

ESTABLISHING LOCAL HISTORIC DISTRICTS



MASSACHUSETTS
HISTORICAL COMMISSION

William Francis Galvin
Secretary of the Commonwealth

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Introduction

Our Historic Resources

Throughout Massachusetts, cities and towns face the needless destruction of their treasured historic resources. Village centers, neighborhoods and downtowns are often not very well protected and through demolitions and insensitive alterations can easily disappear. However, many cities and towns in Massachusetts have taken steps to better protect their historic resources. The strongest form of protection is a local historic district created through a local bylaw or ordinance. In a local historic district, before any exterior architectural feature that is visible from a public way is altered, the plans to carry out that alteration must first be approved by a local historic district commission. In this way, needless demolitions and alterations can be permanently prevented. Over 100 cities and towns in Massachusetts have already recognized the value of a local historic district and have established one or more local historic districts in their communities. For a list of communities in Massachusetts with local historic districts, contact the Massachusetts Historical Commission for a copy of *Preservation through Bylaws and Ordinances*.

Have you decided that a local historic district is the right choice for your community? Many communities realize that they need the additional protections that a local historic district offers after a prominent building is proposed for demolition or is lost altogether. Other communities may realize through the completion of a Master Plan that a local historic district is a worthy solution to the loss of the community's assets. Whatever the reason, it is hoped that this guidebook will assist you in understanding the process of creating a local historic district.

This guidebook is designed to help cities and towns through the process of establishing a local historic district in accordance with the provisions of Massachusetts General Laws, Chapter 40C, the Historic Districts Act. It is intended that communities will use this guidebook to assist in the establishment of local historic districts that are well-planned, formed with broad public participation and meet the procedural requirements of state law.

Benefits of Local Historic Districts

Local historic districts have three major purposes as stated in Massachusetts General Law, Chapter 40C:

- to preserve and protect the distinctive characteristics of buildings and places significant in the history of the Commonwealth and its cities and towns;
- to maintain and improve the settings of those buildings and places;
- to encourage new designs compatible with existing buildings in the district.

The benefits of local historic districts are many.

- Local Historic Districts can be credited with saving the character of many areas in Massachusetts.
- Local Historic Districts provide protection from demolitions and inappropriate remodeling.

- Local Historic Districts provide assurance that the historic built environment will be there for future generations to enjoy
- Local Historic Districts provide a visual sense of the past.
- Local Historic Districts create pride in the community.
- Local Historic Districts create neighborhood stabilization
- Local Historic Districts provide schoolchildren with educational opportunities.

Historic districts do not prevent all changes from occurring, nor do they prevent all demolition, new construction or development. The intent is to make changes and additions harmonious, and prevent the intrusion of incongruous elements that might detract from the aesthetic and historic values of the district. Historic district commissions are only allowed to review changes to exterior architectural features visible from a public way. The ordinance or bylaw creating the district may also exclude certain categories from review; most frequently these are paint color, storm windows and doors, and window air conditioning units. The purpose of a local historic district is not to halt growth, but to allow for thoughtful consideration of change.

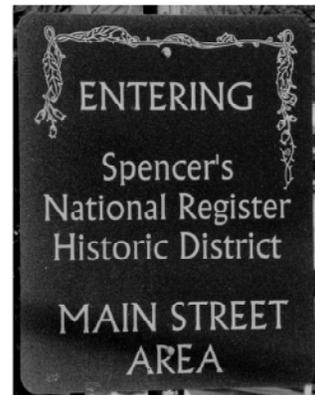
There's a Difference between a Local Historic District and a National Register District



It is essential to know that there are two kinds of historic districts in Massachusetts, Local Historic Districts and National Register Districts.

Although the same area may be designated as both a local historic district and a National Register District, there are substantial differences between the two designations. The National Register of Historic Places is a listing of buildings, structures, sites, objects, and districts significant in our nation's history, culture, architecture or archaeology and that are worthy of preservation. It is a Federal designation, administered by the Secretary of the Interior through the Massachusetts Historical Commission as the State Historic Preservation Office.

The McKnight Historic District in Springfield Listing in the National Register provides formal recognition of the property's significance, potential tax incentives for owners of income-producing property, and limited protection from state or federally funded, licensed, or assisted projects. National Register listing in no way limits the owner's use of the property, and places absolutely no restrictions or conditions on changes made by a private property owner unless there is state or federal involvement in a project, or unless some other regional and/or local regulation is in effect. Nominations to the National Register are usually initiated by a property owner or by the local historical commission, and do not require any local government approval. Property owners



have the right to object to listing on the National Register; a district will not be listed if the majority of owners formally object.

A local historic district, on the other hand, is established locally through town meeting or city council vote. It provides a regulatory review process for all changes to exterior architectural features visible from a public way. For more information on how a local historic district works, contact the Massachusetts Historical Commission.

Both National Register Districts and Local Historic Districts are automatically listed on the *State Register of Historic Places*. This listing provides limited protection from adverse effects by state funded, licensed, or assisted projects, and makes properties owned by municipalities or non-profit organizations eligible for grants from the Massachusetts Preservation Projects Fund when available. For a copy of *There's a Difference*, a brochure which further clarifies the difference between local historic districts and national register districts, contact the Massachusetts Historical Commission.

History of Local Historic Districts

Local historic districts are one of the oldest and strongest forms of protection for historic properties. The historic district movement began in the United States in 1931, when the city of Charleston, South Carolina, enacted a local ordinance designating an “Old and Historic District” administered by a Board of Architectural Review. Following a 1936 amendment to the Louisiana Constitution, the Vieux Carré Commission was created in 1937 to protect and preserve the historic French Quarter in New Orleans. The regulations of these districts provided that no changes could be made to the exterior architectural features of buildings, structures, and sites visible from a public street without the review and approval of an historic district commission. These districts served as models for local protection of historic areas across the country.



Beacon Hill Historic District

Massachusetts first made use of this preservation tool in 1955. Following opinions by the Massachusetts Supreme Judicial Court that held that the local historic districts were constitutional, Special Acts of the Legislature creating the Beacon Hill Historic District in Boston and the Historic District on Nantucket were passed. Special Act Districts in Lexington and Concord were established between 1956 and 1960.

In 1960, a statewide enabling statute, known as the Historic Districts Act, Massachusetts General Law, Chapter 40C, was enacted to empower municipalities to establish local historic districts. The Historic Districts Act was substantially amended in 1971, with minor language changes made in 1983 and 1987. The Historic Districts Act has served Massachusetts’ communities well for over three decades, helping to protect thousands of significant historic resources.

Because local historic districts have direct impact on property rights, the question of their legal basis and constitutionality often arises. Historic district controls exist within the broader context of land use regulations that have been extensively reviewed and examined by the courts.

Village of Euclid v. Ambler

The basic origin for historic preservation controls lies with the development of municipal land use and zoning controls in the early twentieth century. In 1926 the U.S Supreme Court decision in *Village of Euclid v. Ambler Realty*, 272 U.S. 365 (1926), upheld the

constitutionality of local zoning ordinances, and established the ability of municipalities to regulate land use through the exercise of their police powers.

Berman v. Parker

As land use controls evolved, they eventually began to encompass aesthetic considerations and the desire of communities to protect and preserve the character of their historic and architectural resources. In 1954, the U.S. Supreme Court affirmed the constitutionality of “aesthetic” zoning in the case of *Berman v. Parker*, 348 U.S. 26 (1954). With the development of historic district controls, state judicial opinions supported the use of such regulation as a valid exercise of the state’s powers to promote the general welfare.

Penn Central Transportation Company v. City of New York

It was not until 1978, when the U.S. Supreme Court decided *Penn Central Transportation Company v. City of New York*, 438 U.S. 104 (1978), that the constitutionality of local controls to further historic preservation was affirmed. In this landmark case the Court considered whether historic preservation controls constituted a “taking” in violation of the Constitution’s Fifth Amendment which provides that private property shall not be taken for public use without just compensation. The Court found that historic preservation is a valid public purpose, and that the City of New York’s landmark restrictions on Grand Central Station did not constitute a “taking” because the controls did not prevent a reasonable economic use of the property.

Although the basic constitutionality of local historic preservation controls has been recognized by the courts, they are still subject to legal challenge, often involving the claim of “taking”. However, unless the regulation is found not to advance a legitimate public interest or the restrictions on designated property are so severe as to deprive the owner of any reasonable economic use, historic preservation controls will remain solidly within the broad spectrum of constitutional land use controls.

In Massachusetts, there have been several court cases specifically regarding local historic districts. A summary of these Massachusetts local historic district court cases can be found in the MHC publication, [A Guidebook for Historic District Commissions](#).

Deciding if a Local Historic District is Right For Your Community

As previously noted, local historic districts are the strongest form of protection that can be given to historic properties. The establishment of a local historic district has considerable implications for property owners, so its establishment should not be approached casually. The recommendation of a local historic district is best when part of a comprehensive assessment of the community's historic resources, consideration of threats these resources may face, and a careful examination of appropriate strategies to address these threats. However, sometimes a building, neighborhood or village center is threatened before this planning process takes place. In this case, a more strategic approach to protecting the resources is needed.

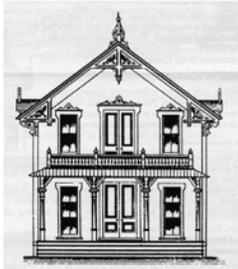
While the establishment of local historic districts is perhaps the best known protective strategy to protect historic resources, it is not the sole mechanism available to further historic preservation and protect community character. Other strategies including changes in local zoning and development policy, the implementation of facade, home improvement or other preservation incentive programs, targeted planning efforts, preservation restrictions, demolition delay bylaws, neighborhood conservation districts, technical and design assistance, public investments, etc. can contribute to the goal of furthering historic preservation and preserving community character. Careful consideration should be given to the appropriateness of any mechanism in addressing threats to historic resources. Ideally, the recommendation of a local historic district will be just one component of a much larger and more comprehensive strategy to ensure the preservation of historic resources and community character. To learn more about the range of tools for protecting historic resources, contact the Massachusetts Historical Commission for a copy of *Preservation through Bylaws and Ordinances*.



Winchendon Centre Historic District

The identification and recommendation of areas for local historic districts is sometimes made as part of the community's ongoing process of surveying its historic resources, through the development of a local preservation or master plan, or the findings of special planning or economic development studies. In most instances the recommendation to pursue the establishment of a local historic district evolves from the work of the local

historical commission, which is responsible for community-wide historic preservation planning. The initiation of the formal local historic district process generally begins with a request from the local historical commission (in some communities a petition from residents or property owners has been utilized) to the board of selectmen or city council for the appointment of an historic district study committee.



Cottage City
Historic District

*Old Bluffs Cottage City
Historic District*

If you have decided that a local historic district is needed in your community, the next section of this guidebook will explain the step-by-step process to follow. The Historic Districts Act (Massachusetts General Law, Chapter 40C) provides a specific procedure for the establishment of local historic districts in Massachusetts. This process must be followed for a local historic district to be valid.

The Local Historic District Study Committee

Be sure to stay in touch with the Massachusetts Historical Commission throughout this process!

The first official step in the process of creating a local historic district is the appointment of a Local Historic District Study Committee (LHDSC) by the Board of Selectmen or the City Council. The historic district study committee will be responsible for conducting an investigation of the desirability of establishing a local historic district, developing a report to present its findings and recommendations, and conducting a public hearing on the proposal prior to its consideration by town meeting or city council. The historic district study committee is established by majority vote of the board of selectmen or city council. A sample vote to establish an historic district study committee follows:

The Vote to Establish a Local Historic District Study Committee

VOTED: There is hereby established under the provisions of Massachusetts General Law Chapter 40C, General Laws, a Local Historic District Study Committee consisting of (3-7) members, which shall make an investigation and report on the historic significance of the buildings, structures, features, sites or surroundings included in such proposed local historic district or districts as the committee may recommend, and shall submit a final report with its recommendations after a public hearing, together with a map of the proposed district or districts and a draft of the proposed ordinance (bylaw), to the City Council (Town Meeting).

Nomination and Appointment Process for the Study Committee

Once the vote to establish the Local Historic District Study Committee is passed, it is time to begin the nomination process for the committee members. They are appointed in towns by the selectmen and in cities by the mayor or, where the city charter so requires, by the city manager and confirmed by the city council. However, the Board of Selectmen or City Council cannot simply appoint anyone they want to the study committee. Massachusetts General Law Chapter 40C, section 4 requires that where possible, membership include nominees from the following organizations: Local Historical Society, Board of Realtors and the American Institute of Architects. For the addresses, phone numbers and contacts for the Board of Realtors and American Institute of Architects, contact the Massachusetts Historical Commission.

Requests for nominees must be sent to these organizations by the selectmen or mayor. Each organization is requested to submit two nominees. Nominees are not required to be from among the membership of the organizations. If the organization submits the nominees within thirty days, then the Board of Selectmen or City Council must choose one of the nominees. If any of the organizations fail to submit nominees within thirty days, then the Board of Selectmen or City Council may appoint anyone they wish.

A study committee can be most effective if its membership embraces a variety of organizations and individuals whose interests and concerns reflect those of the community.

Besides those organizations specified in the Historic Districts Act, consideration should be given to the following:

- Local Historical Commission Members
- Architectural Historians
- Historians
- Landscape Architects
- Lawyers
- Residents or Property Owners in potential districts
- Business Owners and Chamber of Commerce Members
- Public Relations Professionals
- Planning Board Members
- Conservation Commission Members
- Open Space Advocates
- Institutional Property Owners
- Real Estate Professionals
- Building Contractors or Tradespersons
- Affordable Housing Advocates
- Elderly Housing Advocates

Once all the members of the committee have been appointed and sworn in by the municipal clerk, the first meeting should be called by the selectmen, mayor or the first person named on the list of appointees. If all of the appointees are present, the committee can organize on a permanent basis, and a chairperson and secretary or clerk, should be elected. In electing a chairperson, remember that the chairperson's role is to coordinate, delegate, motivate and keep everything on schedule. As a result, the most knowledgeable person about the community may not make the best chairperson. Notice of all future meetings should be given by the secretary, who will also be responsible for record-keeping. Once all members have been sworn in as a member of the study committee by the municipal clerk, the list of names and addresses should be sent to the Massachusetts Historical Commission.

Meetings of the study committee should follow normal procedures, including maintaining a quorum, keeping accurate minutes and records, and ensuring orderly discussion and public comment. Adequate prior notice of meetings must be given to comply with due process requirements. The Massachusetts Open Meeting Law (Chapter 39, Sections 23 A-C) requires committees and commissions to hold open meetings, notice of which must be filed with the municipal clerk and posted in the city or town hall at least 48 hours in advance. Open ballots or roll calls are required and must be reported in the minutes. If a closed (executive) session is needed, for a purpose authorized in the Open Meeting Law, the committee or commission must first meet in an open, posted session and a majority of the members must vote by roll call to go into executive session.

Organizing the Local Historic District Study Committee

Once the organization and operating procedures of the study committee have been established, it is then ready to begin its work. At this time, the study committee is strongly encouraged to contact the Massachusetts Historical Commission for a meeting. MHC staff is available to meet with the study committee to tour the proposed district, review the historic district process, answer questions and provide materials to aid the committee's work. The MHC can also provide the study committee with contacts to historic district commissions and study committees in other communities that may be able to offer additional guidance based on their experiences.

When a local historic district already exists in your community

If a local historic district has already been established in the community, the investigation, report and hearing may be carried out by the existing historic district commission (or by the combined historic district commissions if more than one exists), unless the existing commission(s) recommends otherwise.

When the Board of Selectmen or City Council do not wish to appoint a study committee.

Under the Historic Districts Act, your elected officials are not *required* to appoint a study committee if requested to do so. If the Board of Selectmen or City Council chooses not to establish a study committee, then you should speak with them to hear their concerns. Do they understand what a local historic district is? Are some of their concerns based on local historic district myths? Listen to their concerns and do what you can to advocate your position. At the same time, make sure that public education efforts are put in place to help residents of your town understand the need for a local historic district.

These residents of significant and potentially fragile areas may be your strongest advocates in convincing selectmen or city councilors of the benefits of a local historic district study committee. If despite your best efforts, there is still strong resistance to a local historic district, understand that establishing a local historic district can be a long and slow process. As an advocate for local historic preservation, don't put all your energy into the local historic district. Your efforts may be better spent on the many other ways to improve the historic preservation climate in your community.

Getting Started

At the outset, the Local Historic District Study Committee should fully understand that a local historic district usually takes at least 18 months to accomplish. This is because public education regarding the local historic district is essential and should not be rushed.

Investigating the Historic Resources

Prior to the establishment of any historic district in a city or town 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 an investigation of the desirability of establishing an historic district or districts therein.

The Base Map

The first item for the local historic district study committee to acquire is a base map. If a general area for a local historic district is already proposed, then visit your planning, engineering or assessors office for available maps. An assessors map will have all of the property lines on it. Obtaining assessor maps at the beginning will greatly help the Local Historic District Study Committee in determining the boundaries for the district. If your town has a geographic information system, then you may want to work with your planning department to get a map that shows streets, property lines and building footprints.

Determining the Approximate Boundaries of the Proposed Local Historic District

The boundaries of an historic district must be defensible and easily discernable. As you consider which properties will benefit from the protection be sure to record why those properties are significant. If your community has undertaken a historic resources survey, review the documentation for those properties in the larger study area to gain a sense of the historical and architectural development and significance.

Next, with maps in hand, start looking at where the boundaries of the local historic district could be, and using an assessors map as your working map color code those properties that should definitely be in the local historic district.

When drawing up the outside boundaries of the area that you will study for potential local historic district designation, consider physical barriers such as highways, railroad lines, a river, or other objects that clearly form an edge. Then review historic maps and consider the historical associations and patterns of development for the area. Next consider visual connections between and among properties such as building types and architectural styles, street patterns, and open space such as parks, cemeteries, a town common. All of these elements will inform your significance statement and assist you in viewing the area as a whole and discerning where to draw the boundaries.

Various types of boundaries may be used by the study committee. However, wherever possible it is recommended that your proposed boundaries match the property lines.

Also, it is preferable to avoid using the street as a boundary. To do so, would mean that one side of the street is in the district and one side of the street is outside the district. Historic

district boundaries should also be drawn to include the streets, roads and other public rights of way located between the parcels to be included in the district. Future work or construction that may take place in these areas may have a major impact on the character of the district, and should come under the jurisdiction of the historic district commission. In general, district boundaries should provide not only for the protection of individual historic resources, but for their settings as well.

National Register District Boundaries

If a National Register District is already present, obtain a copy of the map if available. The boundaries of the local historic district can be smaller, larger or exactly the same as the National Register District. However, the reasons for different boundaries should be clearly explained in the Preliminary Study Report.

Intrusions

National Register Districts distinguish between “contributing” and “non-contributing” resources. A local historic district has no such distinctions. Contemporary structures, historic properties which have been severely altered or other intrusions may be included within the boundaries of local historic districts and are subject to the local historic district bylaw/ordinance. Very few districts have no intrusions within their boundaries. When such intrusions are widely scattered within a district, it is generally not necessary or desirable to attempt to draw boundaries that would exclude them. In recommending boundaries, it is important to keep in mind that one of the stated purposes of the Historic Districts Act is to maintain and *improve* the setting of historic properties. Therefore individual properties or small areas which have been altered or otherwise lack integrity should not automatically be excluded from district boundaries. In preparing the boundaries, keep in mind that just about every local historic district has some properties that may not be as significant as others. However, due to their location amongst very significant resources, leaving them out of the proposed district could cause serious problems, depending on what is constructed there in the future.

Open Space and Vacant Lots

Open space or vacant lots may be included within the historic district boundaries. In many instances, it is desirable to include some open space in order to better protect the setting of the district. New construction can have a profound impact on the existing resources of the district. With a local historic district, new construction visible from a public way will be reviewed for its compatibility with the district. It should be noted that local historic districts do not regulate land use nor can they stop all development from occurring. Municipalities interested in protecting larger tracts of open space such as agricultural lands, forests and views should prepare an open space plan and utilize such tools as acquisition, agricultural preservation restrictions, conservation easements, or open space zoning.

Single Property Local Historic Districts

Local Historic District boundaries throughout the state vary greatly. For instance, the entire island of Nantucket is a local historic district while at the same time, the city of Somerville has several hundred single property local historic districts. In some instances it may be

necessary or desirable to protect buildings, structures, or sites which are isolated in terms of their setting. Examples include houses or farmsteads in rural areas, or significant buildings which may be surrounded by contemporary development or significantly altered properties. Although the Historic Districts Act does not make reference to the designation of individual properties as protected “landmarks,” Section 3 of the Act does provide that proposed historic districts *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.*” This provision clearly allows communities to establish single building districts. When possible however, it is generally more desirable to protect the character of a larger surrounding area, thereby protecting the district’s historic setting in addition to individual historic resources. In areas where a larger historic district is feasible, there should be clear justification for the establishment of single building districts.

The Property Street Addresses

Once the local historic district study committee has a rough idea of the area for the proposed district, it is time to go back to the assessors office and obtain a list of all the street addresses and owners names/addresses. The street address list is an essential component to establishing a local historic district. With this list of addresses, you can contact all of the property owners in the next step for their opinions. Later on in the process, you will have a street address list that includes additional information on each property like the date of construction and architectural style. Keep in mind that, at this point, your boundaries are not yet final. Right now, your map and street address list are your starting point. It is expected that the proposed boundary will shift somewhat as this process moves along.

Gauging Public Opinion and Building Support

If the property owners in the proposed local historic district have not yet been contacted, now is the time to seek their input with your street address list. It is highly recommended that the study committee seek the input of property owners early in the process. Although property owner consent is not required for a local historic district, your local historic district efforts will be much smoother with early, clear and frequent information for property owners.

It is recommended that the LHDSC begin their work by asking property owners (and residents or business owners if applicable) in the proposed district for their opinions on the proposed local historic district. This could be done through an opinion survey mailed to each address. Or members of the LHDSC might want to invite property owners to neighborhood meetings to discuss the proposed local historic district. The important thing is to make sure that everyone is informed and part of the process early on even if they may disagree with you. If someone disagrees with the concept, the last thing you want to hear when town meeting draws closer is “I never heard about this proposed district.” Newspaper articles about the local historic district are also highly recommended.

After a neighborhood meeting in which you explain the proposed local historic district, an opinion survey is a great way to hear from property owners. Hand deliver or mail a cover letter, fact sheet and survey to each property owner or business owner with instructions on how to mail the survey back to you. This will give everyone the chance to respond anonymously with their opinions. Furthermore, you can use the results to design the proposed bylaw or ordinance including what should be exempt from review. If the poll

indicates strong support for the district among the people who would be most affected by it, it will help to convince members of the city council or town meeting to vote favorably.

It is also a good idea to write follow-up letters to the property owners explaining the results of the opinion survey, the current status and the next steps. That way, property owners will be regularly informed about the local historic district.

A sample letter, frequently asked questions and an opinion survey to property owners are included on the next pages. The letter could be sent out earlier in the process by the Local Historical Commission or perhaps, a neighborhood organization. In fact, this is often a preferred method of gauging initial public opinion.

A SAMPLE LETTER TO PROPERTY OWNERS IN A PROPOSED LOCAL HISTORIC DISTRICT

Below is a sample letter to property owners on a proposed local historic district. If you are receiving this as hard copy, it can be emailed to you by contacting Christopher.Skelly@sec.state.ma.us at the Massachusetts Historical Commission.

Dear Property Owner:

The Historical Commission (or the Local Historic District Study Committee) would like to hear your input into establishing a local historic district in the center village. The Historical Commission believes that by establishing a local historic district, the character and historic significance of our village can be preserved.

We can be very thankful that so many buildings from our town's past still remain in the village center. However, without a local historic district, our village center could be lost forever through future demolitions and alterations. A local historic district will help to guide future changes, making sure that historic character will remain a distinct part of the village center.

In a local historic district, exterior architectural features visible from a public way are reviewed by a locally appointed historic district commission to make sure that the proposed changes are appropriate to the historic character of the district.

Today, there are over 200 local historic districts in Massachusetts and that number grows each year.

Please take a few minutes to express your thoughts on whether a local historic district is needed in the village center by filling out the attached survey and returning it to the Historical Commission in the envelope provided.

Thank you for your time. We look forward to hearing from you.

Sincerely

Chairman,

Historical Commission

Frequently Asked Questions

I thought that we were already in a historic district?

The village center is listed on the National Register of Historic Places as a National Register District. The National Register is primarily an honorary designation. Our village center is only minimally protected from state or federally involved projects. By passing a local historic district, the historic character of our village will be much better protected.

How is a local historic district created?

The first step is to find out what residents and property owners think. If there is interest in creating a local historic district, the Board of Selectmen appoints a study committee that will investigate local historic district designation further. The study committee holds public meetings, seeks public input, researches the history of the area and prepares a report on their findings. The final step is passage of a historic district bylaw by a two-thirds majority at town meeting.

If my house is included in the local historic district, does that mean I have to make it look more historic?

No, you can maintain the current look of your house as long as you would like. A local historic district only reviews proposed changes to exterior architectural features. Routine maintenance of your house is exempt from review.

What kinds of things are reviewed by a historic district commission?

Exterior architectural features visible from a public way are reviewed. Interior changes, landscaping, maintenance and exterior features not visible from a public way are not reviewed. Other exemptions can also be included in the bylaw.

Who are members of the historic district commission?

A local bylaw describes specifically how the Board of Selectmen will make appointees to the Historic District Commission. In other communities in Massachusetts, the historic district commission consists of members such as architects, realtors, residents and property owners of the district.

Does this mean I can't paint my house any color I want?

While some local historic districts in Massachusetts do include paint color review, we are recommending NOT to include any paint color review.

If my building was located in a local historic district and I was constructing an addition, what would I have to do?

Before acquiring the building permit for your addition, you would fill out an application to the Historic District Commission. The Commission would hold a public hearing and review the proposed plans to make sure that they are appropriate changes to the historic district. If the addition was appropriate, the district commission would issue a certificate. You would then present the Certificate to the Building Inspector to get your building permit. If the addition was not found appropriate, then the Commission would explain to you how the project could be improved.

Isn't this just another level of bureaucracy?

While it is true that an additional step is needed for some projects, the benefits of protecting the rich architectural heritage found in our village center outweigh this added step. Our village center contains buildings 100 and even 200 years old. Without a local historic district, these gems that have lasted so long could be demolished or irreparably altered tomorrow.

What will happen to the value of my property if a local historic district is established?

No one can predict the future but studies around the country suggest that property values stay the same or increase faster in local historic districts compared to similar, non-designated areas.

If I and my neighbors already maintain the historic character of our properties, why do we need an historic district?

By having a local historic district, you can be assured that a NEW property owner across the street from your house will also maintain the historic character of the village center.

A Survey Questionnaire

Please fill out the survey below. Feel free to add additional comments wherever you would like. We value your input.

1. Do you think that the village center is historically significant? YES NO

2. Do you think that the village center should be preserved? YES NO

3. Do you believe that the Board of Selectmen should appoint a study committee to investigate the feasibility of a local historic district? YES NO

4. If yes to the above question, what kind of projects should be exempt from review?

(Under state law, routine maintenance, repair and landscaping are already exempt from review. Typical exemptions are for things like paint color, storm windows, storm doors, satellite dishes, etc.)

5. Overall, do you support the concept of a local historic district? YES NO

NOT SURE, but would like to find out more.

6. Please include any other comments that you would like to make in the space below:

Thank you for taking the time to complete this survey. You can use the enclosed envelope to return the survey or send to:

Historical Commission
Town Hall
Main Street

Please return the survey by May 15, 2003. At that time, we will compile the surveys and let you know the results.

Based on the results of your public opinion survey, you will have several options.

1. Begin preparing material for the preliminary study report, or
2. Concentrate on building additional support for a local historic district, or
3. Hold off on pursuing a local historic district at this time.

What you choose to do will depend on the results of your public opinion survey and how you, as a committee, want to progress. Understand that not all property owners are apt to agree with you. So, it will be the committee's decision on what the next step should be.

Keep everyone informed about the results of your public opinion survey whatever your results are. Send a letter to property owners explaining your next steps. Do a press release or notice so that all residents in the town know what is happening.

Even if your public opinion survey suggests widespread support for the local historic district, additional material to educate and build support is recommended. Press releases on the history of the district that include old and new photographs are very effective at helping people to appreciate the significance of the proposed area. Walking tours, lectures and slide presentations can also get this message across.

Quite often, a proposed local historic district will fail due to misinformation, myths and rumors spread around the community by opposition to the local historic district. Common areas of misinformation are paint color review and maintenance requirements. By using fact sheets, brochures, neighborhood informational meetings and press releases effectively, you can confront any misinformation head on.

If you have an open town meeting, remember that the whole town will be voting to approve this proposed district so it is important to reach out to as many town meeting voters as possible.

In every case, a range of individuals and groups should be targeted for educational efforts, to provide an opportunity for public input in the district process, and to solicit additional support for district establishment. In addition to property owners, groups to consider include:

- Board of Selectmen and City Council/Board of Aldermen
- Planning Board
- Department Heads
- Chambers of Commerce
- Local Businesses
- Neighborhood Organizations
- Civic Groups
- Realtors
- Educators and Schoolchildren
- Newspaper
- Local Cable TV
- Private Preservation Organizations

Sometimes, an opinion survey will demonstrate that there is widespread opposition to a local historic district. If so, it may be best to hold off on pursuing a local historic district and stick with public education. In this case, it is important to not get discouraged. Rather, focus your efforts on explaining the benefits of a local historic district and dispelling the many myths.

If despite your best efforts to advocate for the local historic district, the opposition means that passage of a local historic district at town meeting or city council is highly unlikely, then you may want to stick with finding other projects that can help raise everyone's awareness of the historic resources in your community. There are many other projects that can help to make a difference. MHC would be happy to provide you with suggestions.

The Investigation of the Historic Resources

Once a generalized area for a proposed district has been settled on by the committee and the committee has decided to move forward, it is time to begin the investigation of the historic resources. If you are on the Historical Commission in your town, you are probably already familiar with inventory forms. MHC Inventory forms are a highly useful method of compiling information on historic resources in a community. MHC inventory forms are used extensively statewide by local historical commissions, local historic district commissions, planning departments and MHC staff.

MHC recommends that a comprehensive community survey be completed prior to establishing local historic districts, so that the proposed district's significance can be placed in a community-wide context. However, it is sometimes necessary to proceed with protective measures before all of the identification and evaluation has been completed community-wide.

MHC also recommends that an up-to-date inventory form for every property in the proposed district is completed. Completed inventory forms for all properties in a proposed local historic district greatly facilitates the work of the study committee. The completed inventory forms provide the study committee with the background information necessary to establish the district's significance and boundary justification. In addition, the information on completed inventory forms --architectural descriptions, historical narratives, and exterior photographs, is a baseline that will assist the potential historic district commission in carrying out its design review authority. While completed inventory forms for all properties are recommended, it is NOT a requirement.

In order to investigate the historic resources within the proposed local historic district, begin by reviewing your property street address index and determining which properties have completed inventory forms. In many instances inventory forms may have already been completed as part of previous survey efforts in the community. The study committee should review existing forms to see that they are complete and meet current MHC survey standards. Existing photographs should also be reviewed to see that they accurately reflect current building conditions.

With the information now compiled on which properties have acceptable inventory forms, the Committee can decide whether they will revise or prepare additional inventory forms. The study committee should be fully aware of the current standards for inventory outlined in detail in MHC's *Historic Properties Survey Manual: Guidelines for the Identification of Historic and Archaeological Resources in Massachusetts*. This publication provides guidelines and recommendations for organizing and conducting a comprehensive survey, and instructions for completing inventory forms. Additional assistance is available from the staff of MHC's Preservation Planning Division.

If an inventory form is not present or will not be prepared, the Committee should compile some basic information on each of the properties. At a minimum, this should include

the architectural style, integrity, use, condition and alterations of any buildings. Dates of construction and historical descriptions for each building are also strongly encouraged. A black and white labeled photograph should be included for every property in the proposed local historic district.

FORM B - BUILDING		Assessor's number	USGS Quad	Area(s)	Form Number
MASSACHUSETTS HISTORICAL COMMISSION MASSACHUSETTS ARCHIVES BUILDING 220 MORRISSEY BOULEVARD BOSTON, MA 02125		<input type="text"/>	<u>Lynn</u>	<input type="text"/>	<u>119</u>
		Town <u>Nahant</u>			
		Place (neighborhood or village) _____			
<p>Sketch Map</p> <p>Draw a map showing the building's location in relation to the nearest cross streets and/or major natural features. Show all buildings between inventoried building and nearest intersection or natural feature. Label streets including route numbers, if any. Circle and number the inventoried building. Indicate north.</p> 		Address <u>80 Spring Road</u>			
		Historic Name <u>J. T. Wilson House</u>			
		Uses: Present <u>residential</u>			
		Original <u>residential</u>			
		Date of Construction <u>1882-1883</u>			
		Source <u>J. T. Wilson Job List</u>			
		Style/Form <u>Queen Anne</u>			
		Architect/Builder <u>J. T. Wilson (builder)</u>			
		Exterior Material:			
		Foundation <u>uncut stone</u>			
Wall/Trim <u>clapboard, wood shingle</u>					
Roof <u>asphalt shingle</u>					
Outbuildings/Secondary Structures <u>none</u>					
Major Alterations (with dates) _____					
Condition <u>good</u>					
Moved <input checked="" type="checkbox"/> no <input type="checkbox"/> yes Date _____					
Acreage <u>less than one acre</u>					
Setting <u>residential</u>					
Recorded by <u>Northfields Preservation Associates/MHC</u>					
Organization <u>Nahant Historical Commission</u>					
Date (month/year) <u>June 1989/edited June 1992</u>					
<small>Follow Massachusetts Historical Commission Survey Manual instructions for completing this form.</small>					

The front of an MHC Inventory Form (Form B) for buildings. The reverse side has sections for an architectural description and a historic narrative.

Preparing the Preliminary Study Report

This next section of the guidebook will explain exactly what needs to go into the preliminary study report. While the Preliminary Study Report is an essential component of establishing a local historic district, some Local Historic District Study Committees make the mistake of writing the report as soon as possible. It is recommended that you stick with general planning, public opinion surveys and public education for awhile before beginning the preliminary study report. By having broad support for the local historic district first, your efforts can be focused efficiently on the Preliminary Study Report.

The Preliminary Study Report should clearly explain what a local historic district is and the process for creating a local historic district. In addition, the report should describe the resources present and demonstrate that the proposed district needs the additional protections of a local historic district bylaw. The report should be viewed as both a legal document providing justification for the district's establishment and a source of public information about the district proposal.

Under Massachusetts General Law Chapter 40C, the Local Historic District Study Committee must submit copies of the Preliminary Study Report to the local Planning Board and to the Massachusetts Historical Commission for their consideration and recommendations. It is also recommended that copies are available locally such as in your city or town hall, library or other locations

A description of each section of the Preliminary Study Report is below. A sample preliminary study report can also be sent to you by contacting the Massachusetts Historical Commission.

Summary Sheet

A summary sheet should be included as part of the preliminary study report. The summary sheet contains important information on your proposed local historic district.

The summary sheet should include the following:

- Contact Information (such as the chairperson's name, address and phone number)
- Study Committee Member Names
- Expected Date of Your Public Hearing
- Expected Date of Your Town Meeting/City Council Vote
- Total Number of Properties Included in the Proposed Local Historic District.
- Conclusion of the Preliminary Study Report.

Introduction

Since this report will be read by property owners and residents that request it, it is important to provide background information on local historic districts. This section of the report will provide a national, statewide and regional context for your own local historic district efforts.

The introduction should succinctly explain why a local historic district is needed in your community and what the benefits of a local historic district are.

The Introduction to the Preliminary Study Report should briefly explain the following:

- What is a local historic district?
- How is a local historic district different from a National Register District?
- Is this area already a National Register District?
- Why is a local historic district needed?
- How will a local historic district benefit the community?
- When were local historic districts first established in United States and Massachusetts?
- How many local historic districts are in Massachusetts today?
- What neighboring towns have a local historic district?

Methodology

The methodology section should give the background on why the local historic district was proposed and explain how the Local Historic District Study Committee arrived at their conclusions in the Preliminary Study Report.

Questions to answer in this section of the report might include:

Where did the initial support for the LHDSC come from?

How was the Local Historical Commission involved in recommending a LHDSC?

Why did the community recognize the need for a LHDSC?

Were specific resources lost?

When was the LHDSC appointed by the Board of Selectmen/City Council/Board of Aldermen?

How did they go about their task?

Did they conduct a public opinion survey? What were the results of the public opinion survey?

Were neighborhood meetings held with property owners and residents?

How were the residents and property owners of the district and town involved in this process?

How did the LHDSC choose this area for consideration?

How was the existing inventory used?

How was research on the properties conducted?

What other bylaw or tools were considered besides a local historic district?

Why were these bylaws or tools not recommended?

When is the expected date of the public hearing?

When is the expected date of the Town Meeting/City Council/Board of Aldermen vote?

Significance

The significance section of the Preliminary Study Report must provide a clear and concise explanation of the historical significance of the district. While a brief history of the area can be included here, this section must state why this area is significant in its present form and why it is worthy of preservation. The discussion of the district's architectural and historical significance should include a general description of the overall character of the area, its built and natural environment, noting the district's important individual properties, landscape characteristics, settings, etc. If inventory forms for all properties have not been submitted with the Preliminary Study Report, then this section should include a brief summary of historical information about every property as well as architectural information on the existing structures.

Questions to answer in this section might include:

- What is the overall historical development pattern of the district?
- Is this district associated with one or more historic persons or events?
- Is this district significant in terms of period, style, method of construction, architect or builder?
- In general, when were buildings in the district constructed?
- What are the architectural styles found throughout the district?
- Is this district listed on the National Register of Historic Places?
- If yes, when was it listed?
- Was the district found eligible for the National Register of Historic Places by the Massachusetts Historical Commission?
- If yes, when was it found eligible?
- What is the overall integrity of the resources in the district?
- What alterations are present in the district? Why should these properties be included in the district?
- What is the historical and architectural information on each property?
- How does this district compare to other areas of your town?

Justification of the Boundaries

This section of the report should state why the Local Historic District Study Committee chose the proposed boundaries for the local historic district. These factors may include historical significance or associations, settlement or development patterns, past or present land use, architectural styles, significance, or integrity, topography, property lines or any combination of these factors. In delineating boundaries of historic districts the study committee should consider how the buildings and structures on the edges of the district either contribute to its character or setting, or detract from it, because of incongruity of style, mass, use or condition. Finally, the study committee should keep in mind the degree to which properties proposed for inclusion in the district are visible from the public way, as the district's jurisdiction will be limited to these features. Boundaries that give the district the greatest justifiable protection should be proposed.

Options and Recommendations for the Ordinance or Bylaw

This section of the report explains why the local historic district study committee decided on several aspects of the bylaw. Massachusetts General Law Chapter 40C allows some flexibility in how the bylaw is written. For instance, options such as how many members will serve on the historic district commission, how members of the historic district commission will be chosen, which projects will be excluded from historic district commission review and how appeals will be handled should all be explained in this section of the report.

Exclusions often included in a local historic district bylaw include paint color, roof material color, window air conditioners and storm doors. The historic district study committee may recommend that other structures be excluded in the proposed bylaw/ordinance. However, the study committee should carefully consider the long term impact on the district of these decisions.

Questions to answer in this section might include:

- What exclusions did the Committee decide to include?
- Why did the Committee decide on the exclusions?
- What did the Committee decide for the appeal process?
- Why did the Committee decide this for the appeal process?
- How many Commission members did the Committee recommend?
- Why did the Committee recommend this?

The Bylaw or Ordinance

Local historic district ordinances and bylaws are the legal instrument for the creation and administration of the local historic district. In general, the MHC recommends that historic district ordinances and bylaws be as explicit as possible, incorporating language from the Historic Districts Act where appropriate. Generally, the more explicit an ordinance or bylaw is, the more useful it will be to both the historic district commission and the applicants who come before it. Including sufficient language in the local ordinance or bylaw will also help reduce the necessity of referring back to Massachusetts General Law Chapter 40C, the structure of which can make it somewhat difficult to use.

The bylaw or ordinance should provide for the designation and protection of historic resources, for the establishment of the district commission, and for the adoption of basic procedures for administering the historic district. The Historic Districts Act is broadly written to allow communities great flexibility in developing local historic district bylaws and ordinances. The study committee is strongly encouraged to work with its municipal legal counsel in drafting and reviewing the proposed historic district ordinance or bylaw prior to city council or town meeting consideration.

A sample bylaw is included in Appendix II of this guidebook.

Inventory Forms or Photographs

This section of the Preliminary Study Report should include either MHC inventory forms or black and white photographs for every property. If MHC inventory forms were previously prepared or if MHC inventory forms were prepared just for this study report, they should be included in the report.

MHC inventory forms are an excellent way to identify, describe and organize information on all of the properties in the local historic district. While it is recommended that MHC inventory forms be prepared for all properties in the proposed local historic district, it is not a requirement. However, if inventory forms are not available, it is recommended that a black and white photograph of each property is included in the study report. This will provide a minimum level of documentation for the architectural resources present. A black and white photograph should be taken for every property whether the property is considered historically significant or not.

For more information on MHC Inventory Forms, contact MHC for a copy of the *Historic Properties Survey Manual*.

Slides

This last section of the Preliminary Study Report should include at least six slides of the district. When staff at the Massachusetts Historical Commission make a presentation on your preliminary study report to the Massachusetts Historical Commission, slides are used to familiarize commissioners with the district. Submitted slides should be labeled with the date and street location. It is recommended that slides include both buildings and streetscapes.

City/Town_____

Name of District_____

Date_____

Local Historic District Study Committee Preliminary Study Report Checklist

This checklist should be used when submitting a Preliminary Study Report to the Massachusetts Historical Commission (MHC). In towns with an existing Historic District Commission, all sections may not be applicable.

According to M.G.L. Chapter 40C, a Local Historic District Study Committee (LHDSC) submits a Preliminary Study Report to the Massachusetts Historical Commission. Your submitted Preliminary Study Report should contain the following completed sections or it may be considered incomplete by MHC. If you have any questions on submitting the Preliminary Study Report, please feel free to contact Christopher Skelly, Director of Local Government Programs at (617) 727-8470. MHC staff is available to assist Local Historic District Study Committees in developing a Preliminary Study Report.

- The format of the report should be 8 ½ x 11. The map may be a different size if needed.
- The report may be submitted in a 3 ring binder or stapled. Do not use a spiral binder.
- MHC may, in certain cases, decide to accept a Preliminary Study Report that does not meet all the requirements.
- MHC reserves the right to change this checklist, after a public hearing.

Preliminary Report Required Sections	Checklist
Summary Sheet <i>A summary sheet should be included as part of the preliminary study report. The summary sheet should include contact information (such as the chairperson's name, address and phone number), the names of the study committee members, the expected date of the public hearing, the expected date of the town meeting/city council vote and the total number of properties included in the proposed local historic district.</i>	
Introduction <i>The introduction should explain what an historic district is, why it is needed and how it will benefit the community.</i>	
Methodology <i>The methodology should explain when the LHDSC was created, how the LHDSC chose this area for consideration, how the residents and property owners of the district and town were involved in this process, how the inventory was used and how the historic district will help to address loss of resources. This section should also describe when the public hearing will be held and when the district will be proposed at town meeting.</i>	

<p>Significance <i>The significance section should provide a clear and concise explanation of the historical significance of the district. While a brief history of the area can be included here, this section should state why this area is significant in its contemporary form. This section should also very briefly describe each property by street address. This would include a brief summary of historical information about the property as well architectural information on the existing structures. If an inventory form is present, then the address should include the inventory form number as well.</i></p>	
<p>Justification of the Boundaries <i>This section should explain how the LHDSC determined where the boundaries of the proposed district should be. This section should clarify why the proposed district is not larger or smaller.</i></p>	
<p>Options and Recommendations for the Ordinance or Bylaw <i>This section should explain why the LHDSC is recommending the draft bylaw. This should include an explanation on how and why the bylaw is including the following items: membership on the historic district commission, what exemptions are included and what the appeal process should be.</i></p>	
<p>Map <i>The map should very clearly demonstrate the boundaries of the district, preferably on an assessors map. The map should include street names, a north arrow, scale, title, date and legend.</i></p> <ul style="list-style-type: none"> • <i>If there is a National Register District already present, a separate map should include both boundaries for comparison purposes.</i> • <i>If it is a local historic district expansion, the map should include existing boundaries and proposed boundaries on one map.</i> 	
<p>Property Index <i>The property index is a simple list of all properties in the proposed district by street address. The index should include the street addresses and the total number of properties included in the proposed district. The property index or a separate index should include whether each property has an inventory form, the date of construction if known, the historic name of the property if any and the architectural style.</i></p>	
<p>Ordinance or Bylaw <i>The proposed ordinance or bylaw should be included. The ordinance or bylaw may be based on examples provided by MHC.</i></p>	
<p>Inventory Forms or Photographs <i>The preparation of inventory forms for all properties in the proposed district is highly recommended but not required. If an inventory form is not present or will not be prepared, a current black and white photograph should be included for each property.</i></p>	
<p>Slides <i>At least six labeled slides that demonstrate the overall character and context of the proposed district should be included.</i></p>	

Submitting the Preliminary Study Report to the Massachusetts Historical Commission

According to Mass General Law, Chapter 40C, the Historic Districts Act, a Local Historic District Study Committee is required to submit a *Preliminary Study Report* to the Massachusetts Historical Commission 60 days before the public hearing. This step is required for all local historic districts created under Chapter 40C.

MGL Chapter 40C states that the study report is submitted to the Massachusetts Historical Commission for their “respective consideration and recommendations.” In considering the Preliminary Study Report, the Massachusetts Historical Commission will review the report for completeness based on the Preliminary Study Report Checklist. If the Preliminary Study Report is found incomplete, the report will not be accepted by the Massachusetts Historical Commission.

The preliminary study report submitted to the Massachusetts Historical Commission should be accompanied by a cover letter, signed by the study committee chairperson. You may want to deliver the Preliminary Study Report by certified mail. Upon receipt of these materials, the Massachusetts Historical Commission will date-stamp the cover letter, return a copy of the cover letter to the Local Historic District Study Committee and also notify the Local Historic District Study Committee whether the report is considered complete. If the study report is considered complete by MHC, the Local Historic District Study Committee can hold the required public hearing 60 days from the date of the MHC date stamp, but no sooner than 60 days from that date.

The staff of the Massachusetts Historical Commission will review the preliminary report, and present it to Massachusetts Historical Commission for their comments. The MHC meets generally on a monthly basis and local historic district reports are scheduled for consideration at the next possible meeting. The MHC serves in an advisory capacity only, and will vote on the acceptance of the preliminary study report. Once the MHC has voted, their actions and comments will be relayed to the study committee.

Acceptance by the Massachusetts Historical Commission is not a statement that a bylaw or ordinance is approved by our office. Legal consultation with your town counsel or city solicitor is necessary.

The Public Hearing

According to MGL Chapter 40C, the local historic district study committee is required to hold a public hearing prior to a vote of town meeting or the city council. This public hearing cannot be held until 60 days after the preliminary study report has been submitted to the Massachusetts Historical Commission and the Planning Board.

At least fourteen days before the scheduled date of the public hearing, all owners of property in the proposed district must be given written notice of the hearing. The notice should be sent to the owner of record according to the most recent list maintained by the local board of assessors, not to 'occupant'. Property owners should also receive information on where the Preliminary Study Report may be obtained and/or reviewed. At the same time, notice of the hearing should also be published in a newspaper of general circulation in the city or town, given to the municipal clerk and municipal officials, and posted at the city or town hall.

At the public hearing, the study committee should be prepared to answer questions about the local historic district process, the architectural and historical significance of the area proposed for designation, and the provisions of the proposed local historic district ordinance or bylaw. It should be expected that opponents of the local historic district proposal will attend the public hearing. Therefore, it is very important to have supporters of the local historic district attend and be prepared to speak at the hearing. By the time the public hearing is held, the study committee must be knowledgeable about the proposal, the benefits of local historic districts, and be prepared to counter organized or vocal opposition. As a general rule, the MHC does not attend public hearings for local historic districts, however, the MHC staff is available to assist study committees in preparing for the hearing.

While MGL Chapter 40C only requires one Public Hearing following the submittal of a Preliminary Study Report, it is strongly recommended that at least several public informational meetings are held throughout the local historic district process. By the time of the required public hearing, there should be no surprises. It is best to have worked out any differences of opinion much earlier in the process. This doesn't mean that by the time of the public hearing all property owners must be in agreement with establishing a local historic district. However, all views should have been vocalized and part of the process early on. Whenever informational meetings are held, make sure that supporters of the local historic district attend the meetings.

If you are the person doing the presentation, prepare an outline ahead of time that will include the following:

- A welcome to all the attendees
- An explanation of the presentation
- An introduction of members of the local historic district study committee
- A history of the proposed district
- The significance of the district
- The integrity of the resources

- The challenges facing the resources
- Options for protecting the district
- History of local historic districts
- How a local historic district works
- What is reviewed in a local historic district
- What is not reviewed in a local historic district
- Benefits of a local historic district
- Nearby towns with local historic districts
- A description of the boundaries

Rehearse the presentation ahead of time including how you will answer specific and challenging questions from the audience.

You may want to do a slide or powerpoint presentation so that you can graphically demonstrate the need for a local historic district. Additionally, a one page handout that summarizes the local historic district is helpful. You may want to contact the local historic district commissions from neighboring towns to get their ideas and learn from their experiences. Their attendance has been very useful in previous local historic district proposals.

It is important that you don't take anything personally. It is quite possible that there will be some attendees in opposition to the local historic district at the public hearing. Hear what they have to say, let them ask questions and ask them questions too.

The Final Report

Following the public hearing, the study committee will prepare a final report, incorporating comments and recommendations from the Planning Board, MHC, and the community. The final report may be substantially the same as the preliminary report, or may be modified based on comments received. The final report must be accompanied by a map of the proposed district, suitable for recording, and a copy of the proposed bylaw or ordinance (prepared with the assistance of city or town legal counsel). The sample bylaw is found in Appendix B.

The final report is then submitted for consideration to the city council or town meeting. The study committee should check with the municipal clerk to determine the procedure for getting the ordinance on the city council calendar or the bylaw on the warrant for town meeting. Towns will be required to submit a copy of the final report and bylaw to the State Attorney General's office for review if the district is adopted. A copy of the final report should also be sent to the Massachusetts Historical Commission.

The Town Meeting or City Council Vote

The ordinance or bylaw establishing a local historic district must be adopted by a two-thirds vote of the city council or town meeting. For communities with open town meetings (especially those which may convene for several days) it is important to keep close track of when the historic district proposal is likely to come up for consideration, and to assure that the proposal's supporters are in attendance at that time.

Prior to the Town Meeting

Prepare a one page flyer about the significance and benefits of local historic district that can be distributed to people as they enter the town meeting. Some local historic district supporters have gone so far as to put an advertisement in the local newspaper stating the advantages of the local historic district and including their names as supporters of the district. Finally, use email lists or the phone to make sure that all supporters of the local historic district will be there since a two-thirds majority vote is needed to pass the local historic district bylaw.

The study committee should also be prepared to make a final presentation on the proposal or answer any questions that may arise during town meeting or city council consideration. The MHC should be informed promptly of the result of the vote.

If Your Local Historic District Passes

If your local historic district passes at town meeting or city council, congratulations! Passing a local historic district is an impressive task. Your community has joined the many others in Massachusetts that have decided to better protect their historic resources.

If Your Local Historic District Doesn't Pass

If your local historic district doesn't pass at town meeting or city council, congratulations! Your effort was admirable and has served the purpose of educating many people about the vulnerability of your historic resources and the need for a local historic district. Whether you try again next year or not, your efforts will not be forgotten in your community. It is important to keep in mind that many proposed local historic districts do not receive a favorable vote. You are certainly not the first. Keep in mind that the creation of a local historic district is a process. By proposing a local historic district and getting this far, you made many people aware of the benefits of a local historic district.

Notifying the Attorney General

If your municipality is a town

Before the bylaw takes effect it must be approved by the Attorney General. Within thirty days of the adoption of a local historic district bylaw by town meeting, the town clerk must send to the Attorney General certified copies of the preliminary report, evidence that the report was submitted to the MHC and to the town's planning board 60 days before the public hearing, the notice of public hearing, and the final report containing the committee's recommendations, a map of the proposed district, and the proposed bylaw. The materials which must be submitted to the Attorney General are further outlined on the Attorney General's bylaw submittal forms for local historic districts. Your town clerk will obtain these from the attorney general's office.

If the town clerk fails to submit such materials within thirty days, the selectmen, within fifteen days thereafter, may comply with the required procedure. The Attorney General must take action within ninety days of submission; if that period elapses without such action, the bylaw may be assumed to have the Attorney General's approval.

If your municipality is a City

The ordinance creating an historic district in a city will become effective when the procedural requirements provided by local ordinance and in Massachusetts General Law, Chapter 43, Section 55 are met.

The Final Steps in Establishing the Local Historic District

Recording the Map at the Registry of Deeds

No ordinance or bylaw creating a local historic district will become effective until a map showing the boundaries of the district is filed with the municipal clerk and is recorded in the Registry of Deeds for the county or district in which the city or town is located.

Maps of local historic districts established under Massachusetts General Law Chapter 40C do not have to comply with rules and regulations which may be established by Registers of Deeds under G.L. c. 36, Section 13a, pertaining to the format requirements of maps accepted for recording. However, where such formatting requirements do exist, it is a good idea to follow the regulations as closely as possible to ensure the archival preservation of data on the local historic district. The study committee should contact the appropriate Registry of Deeds for guidance before preparing final maps of the historic district(s), and other requirements such as filing fees.

It is recommended that you make sure that you obtain a copy of the recorded map before you leave the Registry of Deeds! Each registry of deeds is a little bit different and finding the map later without the plan number may be challenging. If requested, MHC staff will accompany you to the Registry of Deeds.

Notifying the Mass Historical Commission

Following approval of a local historic district by a city or town, notice of the establishment of the district, along with a copy of the bylaw or ordinance as enacted and a map of the district boundaries with the registry of deeds stamp on it, is sent to the Massachusetts Historical Commission. Local historic districts are automatically listed on the State Register of Historic Places. However, the additional protection afforded by State Register listing will not go into effect until the district is actually placed on the register by the MHC, therefore it is important to notify the MHC of the district's final establishment as soon as possible.

The Local Historic District Commission

Now that you have established a local historic district, it is time to appoint the Commission that will actually oversee the district. These steps are outlined in the Massachusetts Historical Commission publication, *A Guidebook for Historic District Commissions*. A copy can be obtained by contacting the Massachusetts Historical Commission.

Enlarging, Reducing and Adding Local Historic Districts

Enlarging

Once established, local historic districts may be expanded or reduced in size. Any changes involving the boundaries of an historic district must follow the procedures for the initial establishment of a local historic district. In such cases, the historic district commission having jurisdiction over the historic district being amended is responsible for conducting the study, drafting the preliminary study report, and holding the public hearing.

Reducing

Sometimes, a local historic district is proposed for a reduction in size. While there may be occasional legitimate reasons for reducing a local historic district, more often proposed reductions occur in order to avoid the historic district commission review. In these cases, removing property from a local historic district is not encouraged. Other solutions should be examined. The Historic District Commission considering a historic district reduction should carefully examine the significance of the site, its need for protection and its impact on the local historic district in general. The historic district commission having jurisdiction over the historic district being amended is responsible for conducting the study, drafting the preliminary study report, and holding the public hearing. The Historic District Commission, in preparing their preliminary study report, may conclude that the historic district should not be reduced. The Massachusetts Historical Commission in their review of the Preliminary Study Report may concur with these findings and accept the conclusions of the study report.

Adding a New District

When an additional district is to be created, the existing historic district commission (or commissions acting jointly), is responsible for conducting the study, drafting the preliminary report and holding the public hearing. The existing historic district commission or commissions may however recommend that a separate study committee be appointed for this purpose.

Amending the Bylaw or Ordinance

Historic district ordinances and bylaws may also be amended, by a 2/3 vote of city council or town meeting, as long as the amendment is not inconsistent with the intent of G.L. c. 40C. Before the amendment may be brought to a vote, the amendment must first be submitted to the historic district commission having jurisdiction over the district, for its formal recommendation. The historic district commission has a maximum of 60 days to make its recommendation on a proposed amendment, after which time the amendment may be acted upon by the city council or town meeting.

Converting Special Act Districts to 40C Local Historic Districts

Most local historic districts in Massachusetts operate with ordinances and bylaws created under the authority of Massachusetts General Law Chapter 40C. However some communities in Massachusetts have local historic districts which were established pursuant to a special law or act of the state legislature.

Massachusetts General Law Chapter 40C provides a variety of advantages which may not be present in local historic districts established through special legislation. Local Historic Districts enacted pursuant to Massachusetts General Law Chapter 40C possess a sound procedural and substantive base. The review process under G.L. c. 40C provides protective measures which are generally more comprehensive than those found under special laws. Also, because Massachusetts General Law Chapter 40C is a statewide enabling statute, favorable legal precedent and legislative initiatives to improve and strengthen the operation of the Local Historic Districts Act will directly benefit local historic districts created under it. Lastly, local historic district commissions, operating under the authority of the Massachusetts General Law Chapter 40C, have a state-wide network of commissions who operate under a shared legislative framework, and can provide legal, technical, and practical information and advice.

For these reasons some communities may wish to convert their local historic districts created under special law to Massachusetts General Law Chapter 40C by accepting its provisions. To do so the historic district commission having jurisdiction over the district should recommend the conversion to the city council or town meeting and obtain their 2/3 vote. The validity of the historic district under special law will not be affected, and all previous decisions will remain valid.

Appendix I – MGL Chapter 40C

Massachusetts Historic Districts Act

This is an unofficial version. For searching purposes, this document can be emailed to you.

Chapter 40C: Section 1. Citation.

Section 1. This chapter shall be known and may be cited as the Historic Districts Act.

Chapter 40C: Section 2. Purpose.

Section 2. 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 of buildings and places significant in the history of the commonwealth and its cities and towns or their architecture, and through the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

Chapter 40C: Section 3. Establishment of historic districts; pre-requisites; enlargement or reduction of boundaries; amendment of creating ordinance; filing of maps.

Section 3. A city or town may, by ordinance or by-law adopted by two-thirds vote of the city council in a city or by a two-thirds vote of a town meeting in a town, establish historic districts subject to the following provisions:-- Prior to the establishment of any historic district in a city or town 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 and in section four, who shall transmit copies of the report to the planning board, if any, of the city or town, and to the Massachusetts historical commission for their respective consideration and recommendations. 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 Massachusetts historical commission may consult with the executive director of the Massachusetts office of business development, the secretary of communities and development and the commissioner of environmental management with respect to such reports, and may make guidelines for such reports, and, after public hearing, establish rules as to their form and manner of transmission. Not less than sixty days after such transmittal the study committee 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 mailed postage prepaid, 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 or by-law, to the city council or town meeting.

An historic district may be enlarged or reduced or an additional historic district in a city or town created in the manner provided for creation of the initial district, except that (a) in the case of the enlargement or reduction of an existing historic district the investigation, report

and hearing shall be by the historic district commission having jurisdiction over such historic district instead of by a study committee; (b) in the case of creation of an additional historic district the investigation, report and hearing shall be by the historic district commission of the city or town, or by the historic district commissions acting jointly if there be more than one, instead of by a study committee unless the commission or commissions recommend otherwise; and (c) if the district is to be reduced written notice as above provided of the commission's hearing on the proposal shall be given to said owners of each property in the district.

Any ordinance or by-law creating an historic district may, from time to time, be amended in any manner not inconsistent with the provisions of this chapter by a two-thirds vote of the city council in a city or by a two-thirds vote of a town meeting in a town, provided that the substance of such amendment has first been submitted to the historic district commission having jurisdiction over such district for its recommendation and its recommendation has been received or sixty days have elapsed without such recommendation.

No ordinance or by-law creating an historic district, or changing the boundaries of an historic district, shall become effective until a map or maps setting forth the boundaries of the historic district, or the change in the boundaries thereof, has been filed with the city clerk or town clerk and has been recorded in the registry of deeds for the county or district in which the city or town is located, and the provisions of section thirteen A of chapter thirty-six shall not apply.

Chapter 40C: Section 4. Study committees; commissions; establishment; membership; terms; vacancies; compensation; officers.

Section 4. An historic district study committee may be established in any city or town by vote of the city council or board of selectmen 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 in a city by the mayor, subject to confirmation by the city council, or in a town by the board of selectmen, including one member from two nominees submitted by the local historical society or, in the absence thereof, by the Society for the Preservation of New England Antiquities, one member from two nominees submitted by the chapter of the American Institute of Architects covering the area, and 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.

Whenever an historic district is established as provided in section three an historic district commission shall be established which shall consist of not less than three nor more than seven members. An historic district commission shall be appointed in a city by the mayor, subject to confirmation by the city council, or in a town by the board of selectmen, in the same manner as an historic district study committee unless (a) the report recommending its establishment recommends alternate or additional organizations to submit nominees for membership and states reasons why such alternate or additional organizations would be appropriate or more appropriate for the particular city or town, the Massachusetts historical commission does not recommend otherwise prior to the public hearing on the establishment

of the district, and the ordinance or by-law so provides; or (b) there is an existing historic district commission in the city or town which the report recommends should administer the new district, and the ordinance or by-law so provides. Unless the report recommends otherwise on account of the small number of residents or individual property owners, and the ordinance or by-law so provides, the members of the historic district commission shall include one or more residents of or owners of property in an historic district to be administered by the commission. If within thirty days after submission of a written request for nominees to an organization entitled to submit nominations for membership on the commission no such nominations have been made the appointing body may proceed to make the appointment to the commission without nomination by such organization. The appointments to membership in the commission shall be so arranged that the term of at least one member will expire each year, and their successors shall be appointed in the same manner as the original appointment for terms of three years. Vacancies shall be filled in the same manner as the original appointment for the unexpired term. Ordinances or by-laws adopted hereunder may provide for the appointment of alternate members not exceeding in number the principal members who need not be from nominees of organizations entitled to nominate members. 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 place shall be taken by an alternate member designated by the chairman. Each member and alternate shall continue in office after the expiration of his term until his successor is duly appointed and qualified. All members shall serve without compensation. The commission shall elect annually a chairman and vice-chairman from its own number and a secretary from within or without its number.

Chapter 40C: Section 5. Definitions.

Section 5. As used in this chapter the word “altered” includes the words “rebuilt”, “reconstructed”, “restored”, “removed” and “demolished” and the phrase “changed in exterior color”; the word “building” means a combination of materials forming a shelter for persons, animals or property; the word “commission” means the commission acting as the historic district commission; the word “constructed” includes the words “built”, “erected”, “installed”, “enlarged”, and “moved”; the words “exterior architectural feature” mean 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; the words “person aggrieved” mean 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; and the word “structure” means a combination of materials other than a building, including a sign, fence, wall, terrace, walk or driveway.

Chapter 40C: Section 6. Certificates of appropriateness, non-applicability or hardship; necessity; applications and plans, etc.; building and demolition permits restricted.

Section 6. Except as the ordinance or by-law may otherwise provide in accordance with section eight or said section eight or nine, 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 non-applicability or a certificate of hardship with respect to such construction or alteration.

Any person who desires 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.

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 or removal of a building or structure within an historic district shall be issued by a city or town or any department thereof until the certificate required by this section has been issued by the commission.

Chapter 40C: Section 7. Factors to be considered by commission.

Section 7. 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. When ruling on applications for certificates of appropriateness for solar energy systems, as defined in section one A of chapter forty A, the commission shall also consider the policy of the commonwealth to encourage the use of solar energy systems and to protect solar access. The commission shall not consider interior arrangements or architectural features not subject to public view.

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.

Chapter 40C: Section 8. Review authority of commission over certain categories of buildings, structures or exterior architectural features limited; authorization.

Section 8. (a) Any city or town may provide in the ordinance or by-law establishing a district or in any amendment thereof that the authority of the commission shall not extend to the review of one or more of the following categories of buildings or structures or exterior architectural features in the historic district, and, in this event, the buildings or 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) Terraces, walks, driveways, sidewalks and similar structures, or any one or more of them, provided that any such structure is substantially at grade level.
 - (3) Walls and fences, or either of them.
 - (4) Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae and similar appurtenances, or any one or more of them.
 - (5) The color of paint.
 - (6) The color of materials used on roofs.
 - (7) Signs of not more than one square foot 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 nonresidential use of each building or structure which is not more than twelve square feet in area, consist of letters painted on wood without symbol or trademark and if illuminated is illuminated only indirectly; or either of them.
 - (8) 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 year thereafter and carried forward with due diligence.
- (b) A commission may determine from time to time after public hearing that certain categories of exterior architectural features, colors, structures or signs, including, without limitation, any of those enumerated under paragraph (a), if the provisions of the ordinance or by-law do not limit the authority of the commission with respect thereto, may be constructed or altered without review by the commission without causing substantial derogation from the intent and purposes of this chapter.
- (c) A city or town may provide in its ordinance or by-law, or in any amendment thereof, that the authority of the commission shall be limited to exterior architectural features within a district which are subject to view from one or more designated public streets, public ways, public parks or public bodies of water, although other portions of buildings or structures within the district may be otherwise subject to public view, and, in the absence of such provision of the ordinance or by-law, a commission may determine from time to time after public hearing that the authority of the commission may be so limited without substantial derogation from the intent and purposes of this chapter.
- (d) Upon request the commission shall issue a certificate of nonapplicability with respect to construction or alteration in any category then not subject to review by the commission in accordance with the provisions of paragraph (a), (b) or (c).

Chapter 40C: Section 9. Maintenance and repair, etc.

Section 9. Nothing in this chapter 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 the applicable historic district ordinance or by-law.

Chapter 40C: Section 10. Additional powers, functions and duties of commission.

Section 10. The commission shall have the following additional powers, functions and duties:-- (a) 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 therefor as set forth in the records of the commission, to be issued to the applicant, and the commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material and similar features. Prior to the issuance of 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. If within fourteen days of the receipt of such a notice the applicant files a written modification of his application in conformity with the recommended changes of the commission, the commission shall cause a certificate of appropriateness to be issued to the applicant.

(b) In the case of a determination by the commission that an application for a certificate of appropriateness or for a certificate of nonapplicability 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 eight, the commission shall cause a certificate of nonapplicability to be issued to the applicant.

(c) If the construction or alteration for which an application for a certificate of appropriateness has been filed shall be determined to be inappropriate, or in the event of an application for a certificate of hardship, the commission shall determine whether, owing to conditions especially affecting the building or structure involved, but not affecting the historic district generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this chapter. 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 eleven, the commission shall cause a certificate of hardship to be issued to the applicant.

(d) 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.

(e) 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 act and prescribe such forms as it shall deem desirable and necessary for the regulation of its affairs and the conduct of its business. The commission shall file a copy of any such rules and regulations with the city or town clerk.

(f) The commission shall file with the city or town clerk and with any department of the city or town having authority to issue building permits a copy or notice of all certificates and determinations of disapproval issued by it.

(g) A 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.

(h) The commission may, subject to appropriation, employ clerical and technical assistants or consultants and incur other expenses appropriate to the carrying on of its work, and may accept money gifts and expend the same for such purposes. The commission may administer on behalf of the city or town any properties or easements, restrictions or other interests in real property which the city or town may have or may accept as gifts or otherwise and which the city or town may designate the commission as the administrator thereof.

(i) The commission shall have, in addition to the powers, authority and duties granted to it by this act, such other powers, authority and duties as may be delegated or assigned to it from time to time by vote of the city council or town meeting.

Chapter 40C: Section 11. Approval or disapproval of exterior architectural features by commission; meetings; applications for certificates; public hearings; notices.

Section 11. Meetings of a commission shall be held at the call of the chairman and shall be called 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.

A commission shall determine promptly, and in all events within fourteen 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 a 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.

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 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 planning board of the city or town, to any person filing written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the commission shall deem entitled to notice.

As soon as convenient after such public hearing but in any event within sixty days after the filing of the application, or such lesser period as the ordinance or by-law may provide, 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.

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 the 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 days shall elapse after the mailing of such notice before the commission may act upon such application.

Chapter 40C: Section 12. Review procedure provided by local ordinance or by-law.

Section 12. A city or town may provide in its ordinance or by-law or in any amendment thereof, for a review procedure whereby any person aggrieved by a determination of the commission may, within twenty days after the filing of the notice of such determination with the city or town clerk, file a written request with the commission for a review by a person or persons of competence and experience in such matters, designated by the regional planning agency of which the city or town is a member. If the city or town is not a member of a regional planning agency, the department of community affairs shall select the appropriate regional planning agency.

The finding of the person or persons making such review shall be filed with the city or town clerk within forty-five days after the request, and shall be binding on the applicant and the commission, unless a further appeal is sought in the superior court as provided in section twelve A.

Chapter 40C: Section 12A. Appeal to superior court.

Section 12A. Any person aggrieved by a determination of the commission, or by the finding of a person or persons making a review, if the provisions of section twelve are included in a local ordinance or by-law, may, within twenty days after the filing of the notice of such determination or such finding with the city or town clerk, appeal to the superior court sitting in equity for the county in which the city or town is situated. 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 such party acted in bad faith or with malice in making the appeal to the court.

Chapter 40C: Section 13. Jurisdiction of superior court; penalty.

Section 13. The superior court sitting in equity for the county in which the city or town is situated shall have jurisdiction to enforce the provisions of this chapter and any ordinance or by-law enacted hereunder and the determinations, rulings and regulations issued pursuant thereto and may, upon the petition of the mayor or of the board of selectmen 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 chapter shall be punished by a fine of not less than ten dollars nor more than five hundred dollars. Each day during any portion of which a violation continues to exist shall constitute a separate offense.

Chapter 40C: Section 14. Powers and duties of commissions established hereunder as historical commissions.

Section 14. If the city council or town meeting so votes a commission established hereunder shall have the powers and duties of an historical commission as provided in section eight D of chapter forty and, in this event, a commission may be entitled an historical commission.

Chapter 40C: Section 15. Filing of ordinances, maps, reports, etc.

Section 15. All ordinance or by-laws creating an historic district adopted by a city or town under authority of this chapter and under authority of any special law, unless the special law shall otherwise provide, amendments thereto, maps of historic districts created thereunder, and annual reports and other publications of commissions, and rosters of membership therein, shall be filed with the Massachusetts historical commission.

Chapter 40C: Section 16. Special historic districts; acceptance and effect of this chapter.

Section 16. A city or town in which there is located an historic district established under a special law may, upon recommendation of the historic district commission having jurisdiction over such district, accept the provisions of this chapter with respect to such district by a two-thirds vote of the city council in a city or by two-thirds vote of a town meeting in a town, and thereafter such historic district shall be subject to the provisions of

this chapter notwithstanding the terms of any special act pursuant to which such historic district was created. The provisions of this chapter shall not impair the validity of an historic district established under any special act.

Chapter 40C: Section 17. Severability.

Section 17. The provisions of this chapter shall be deemed to be severable if any of its provisions shall be held to be invalid or unconstitutional by any court of competent jurisdiction the remaining provisions shall continue in full force and effect.

Appendix II – Sample Local Historic District Bylaw

THIS SAMPLE LOCAL HISTORIC DISTRICT BYLAW CAN BE EMAILED TO YOU BY
CONTACTING THE MASSACHUSETTS HISTORICAL COMMISSION

Local Historic District Bylaw

The Town of Preservetown hereby establishes a Local Historic District, to be administered by an Historic District Commission as provided for under Massachusetts General Laws Chapter 40C, as amended.

1. PURPOSE

The purpose of this bylaw is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Preservetown, the maintenance and improvement of their settings and the encouragement of new building designs compatible with the existing architecture.

2. DEFINITIONS

The terms defined in this section shall be capitalized throughout this Bylaw. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this Bylaw the following terms shall have the following meaning:

ALTERATION, TO ALTER

The act or the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.

BUILDING

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

CERTIFICATE

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

COMMISSION

The Historic District Commission as established in this Bylaw.

CONSTRUCTION, TO CONSTRUCT

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

DISPLAY AREA

The total surface area of a SIGN, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the SIGN. The DISPLAY AREA of an individual letter SIGN or irregular shaped SIGN shall be the area of the smallest rectangle into which the letters or shape will fit. Where SIGN faces are placed back to back and face in opposite directions, the DISPLAY AREA shall be defined as the area of one face of the SIGN.

DISTRICT

The Local Historic District as established in this Bylaw consisting of one or more DISTRICT areas.

EXTERIOR ARCHITECTURAL FEATURE

Such portion of the exterior of a BUILDING or STRUCTURE as is open to view from a public way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

PERSON AGGRIEVED

The applicant; an owner of adjoining property; an owner of property within the same DISTRICT area; an owner of property within 100 feet of said DISTRICT area; and any charitable corporation in which one of its purposes is the preservation of historic places, structures, BUILDINGS or districts.

SIGNS

Any symbol, design or device used to identify or advertise any place of business, product, activity or person.

STRUCTURE

A combination of materials other than a BUILDING, including but not limited to a SIGN, fence, wall, terrace, walk or driveway.

TEMPORARY STRUCTURE or BUILDING

A BUILDING not to be in existence for a period of more than two years. A STRUCTURE not to be in existence for a period of more than one year. The COMMISSION may further limit the time periods set forth herein as it deems appropriate.

3. DISTRICT

The DISTRICT shall consist of one or more DISTRICT areas as listed in Section 13 (Appendices) of this Bylaw.

4. COMMISSION

4.1 The DISTRICT shall be overseen by a COMMISSION consisting of seven members, to be appointed by the Board of Selectmen, two members initially to be appointed for one year, two for two years, and two for three years, and each successive appointment to be made for three years.

4.2 The COMMISSION shall include, if possible, one member from two nominees solicited from the Preservetown Historical Society, one member from two nominees solicited from the chapter of the American Institute of Architects covering Preservetown; one member from two nominees of the Board of Realtors covering Preservetown; and one property owner from within each of the DISTRICT areas. If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Board of Selectmen may proceed to make appointments as it desires.

4.3 The Board of Selectmen may appoint up to four alternate members to the COMMISSION. Each alternate member shall have the right to act and vote in the place of one regular member should such regular member be absent from a meeting or be unwilling or unable to act or vote. Said alternate members shall initially be appointed for terms of two or three years, and for three year terms thereafter.

4.4 Each member and alternate member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.

4.5 Meetings of the COMMISSION shall be held at the call of the Chairman, at the request of two members and in such other manner as the COMMISSION shall determine in its Rules and Regulations.

4.6 Four members of the COMMISSION shall constitute a quorum.

5. COMMISSION POWERS AND DUTIES

5.1 The COMMISSION shall exercise its powers in administering and regulating the CONSTRUCTION and ALTERATION of any STRUCTURES or BUILDINGS within the DISTRICT as set forth under the procedures and criteria established in this Bylaw. In exercising its powers and duties hereunder, the COMMISSION shall pay due regard to the distinctive characteristics of each BUILDING, STRUCTURE and DISTRICT area.

5.2 The COMMISSION may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this Bylaw or M.G.L. Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for CERTIFICATES, fees, hearing procedures and other matters. The COMMISSION shall file a copy of any such Rules and Regulations with the office of the Town Clerk.

5.3 The COMMISSION, after a public hearing duly posted and advertised at least 14 days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation, may adopt and from time to time amend guidelines which set forth the designs for certain

EXTERIOR ARCHITECTURAL FEATURES which are, in general, suitable for the issuance of a CERTIFICATE. No such design guidelines shall limit the right of an applicant for a CERTIFICATE to present other designs to the COMMISSION for approval.

5.4 The COMMISSION shall at the beginning of each fiscal year hold an organizational meeting and elect a Chairman, a Vice Chairman and Secretary, and file notice of such election with the office of the Town Clerk.

5.5 The COMMISSION shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.

5.6 The COMMISSION shall undertake educational efforts to explain to the public and property owners the merits and functions of a DISTRICT.

6. ALTERATIONS AND CONSTRUCTION PROHIBITED WITHOUT A CERTIFICATE

6.1 Except as this Bylaw provides, no BUILDING or STRUCTURE or part thereof within a DISTRICT shall be CONSTRUCTED or ALTERED in any way that affects the EXTERIOR ARCHITECTURAL FEATURES as visible from a public way, unless the COMMISSION shall first have issued a CERTIFICATE with respect to such CONSTRUCTION or ALTERATION.

6.2 No building permit for CONSTRUCTION of a BUILDING or STRUCTURE or for ALTERATION of an EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT and no demolition permit for demolition or removal of a BUILDING or STRUCTURE within a DISTRICT shall be issued by the Town or any department thereof until a CERTIFICATE as required under this Bylaw has been issued by the COMMISSION.

7. PROCEDURES FOR REVIEW OF APPLICATIONS

7.1 Any person who desires to obtain a CERTIFICATE from the COMMISSION shall file with the COMMISSION an application for a CERTIFICATE of Appropriateness, of Non-Applicability or of Hardship, as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, 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.

7.2 The COMMISSION shall determine within fourteen (14) days of the filing of an application for a CERTIFICATE whether said application involves any EXTERIOR ARCHITECTURAL FEATURES which are within the jurisdiction of the COMMISSION.

7.3 If the COMMISSION determines that an application for a CERTIFICATE does not involve any EXTERIOR ARCHITECTURAL FEATURES, or involves an EXTERIOR ARCHITECTURAL FEATURE which is not subject to review by the COMMISSION under the provisions of this Bylaw, the COMMISSION shall forthwith issue a

CERTIFICATE of Non-Applicability.

7.4 If the COMMISSION determines that such application involves any EXTERIOR ARCHITECTURAL FEATURE subject to review under this Bylaw, it shall hold a public hearing on the application, except as may otherwise be provided in this Bylaw. The COMMISSION shall hold such a public hearing within forty-five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in Town Hall and in a newspaper of general circulation in Preservetown. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties deemed by the COMMISSION to be materially affected thereby. all as they appear on the most recent applicable tax list, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the COMMISSION shall deem entitled to notice.

7.4.1 A public hearing on an application for a CERTIFICATE 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 for a CERTIFICATE may be waived by the COMMISSION if the COMMISSION determines that the EXTERIOR ARCHITECTURAL FEATURE involved, or its category, is so insubstantial in its effect on the DISTRICT that it may be reviewed by the COMMISSION without a public hearing. If the COMMISSION dispenses with a public hearing on an application for a CERTIFICATE, notice of such application shall be given to the owners of all adjoining property and of 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.

7.5 Within sixty (60) days after the filing of an application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall issue a CERTIFICATE or a disapproval. In the case of a disapproval of an application for a CERTIFICATE, the COMMISSION shall set forth in its disapproval the reasons for such disapproval. The COMMISSION may include in its disapproval specific recommendations for changes in the applicant's proposal with respect to the appropriateness of design, arrangement, texture, material and similar features which, if made and filed with the COMMISSION in a subsequent application, would make the application acceptable to the COMMISSION.

7.6 The concurring vote of a majority of the members shall be required to issue a CERTIFICATE.

7.7 In issuing CERTIFICATES, the COMMISSION may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose if this Bylaw.

7.8 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 DISTRICT, the

COMMISSION shall issue a CERTIFICATE of Appropriateness.

7.9 If the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a CERTIFICATE of Hardship, the COMMISSION shall determine whether, owing to conditions especially affecting the BUILDING or STRUCTURE involved, but not affecting the DISTRICT generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Bylaw. 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, the COMMISSION shall issue a CERTIFICATE of Hardship.

7.10 The COMMISSION shall send a copy of its CERTIFICATES and disapprovals to the applicant and shall file a copy of its CERTIFICATES and disapprovals with the office of the Town Clerk and the Building Commissioner. The date of issuance of a CERTIFICATE or disapproval shall be the date of the filing of a copy of such CERTIFICATE or disapproval with the office of the Town Clerk.

7.11 If the COMMISSION should fail to issue a CERTIFICATE or a disapproval within sixty (60) days of the filing of the application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall thereupon issue a CERTIFICATE of Hardship Due to Failure to Act.

7.12 Each CERTIFICATE issued by the COMMISSION shall be dated and signed by its chairman or such other person designated by the COMMISSION to sign such CERTIFICATES on its behalf.

7.13 A PERSON AGGRIEVED by a determination of the COMMISSION may, within twenty (20) days of the issuance of a CERTIFICATE or disapproval, file a written request with the COMMISSION for a review by a person or persons of competence and experience in such matters, acting as arbitrator and designated by the regional planning agency. The finding of the person or persons making such review shall be filed with the Town Clerk within forty-five (45) days after the request, and shall be binding on the applicant and the COMMISSION, unless a further appeal is sought in the Superior Court as provided in Chapter 40C, Section 12A. The filing of such further appeal shall occur within twenty (20) days after the finding of the arbitrator has been filed with the office of the Town Clerk.

8. CRITERIA FOR DETERMINATIONS

8.1 In deliberating on applications for CERTIFICATES, the COMMISSION shall consider, among other things, the historic and architectural value and significance of the site, BUILDING or STRUCTURE; the general design, proportions, detailing, mass, arrangement, texture, and material of the EXTERIOR ARCHITECTURAL FEATURES involved; and the relation of such EXTERIOR ARCHITECTURAL FEATURES to similar features of BUILDINGS and STRUCTURES in the surrounding area.

8.2 In the case of new CONSTRUCTION or additions to existing BUILDINGS or STRUCTURES, the COMMISSION shall consider the appropriateness of the scale, shape and proportions of the BUILDING or STRUCTURE both in relation to the land area upon which the BUILDING or STRUCTURE is situated and in relation to BUILDINGS and STRUCTURES in the vicinity. The COMMISSION may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw.

8.3 When ruling on applications for CERTIFICATES on solar energy systems as defined in Section IA of Chapter 40A, the COMMISSION shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.

8.4 The COMMISSION shall not consider interior arrangements or architectural features not subject to public view from a public way.

9. EXCLUSIONS

9.1 The COMMISSION shall exclude from its purview the following:

9.1.1 Temporary BUILDINGS, STRUCTURES or SIGNS subject, however, to conditions pertaining to the duration of existence and use, location, lighting, removal and similar matters as the COMMISSION may reasonably specify.

9.1.2 Terraces, walks, driveways, sidewalks and similar STRUCTURES, provided that any such STRUCTURE is substantially at grade level.

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

9.1.4 The color of paint.

9.1.5 The color of materials used on roofs.

9.1.6 Signs of not more than two (2) square feet in DISPLAY 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 nonresidential use of each BUILDING or STRUCTURE which is not more than six (6) square feet in DISPLAY AREA, consists of letters painted on wood without symbol or trademark and if illuminated is illuminated indirectly.

9.1.7 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 year thereafter and carried forward with due diligence.

9.2 Upon request the COMMISSION shall issue a CERTIFICATE of Non-Applicability with respect to CONSTRUCTION or ALTERATION in any category not subject to review by the COMMISSION in accordance with the above provisions.

9.3 Nothing in this Bylaw shall be construed to prevent the ordinary maintenance, repair

or replacement of any EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT which does not involve a change in design, material or 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 Bylaw.

10. CATEGORICAL APPROVAL

The COMMISSION may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Preservetown, that certain categories of EXTERIOR ARCHITECTURAL FEATURES, STRUCTURES or BUILDINGS under certain conditions may be CONSTRUCTED or ALTERED without review by the COMMISSION without causing substantial derogation from the intent and purpose of this Bylaw.

11. ENFORCEMENT AND PENALTIES

11.1 The COMMISSION shall determine whether a particular activity is in violation of this Bylaw or not, and the COMMISSION shall be charged with the enforcement of this Bylaw.

11.2 The COMMISSION, upon a written complaint of any resident of Preservetown, or owner of property within Preservetown, or upon its own initiative, shall institute any appropriate action or proceedings in the name of the Town of Preservetown to prevent, correct, restrain or abate violation of this Bylaw. In the case where the COMMISSION is requested in writing to enforce this Bylaw against any person allegedly in violation of same and the COMMISSION declines to act, the COMMISSION shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefore, within twenty one (21) days of receipt of such request.

11.3 Whoever violates any of the provisions of this Bylaw shall be punishable by a fine of up to \$300.00 for each offense. Each day during any portion of which such violation continues to exist shall constitute a separate offense.

11.4 The COMMISSION may designate the Building Commissioner of the Town of Preservetown to act on its behalf and to enforce this Bylaw under the direction of the COMMISSION.

12. VALIDITY AND SEPARABILITY

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

13. APPENDICES

Appendix 1:

South Preservetown District

The South Preservetown District shall be a DISTRICT area under this Bylaw. The location and boundaries of the South Preservetown District are defined and shown on the Local Historic District Map of the Town of Preservetown, Sheet 1-1990 which is a part of this Bylaw. Sheet 1 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 1.

Appendix 2.

Preservetown Centre District

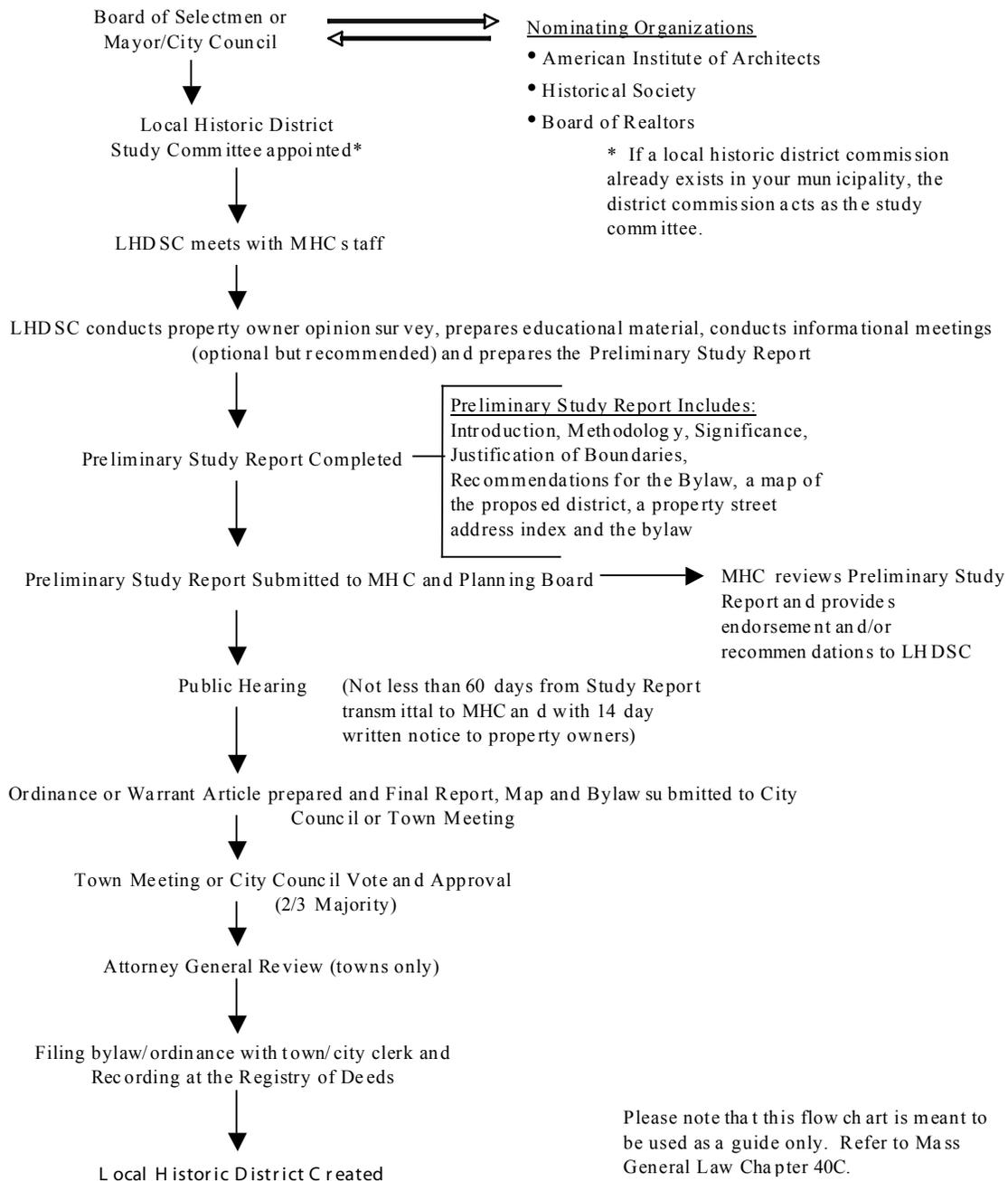
The Preservetown Centre District shall be a DISTRICT area under this Bylaw. The location and boundaries of the Preservetown Centre District are defined and shown on the Local Historic District Map of the Town of Preservetown, Sheet 2-1990 which is a part of this Bylaw. Sheet 2 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 2.

Appendix 3:

West Preservetown District

The West Preservetown District shall be a DISTRICT area under this Bylaw. The location and boundaries of the West Preservetown District are defined and shown on the Local Historic District Map of the Town of Preservetown, Sheet 3-1990 which is a part of this Bylaw. Sheet 3 is based on the 1989 Town Atlas. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 3.

Establishing a Local Historic District Flow Chart



Massachusetts Historical Commission

William Francis Galvin, Secretary of the Commonwealth
220 Morrissey Boulevard
Boston, MA 02125



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