one (1) member, where possible, from two (2) nominees submitted by the Greater Salem Board of Realtors. The commission shall include one (1) or more residents of or owners of property in an historic district to be administered by the commission.

(c) When the commission is first established, two (2) members shall be appointed for a term of one (1) year, two (a) shall be appointed for a term of two (2) years, and three (3) shall be appointed for a term of three (3) years and their successors shall be appointed in like manner for terms of three (3) years. When the commission is first established, one (1) alternate member shall be appointed in like manner for a term of one (1) year, one (1) alternate member shall be appointed for a term of two (2) years and one (1) alternate member for a term of three (3) years and their successors shall be appointed in like manner for terms of three (3) years. All vacancies shall be filled in like manner for the unexpired terms.

(d) All members of the commission shall serve without compensation.

(e) The commission shall elect annually a chairman and vice chairman from its own number and a secretary from within or without its number.
(Rev. Ords. 1973, § 30-3)
Cross reference-Boards, commissions, councils and committees, § 2-296 et seq.

Sec. 10-27. Adoption of rules and regulations; employment of technical personnel.

The historic district commission shall adopt rules and regulations for the conduct of its business not inconsistent with the provision of the Historic Districts Act, M.G.L. chapter 40C, as amended. The commission may, subject to appropriation, employ clerical and technical assistants or consultants and incur other expenses appropriate to carrying on of its works and may accept money gifts and expend the same for such
purposes
(Rev. Ords. 1973, § 30-4)
Cross reference-Personnel, Ch. 17.

Sec. 10-28. Meetings; quorum; time for action.

Meetings of the historic district commission shall be held at the call of the chairman and shall be called at the request of two (2) members of the commission and in such other manner as the commission shall determine in its rules. A majority of the members of the commission shall constitute a quorum. When taking action under the provisions of the fourth paragraph of section 11 of the Historic District Act, the commission shall make its determination within sixty (60) days after

the filing of the application for a certificate of appropriateness, or such further time as the applicant may in writing allow.
(Rev. Ords. 1973, § 30-5)

Sec. 10-29. Exclusions from commission review.

The following categories of buildings or structures or exterior architectural features may be constructed or altered within an 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) Terraces, walks, driveways, sidewalks and similar structures, or any one (1) or more of them, provided that any such structure is substantially at grade level. This is not to be construed as to include parking lots.

(3) Storm doors and windows, screens, window air conditioners, lighting fixtures, antennas, and similar appurtenances, or any one (1) or more of them.

(4) Colors for use on buildings and roofs.

(5) Signs of not more than one (1) square foot in area in connection with use of a residence for a customary home occupation or for professional purposes, provided only one (1) such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one (1) sign in connection with the nonresidential use of each building or structure which is not more than twelve (12) square feet in area, consists of letters painted on wood without symbol or trademark and if illuminated is illuminated only indirectly; or either of them.

(6) The reconstruction, substantially similar in exterior design, of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one (1) year thereafter and carried forward with due diligence.
(Rev. Ords. 1973, §30-7

Secs. 10-30--10-39. Reserved

ARTICLE III. DEMOLITION OF HISTORICALLY SIGNIFICANT BUILDINGS*

Sec. 10-40 Intent and purpose.

This article is adopted to protect and preserve buildings and structures within the city which reflect or constitute distinctive features of the architectural, cultural, economic, political or social history of the city and to encourage the preservation and restoration rather than demolition of such buildings and structures; and, by furthering these purposes, to promote the public welfare and to make the city a more attractive and desirable place in which to live and work.
To achieve this purpose, the Beverly Historic District Commission (hereinafter "the commission") is empowered to advise the Beverly Zone and Code Enforcement Officer (hereinafter the "building

inspector") with respect to the issuance of permits for demolition. Further, the commission is mandated to offer its advice and expertise to owners of preferably preserved buildings and structures.
The issuance of demolition permits is regulated as described hereafter in this article.
(Ord. No. 279, §1, 12-16-91)

Sec. 10-41. Definitions.

The following words and phrases, when used, whether or not capitalized in this article shall have the meanings set forth below, unless the context otherwise requires:

Applicant means any person or entity who files an application for a demolition permit. If the applicant is not the owner of the premises upon which the building is situated, the owner must indicate with the application his/her assent to the filing of the application.

Business day means a day which is not a legal municipal holiday, Saturday or Sunday.

Demolition means the intentional act of pulling down, destroying, removing, dismantling or razing a building or structure or commencing the work of total or substantial destruction with the intent of completing the same.

Historical commission or commission means the Beverly Historic District Commission, which has the powers and duties and acts as the Beverly Historical Commission. The commission may designate one (1) or more of its members to act in its behalf between the commission's regular monthly meetings.

Historic district means Fish Flake Hill Historic District or any other historic district which may be established in the city under Chapter 40C of the General Laws of Massachusetts; or the Regulations of the National Register of Historic Places.

Historically significant building or structure means any building or structure within the city which is determined by the commission to be historically significant because such building or structure is (1) Associated with one (1) or more historic persons or events, or with the architectural, cultural, economic, political or social history of the city; or (2) historically or architecturally important (in terms of period, style, method of building construction or association with a famous architect or builder) either by itself or in the context of a group of buildings or structure.

Preferably preserved historic building or structure means any historically significant building or structure which is determined by the commission, because of the important contribution made by such building or structure to the historical and/or cultural resources of the city, to be in the public interest to preserve.
(Ord. No. 279, § 2, 12-16-91; Ord. No. 24, 2-19-2004)

Sec. 10-42. Regulated buildings and structures.

The provisions of this article shall apply only to any building or structure which, in whole or in part, was built fifty (50) or more years prior to the date of the application for the demolition permit, and is:
(1) A building or structure listed or eligible to be listed on the National Register of Historic Places, or on the State Register of Historic Places (the criteria used to determine eligibility for listing on the National and/or State Register of Historic Places is on file in the planning department in city hall and available for public review); or

(2) A building or structure importantly associated with one (1) or more historical persons or events, or with the broad architectural, cultural, economic, political or social history of the city, or

(3) A building or structure which is historically or architecturally significant in terms of period style, method of building construction or association with a significant architect or builder either by itself or as part of a group of buildings; or

(4) A building or structure located within one hundred fifty (150) feet of a federal, state or local historic district boundary.
(Ord. No. 279, § 3, 12-16-91)

Sec. 10-43. Procedures.

(a) No permit for the demolition of any building or structure shall be issued other than in conformity with the provisions of this article, as well in conformity with the provisions of the other laws and ordinances applicable to the demolition of buildings and structures and the issuance of permits generally.

(b) Upon receipt of an application for a demolition permit the building inspector shall forward a copy to the commission and to the planning director of the city.

(c) Within ten (10) business days from receipt by the commission or a designee of the commission of an application for a demolition permit, the commission or a designee of the commission shall make determination of whether or not the building or structure is a regulated building or structure, and if the commission or a designee of the commission determines that the building or structure is regulated by this article, the commission or a designee of the commission shall also determine within the same ten (10) business days whether or not the building or structure may be an historically significant building or structure.
If the building inspector does not receive the opinion of the commission or a designee of the commission in regard to these determinations within ten (10) business days of the date of the receipt of the application by the commission or a designee of the commission, then, subject to section 10-46 of this article, the building inspector may grant the permit applied for.

(d) If the commission or a designee of the commission determines that the building or structure is not regulated by this article, or is not historically significant, the demolition permit application shall be signed as approved by the commission or a designee of the commission and returned to the building inspector. Upon receipt of such, the building inspector may, subject to the requirements of the building code and any other applicable laws, issue the demolition permit.

(e) If the commission or a designee of the commission determines that the building or structure may be an historically significant building or structure, the commission or a designee of the commission shall review the application for demolition at a public hearing to be held within twenty (20) business days of determination that the subject building or structure may be an historically significant building or structure. The commission or a designee of the commission shall cause to be published in a newspaper of local circulation notice of the date and place of such public hearing. Such notice shall specify the address of the subject building, and shall be published in said newspaper at the expense of the applicant once during each of the two (2) weeks preceding the date of such public hearing. No less than five (5) business days before the public hearing the applicant for the demolition permit shall submit to the commission three (3) copies of a demolition plan which shall include the following:

(1) A map showing the location of the building or structure to be demolished on its property and with reference to the neighboring properties;
(2) Photographs of all street facade elevations;
(3) A description of the building or structure, or part thereof, to be demolished;
(4) The reasons for the proposed demolition and data supporting said reason; or
(5) A brief description of the proposed reuse of the property on which the building or structure to be demolished is located.

(f) After said public hearing, the commission shall within ten (10) business days determine whether or not the subject building or structure is:

(1) Historically significant; and
(2) A preferably preserved building or structure, and notify in writing the applicant and the building inspector of its determination, stating the reasons for such decision.

(g) If the determination is that the subject building or structure is both historically significant and preferably preserved, the building inspector shall not issue a demolition permit for a period of twelve (12) months from the date of such determination, unless the commission informs the building inspector in writing prior to the expiration of the twelve-month period that:

(1) The commission is satisfied that the applicant has made a bonafide, reasonable, and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure; or
(2) The applicant has agreed to accept a demolition permit according to certain conditions approved by the commission.

(h) No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Commissioner and have been found to comply with all laws pertaining to the issuance of a building permit. All approvals necessary for the issuance of such building permit including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

(Ord. No. 279, § 4, 12-16-91; Ord. No. 24, 2-19-2004)

Sec. 10-44. Notice.

Notice of a hearing or determination provided for in this article shall be sent by the commission to the owner of record, the applicant for the demolition permit (if different from owner of record), the immediate abutters to the subject property, the building inspector, and to such other persons and organizations in such manner as the commission may determine appropriate. The commission may require that the applicant maintain on the building, which is subject of a demolition permit application, notice, in a form designated by the commission, visible from the nearest public way, of any hearing on the subject matter or such application; and applicant shall comply with such requirement.
(Ord. No. 279, § 5, 12-16-91; Ord. No. 24, 2-19-2004)

Sec. 10-45. Emergency demolition.

Nothing in this article shall be construed to derogate in any way from the authority of the building inspector derived from Chapter 143 of the General Laws. However, before acting pursuant to this chapter the building inspector shall make every reasonable effort to inform the chairperson of the historic district commission of his intentions to issue a demolition permit before it is issued.
(Ord. No. 279, § 6, 12-16-91; Ord. No. 24, 2-19-2004)

Sec. 10-46. Historic districts act.

Nothing in this article shall be deemed to conflict with the provisions of the Historic District Act, Massachusetts General Laws, Chapter 40C, with respect to requirements of notice, hearing and issuance by the commission of a certificate of appropriateness, a certificate of non-applicability or a certificate of hardship prior to demolition of any building in an historic district. Any temporary building erected or maintained in an historic district pursuant to a certificate issued by the commission may be demolished in a manner consistent with the terms of such certificate.
(Ord. No. 279, § 7, 12-16-91)

Sec. 10-47. Enforcement and remedies

(a) The building inspector is specifically authorized to institute any actions, in law or in equity, as they deem necessary to obtain compliance with the requirement of this article to prevent a threatened violation thereof.

(b) Any owner of a building determined by the commission to be a preferably preserved historic building or structure who caused the building to be demolished without first obtaining a demolition permit in accordance with the provisions of this article shall be subject to fine of not more than three hundred dollars ($300.00). Each day the violation exists shall constitute a separate offense until a faithful restoration of the demolished building is complete or unless otherwise agreed to by the Commission.

(c) No building permit shall be issued with respect to any premises upon which a building or structure subject to this Ordinance has been voluntarily demolished in violation of this ordinance for a period of two (2) years after the date of the completion of such demolition, to be determined by the Building Commissioner. As used herein "premises" includes the parcel of land upon which the demolished significant building was located.

(d) Notwithstanding the foregoing, whenever the Commission shall, on its own initiative, or on the application of the landowner, determine that earlier reconstruction, restoration or other remediation of any demolition in violation of this article better serves the intent and purpose of this article, it may, prior to the expiration of said period of two (2) years, consent to the issuance of a building permit, upon such conditions as the Commission deems necessary or appropriate to effectuate the process of this article, and may so notify the Building Commissioner.

(e) Upon the determination by the Commission that a building is a preferably preserved building, the owner shall be responsible for properly securing the building if vacant, to the satisfaction of the Building Commissioner. Should the owner fail to secure the building, the loss of such building through fire or other cause shall be considered demolition for the purpose of this Ordinance.
(Ord. No. 279. § 8. 12-16-91; Ord. No. 33, 1-8-2003; Ord. No. 24, 2-19-2004)