

CHATHAM HISTORICAL COMMISSION
RULES AND REGULATIONS

Adopted by the Chatham Historical Commission on 10/7/2014
Amended 6/21/2016, 10/4/2016, 10/2/2018, 11/5/2019, 1/5/2021 & 9/21/2021

I. PURPOSE

The Chatham Historical Commission was established in 1975 by the Town of Chatham, through its acceptance of Massachusetts General Law Chapter 40, Section 8d, for the preservation and protection of the historic resources of Chatham. The Commission hereby adopts these Rules and Regulations to facilitate the conduct of its business. A copy of these Rules and Regulations, and all amendments thereto, shall be filed with the Town Clerk.

II. DUTIES AND POWERS

The Commission has the following duties and powers:

- A. To serve as the Town's Historical Commission under the provisions of MGL Chapter 40 Section 8d and in that capacity to participate in research, advocacy, survey and inventory, and public education programs designed to preserve Chatham's historic and cultural assets for the benefit of the town and its citizens.
- B. To hear and decide on cases of demolition of historic structures and whether or not to impose a demolition delay, in accordance with the Town's Demolition Delay Bylaw, Chapter 158 of the Chatham Town Code.
- C. To serve as an advisory board to the Cape Cod Commission, determining whether proposed alterations or demolitions of buildings listed on the National Register of Historic Places or contributing structures in the Old Village National Register District are "Substantial Alterations" requiring Development of Regional Impact (DRI) review under Section 2(a)(i)(a) of the Cape Cod Commission's Enabling Regulations.

III. ORGANIZATION

A. Commission Members:

The Commission shall consist of up to seven (7) members, each of whom shall be appointed by the Board of Selectmen under the provisions of MGL 40C. Members shall normally be appointed for a term of three years (or less in the event such appointee is to fulfill an unexpired term of a previous member). Members may be reappointed at the end of a term of service or be replaced at the discretion of the appointing authority. When possible, Commission members should include individuals from among the disciplines of historic preservation, history, architecture, architectural history, planning or archaeology.

B. Alternate Members:

Alternate members may be appointed by the Board of Selectmen to serve staggered three-year terms, though alternates shall not exceed the number of principal members

(effective April 2, 2014 per MGL Chapter 40, Section 8d). In the case of the absence or inability to act on the part of a principal member, the place of the principal member shall be taken by an alternate member designated by the Chair.

C. Officers:

The Commission shall have a Chair, Vice-Chair and Clerk who shall be duly elected, by a vote of a majority of the Commission members, on an annual basis as of July 1st each year. Each officer shall serve a term of one year. There shall be no limits on the number of years an individual may serve as an officer. A majority vote of the Commission members shall be necessary to elect each officer.

D. Duties of Chair:

The Chair shall preside over meetings and hearings of the Commission. The Chair shall also be responsible for all coordination with the Community Development Department, other town departments, committees, and commissions, and shall serve as liaison to the Cape Cod Commission, the Massachusetts Historical Commission, and the public. The Chair shall also be responsible for responding to inquiries from the public as may be appropriate. The Chair may appoint, as appropriate, another Commission member or a committee to assist in discharging these responsibilities.

E. Duties of Vice-Chair:

The Vice-Chair shall act as Chair in the event that the Chair is absent or unable to perform his/her duties. He/she shall perform all other duties as may be assigned by the Chair.

F. Duties of Clerk:

Subject to the direction of the Commission and the Chair, the Clerk shall be authorized to sign necessary documents. The Clerk shall also be authorized to act as Chair in the event that the Chair and Vice-Chair are absent. He/she shall perform all other duties as assigned by the Chair.

G. Resignation:

Any Commissioner or Alternate may resign by delivering his or her written resignation to the Board of Selectmen and Town Clerk. Such resignation shall be effective upon receipt by the Town Clerk unless it is specified to be effective at some other time or upon the occurrence of some other event.

IV. PUBLIC MEETINGS AND HEARINGS

A. Quorum:

A Quorum for all Commission activities shall consist of any four Commission members and alternates if the alternates have been appointed by the Chair to vote.

B. Meeting/Hearing Schedule:

Meeting schedules are established and posted on the Town's website for each calendar year. As a general practice, meetings are held on the first and third Tuesday of each month except the months of July and August, when there is only one meeting on the third Tuesday of the month. Meetings begin at 9 am and are held at the Town Annex meeting room unless otherwise specified in the public notice. All hearings scheduled to be heard at a specific meeting are posted as beginning at 9 am unless otherwise specified in the public notice. With proper notice, the Commission reserves the right to designate an alternate date as may be necessary. Special meetings may be called by the Chair or at the request of two members and shall be duly noticed.

C. Notice and Agendas:

All meetings shall be open to the public and duly noticed in accordance with MGL Chapter 39, Sections 23A-23C and 24, commonly referred to as the Open Meeting Law. Draft meeting agendas containing notice of the individual hearings shall be posted on mytowngovernment.org and the Town Website at least one week prior to the meeting, with the final meeting agenda to be posted at least forty-eight (48) hours in advance of the meeting. Notifications of all applications that are to appear for hearings before the Commission for demolition under Chapter 158 of Town Code and applications for determination of "Substantial Alterations" under Section 2(a)(i)(a) of the Cape Cod Commission's Enabling Regulations shall be published once each week for two successive weeks, the first notice to appear at least 14 days before the day of the hearing (including the day of publication and excluding the day of the hearing) with a copy of the notice sent to applicants and abutters (if required) and posted on mytowngovernment.org at the time of publication.

D. Minutes:

Minutes shall be recorded by the Clerk or delegated by the Chair to the Community Development Department liaison or other assigned town staff and include the subjects discussed, all motions, and each member's vote. A copy of the Minutes shall be filed with the Town Clerk and posted on mytowngovernment.org on the Town Website within one week of the date of approval.

E. Votes:

The Chair may propose to entertain a specific motion on an issue or may entertain such motions from the voting members. Motions need not be framed in the affirmative. Each member's vote shall be recorded in the minutes. The Chair shall normally participate in all votes. Members, or Alternates designated to act for Members, may abstain from any vote at their own discretion.

F. Conflict of Interest:

In the event of a potential conflict of interest on any application, the Member must recuse himself/herself from the hearing on the application prior to the hearing and shall physically remove himself/herself from the hearing room. In addition, said Member shall not offer any testimony to the Commission on the application. All Members and Alternates shall abide by the MGL Chapter 268A, and other conflict of interest and ethics laws and guidelines.

G. Continuation of Hearings:

An Applicant may, for any reason, request a continuance of the hearing to a future date prior to the commencement of the hearing, provided such request is made in writing and the hearing is opened within 65 days of the filing of a completed application. An applicant may also request a continuance at any time during a hearing.

H. Expiration of Findings:

All determinations by written finding made by the Commission shall expire two years from the date of the written finding if the work authorized has not commenced. An applicant is required to re-apply to the Commission after two years should the applicant wish to demolish a building or structure, in total or in part, which meets the age or other criteria for review by the Commission.

I. Re-hearing of Applications:

The Commission shall be under no obligation to accept and re-hear an application prior to the two-year expiration of the previous determination unless there have been “substantive changes” to the application. The specific and material changes constituting “substantive changes” to the application must be clearly identifiable. Applications which have “substantive changes” shall be re-submitted as a new application. In the event that the Community Development Department is uncertain as to whether or not the changes are “substantive,” the Chair shall be contacted to render a determination. Notwithstanding a determination by the Chair that the changes are “substantive,” the Commission shall vote on this determination at the next scheduled meeting. A majority vote finding “substantive changes” shall be necessary in order to re-hear an application. Applications which do not receive a majority vote will not be heard by the Commission, and the application fee, less any direct costs for advertising, shall be refunded to the applicant. Requests to amend the length of a demolition delay imposed by the Commission shall be considered a “substantive change” and require re-submittal as a new application clearly identifying the justification for a re-hearing.

J. Changes to the Rules & Regulations:

These Rules and Regulations may be amended, changed or altered after the holding of a public hearing noticed as required in Section IV.C of these Rules and Regulations and an affirmative vote of a majority of Commission Members. The Commission will review these Rules and Regulations as needed or at least annually.

V. APPLICATIONS

A. Form of Applications:

The form of applications shall be established by the Chatham Historical Commission and set forth on the applications form(s) approved by the Commission. The form of applications may be amended, changed, or altered after an affirmative vote of a majority of Commission Members. This form shall identify if the applicant is responsible for notification of abutters, if required.

B. Completeness:

The Community Development Liaison may review applications for completeness and advise the Chatham Historical Commission if an application is considered to be incomplete based on the applicable bylaw or statute, these rules and regulations and the adopted application form. If a majority of the Chatham Historical Commission concurs the application is incomplete, the applicant shall be notified in writing that the application is not in the form provided and established by the Commission and that a public hearing will not be scheduled until a complete application is received.

VI. RESPONSIBILITIES UNDER MGL CHAPTER 40, SECTION 8D

A. Protection of Historic Resources:

The Chatham Historical Commission is charged with the preservation, protection and development of historical or archaeological assets of the town and, as such, has those powers enumerated under MGL Chapter 40, Section 8d.

B. Historic Property Inventories:

The Commission is responsible for conducting research and completing or updating historic property inventory forms established by the Massachusetts Historical Commission. Such research and inventory forms may be used in the Commission's public education efforts, and to guide the Commission's deliberations and recommendations regarding protection of historic properties in the community as well as by other town Commissions, Boards and Committees in the exercising of their responsibilities.

C. Recommendations to Town and State Agencies:

The Commission may make recommendations to the Board of Selectmen or other town bodies regarding the protection and preservation of significant historic resources in the community. It may also make recommendations to the Massachusetts Historical Commission and the State Archaeologist regarding the protection of such resources.

VII. REVIEW OF DEMOLITIONS UNDER CHAPTER 158 OF TOWN CODE

A. Authority:

The Commission has the authority and responsibility, pursuant to Chapter 158 of the Chatham Town Code, for enforcing the provisions of the Chatham Demolition Delay Bylaw. The Commission has authority to impose a demolition delay of up to 540 days. Each such demolition determination shall not run with the land and shall not be transferable from the current applicant/owner to another. Buildings within the Town's Historic Business District are not subject to review under the Demolition Delay Bylaw because that district has regulations with more review power than the Demolition Delay Bylaw. Buildings listed on the National Register of Historic Places and subject to review under the Cape Cod Commission Enabling Regulations and Section VIII of these Rules and Regulations may also be subject to review under the Demolition Delay Bylaw.

B. Determination of Applicability:

The Community Development Department's liaison to the Commission shall determine whether or not an applicant's request is subject to review by the Commission. In the event that the liaison is uncertain as to whether or not a request should come before the Commission (e.g. the age of the structure is uncertain, alterations are minor or consist of maintenance or repair), the liaison shall request a determination in writing from the Chatham Historical Commission Chair & Vice-Chair. The Chair & Vice-Chair, (Clerk or other member so designated by the Chair or Vice Chair) shall independently inspect the structure and research available information to make such a determination. If, after this due diligence, both reviewers agree that the project does not require an application for a full hearing before the Commission, the Applicant will be so notified in writing by a document signed by the reviewers, and the determination placed on the agenda for the next hearing for ratification by the full Commission. A building permit may not be issued until the determination has been approved by the Commission. If both reviewers do not agree, the applicant will be advised to file a complete application for a hearing.

C. Application Forms:

The Commission shall hear the following applications under Chapter 158 of the Chatham Town Code:

- 1) Notice of Intent to Demolish or Partially Demolish an Historic Building or Structure

Additions are under the purview of the Commission to the extent that they constitute partial demolition of a historical structure and/or involve the removal in whole or part of exterior walls or roof or other historically significant materials. Historically significant materials mean exterior or structural materials more than 75 years old and which has been determined by the Commission to meet one or more of three conditions (A, B or C) as set forth in section 158-2 of the bylaw. The addition itself is exempt from Commission purview. Required application materials are enumerated on the application forms. Application Forms are available from the Chatham Community Development Department and shall be filed in the Community Development Department at least 25 days prior to the desired hearing date to allow time for public notice.

D. Owner/Applicant Requirement:

The applicant must be the owner of the property or designated person to represent the owner. Unless a Power of Attorney or Agent Authorization Form is provided to the Commission, all applications must be signed by the owner in order for it to be heard by the Commission. In the event the applicant is someone other than the owner, the owner's signature on the application shall ratify the fact that the applicant has the authority to represent the owner.

E. Access to Property:

Prior to the hearing, the property owner is encouraged to make the subject property accessible to Commission Members. The Community Development Department will schedule a site visit, on a date and time convenient to the applicant, to allow Commission members to view the building and review the proposed changes. It is in the

applicant's best interest to have a representative present during the site visit to explain the proposed changes. During the site visit, Commission Members may ask questions of the representative, but no discussion of the merits of the application shall take place. Unless approval is granted in advance by the property owner, site visits are not open to the public.

VIII. RESPONSIBILITIES UNDER CAPE COD COMMISSION ENABLING REGULATIONS

A. Authority:

Under the Enabling Regulations of the Cape Cod Commission, Section 2(a)(i)(a), the Chatham Historical Commission is responsible for advising the Cape Cod Commission regarding substantial alterations to historic structures. As such, the Commission is charged with hearing applications for "Substantial Alteration" to a property listed on the National Register of Historic Places or a Contributing Structure in a National Register Historic District. The purpose of the Commission's review is to determine if the proposed project constitutes a "Substantial Alteration" under Section 3(a) of the Enabling Regulations of the Cape Cod Commission. The Chatham Historical Commission is responsible for making this determination. Such determination is a prerequisite for and determines if referral to the Cape Cod Commission for regulatory review is required. In Chatham, this applies primarily to structures within the Old Village Historic District and to structures on the Marconi/RCA Wireless Receiving Station properties.

B. Determination of Applicability:

The Community Development Department's liaison to the Commission shall refer to the Massachusetts Historical Commission's Form Bs and/or other available documents and information sources to determine whether or not an applicant's request affects a building that is listed on the National Register of Historic Places or listed as a "contributing" property on the district data sheet of a National Register District. If there is any question as to whether a property is listed on the National Register of Historic Places or is a "contributing" property within a National Register District, they shall consult the Massachusetts Cultural Resources Inventory System (MACRIS) or contact Cape Cod Commission staff for assistance.

If the proposed upgrade, change, alteration or extension meets any of the following, the Building Commissioner or Community Development Department's liaison shall refer the following projects which are contributing structures in the National Register District to the Historical Commission for a determination of whether the work constitutes a "Substantial Alteration":

- 1) Single Family Dwellings. Any application involving renovation or demolition equaling more than 25% of the gross floor area of a National Register building. The determination of more than 25% of the gross floor area shall include basements and proposed additions or alterations. (Section 22 of the Cape Cod Commission Act exempts single family dwellings from Cape Cod

- Commission review unless the proposed upgrade, change, alteration or extension is greater than 25% of the floor area of the dwelling.)
- 2) All Other Structures. Any application involving any exterior renovation or demolition of a National Register building.
 - 3) Additions. Additions, including basement additions, may be under the purview of the Commission to the extent that they constitute partial demolition of exterior historic materials.

Independent of the jurisdiction under the Cape Cod Commission Act, the proposed project may be subject to the jurisdiction of the Historical Commission under Chapter 158 of Town Code and Section VII. of these Rules and Regulations.

C. Substantial Alteration:

“Substantial Alteration” is defined as an alteration which jeopardizes a structure’s individual eligibility for listing in the National Register of Historic Places or its status as a contributing structure in a National Register Historic District.

Examples of alterations the Commission may feel jeopardize a structure’s individual eligibility for listing in the National Register of Historic Places, or its status as a contributing structure in a National or Massachusetts Register of Historic Places, are generally considered to be:

- Addition, removal, alteration, or substitution of defining architectural features such that the building/structure is incapable of yielding important historical information about its period, including changes to the following; exterior siding, roof pitch, fenestration, and the compatibility of additions in terms of general scale, massing and materials.
- Isolation of a property or alteration of its setting such that the historic character and integrity are no longer reflected in the site. Examples may include the following: introduction of parking lots, removal of subsidiary buildings or relocation of a structure from its original site.

The complete demolition of a historic building will be considered a “Substantial Alteration” and thus referred to the Cape Cod Commission; although, demolition of additions to the original or historic structure that are determined not to have architectural or historic significance would generally not be considered a “Substantial Alteration”.

In making its determination, the Commission will take into consideration:

- the extent to which the proposed project preserves or destroys significant amounts of historical material or key features or spatial relationships.
- whether or not the proposed project preserves the structure’s historic character and protects the structure’s historical significance rather than overwhelming the historic structure or site; and/or
- whether or not the proposed project includes the removal or alteration of defining landforms in an historic landscape or site.

The Commission may also refer to The U.S. Secretary of the Interiors Guidelines for Rehabilitation of Historic Structures during its deliberations, including the Secretary of the Interior's Standards which define Rehabilitation as "the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural value".

D. Application Form:

The Commission shall hear an Application for Substantial Alteration to Historic or Contributing Structure in National Historic Register District.

Required application materials are enumerated on the application forms. Application Forms are available from the Chatham Community Development Department or Building Inspections Division and shall be filed in the Community Development Department.

E. Commission Determination:

The Commission shall make a written determination as to whether or not the proposed alterations constitute a "Substantial Alteration" for purposes of the Cape Cod Commission's Enabling Regulations and shall provide a copy of that determination to the Building Commissioner. This written determination shall incorporate the findings that formed the basis of the Commission's decision. If the Commission determines the proposed project constitutes a "Substantial Alteration," the Building Commissioner shall refer the project to the Cape Cod Commission for Development of Regional Impact (DRI) review. If the Commission finds that the proposed project does not constitute a "Substantial Alteration," the local permitting process may proceed unless the Commission determines that Chapter 158 of Town Code applies.

F. Assistance from Cape Cod Commission Staff & Other Consultants:

The Commission may request advisory assistance from Cape Cod Commission staff or other consultants in their consideration of whether a proposed project constitutes a "Substantial Alteration."

G. Exemptions:

The following structures, activities or features are generally excluded from review under the Commission's responsibilities:

- Ordinary maintenance and repair of any exterior features which does not involve a significant change in design, material, or outer appearance. This includes re-shingling or replacement of wooden clapboards. Activities not requiring a building permit are automatically exempt.
- Alterations or changes to non-contributing structures in a National Register district.
- Minor site or landscape features such as terraces, walks, driveways, sidewalks, fences, low walls, ground level decks, flagpoles, arbors, and trellises.
- Temporary building features such as storm doors and windows, window air conditioners, light fixtures, and small satellite dishes.

- Emergency actions pursuant to Section 24 of the Cape Cod Commission Act and Enabling Regulations, or the reconstruction, pursuant to the Regional Policy Plan, of a structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided that such reconstruction is substantially similar to the original in exterior design, is begun within the time limits specified by the local building code, and is carried forward with diligence. Under these conditions the building inspector shall issue a written certificate that an emergency condition exists and that immediate action to remove the hazard is necessary, pursuant to Section 11 of the Cape Cod Commission Enabling Regulations.

H. Local Regulation for Discretionary Referrals

As provided under the “Discretionary Referrals” provision of the Cape Cod Commission regulations, the Chatham Historical Commission may make a request/recommendation to the Building Commissioner or the Board of Selectmen of the Town of Chatham that an application for substantial alteration or full demolition be referred to the Cape Cod Commission for review.

The Chatham Historical Commission hereby adopts a procedure effective this date for future applications, that such a request/recommendation shall only be made on the date of the hearing at which a “finding” on the application has been rendered by the Commission or, if a demolition delay has been imposed, then within the first one hundred eighty (180) days (or one third of the time period of the delay imposed) of the effective date of the demolition delay (whichever is less). Any future change to this regulation shall not pertain to pending applications and shall only be effective after the required public notice, a public hearing and a favorable vote by the Commission.

IX. HEARING PROCEDURES

A. Hearing Start Time:

Hearings shall start at the time stated in the notice and shall be conducted in the order listed in the notice, unless agreed otherwise by the Commission. Continuations of hearings from previous meetings shall be resumed after the closure of all scheduled hearings for the day unless otherwise agreed to by the Commission.

B. Hearing Process:

- 1) Call to Order. Chair shall call the meeting to order, announce that there is a quorum, designate alternates as voting members as necessary and notify all parties in attendance that the meeting is being recorded in both video and audio format for the record as required by Mass General Law.
- 2) Introduce Application. Chair shall introduce each application by reading the application number and the address.
- 3) Applicant’s Presentation. Chair shall ask the applicant or applicant’s representatives to introduce themselves and to present the application.

- 4) Questions from Members. Chair shall give Commission members an opportunity to ask questions of the applicant and hear their responses. Commission members may direct questions or comments to anyone present when recognized by the Chair.
- 5) Questions from Public. Chair shall give the public an opportunity to identify themselves and speak in favor or in opposition to the application.
- 6) Correspondence Received. Chair shall ensure the reading of any correspondence received concerning the application.
- 7) Applicant's Rebuttal. Chair may allow the applicant or representative the opportunity to respond or rebut any testimony.
- 8) Members Deliberation. When testimony is complete, the Chair will close the public comment period and the Commission shall enter into deliberations.
- 9) Findings and Conditions for Decision. Each Commission member shall have the opportunity to give an opinion on the application and to propose findings or conditions which they feel should become part of the decision. Any finding or condition shall be presented in the form of a motion and shall require a second and a majority vote for it to be included. The Secretary shall record all findings and conditions for incorporation into the final motion and decision vote.

As deemed appropriate by the Commission, decision condition(s) may include the requirement that at the time a building permit is applied for, the applicant shall highlight on the framing and structural cross section plans the existing historical material that will be salvaged, reincorporated, or removed demonstrating compliance with the Commission's decision. These highlighted plans shall be reviewed by a designee of the Commission and signed off on by the designee as being consistent with the Commission's decision prior to the issuance of a building permit. If the Commission designee determines that the proposed plans are not consistent with the Commission's decision, the applicant shall be required to return to the Commission at a public meeting to resolve the discrepancy prior to the issuance of a building permit.

- 10) Vote on Decision. Commission Members shall vote on the application, including any findings or conditions. A second and a vote of four Commission Members will be required to pass any motion.

C. Written Notice of Decision:

The Commission shall issue a written notice of its findings, conditions and determination within 14 days of the date of the hearing, a copy of which shall be sent to the applicant and the Building Commissioner. Decisions are binding to the structure and/or land on which the structure is located regardless of ownership or a change of ownership.