

(Amended and approved)

IN THE YEAR TWO THOUSAND AND SEVEN

SEVENTH AMENDMENT TO CHAPTER 18 OF THE REVISED CODE OF ORDINANCES OF THE CITY OF HOLYOKE, MASSACHUSETTS 1997

AN ORDINANCE

Be it ordained by the City Council of the City of Holyoke as follows:

SECTION 1. Chapter 18 entitled “Buildings and Building Regulations” of the Revised Code of Ordinances of the City of Holyoke, Massachusetts, 1997, as amended, is hereby further amended by the following:

BY ADDING:

**ARTICLE III
HISTORIC DISTRICTS**

Sec. 18 - 92. Purpose

The purpose of this chapter is to:

1. Aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant to the history of the City of Holyoke,
2. maintain and improve their settings and
3. encourage new building designs compatible with the existing architectures.

Sec. 18 - 93. Definitions

The terms defined in this section shall be capitalized throughout this chapter. 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 chapter, the following terms shall have the following meaning:

ALTERATIONS

As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving from one location or position to another.

BUILDING

An independent structure having a roof supported by columns or walls, resting on its own foundations and designed for the shelter, housing or enclosure of persons, animals, or property of any kind.

CERTIFICATE

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

COMMISSION

The Local Historic District Commission as set forth in this chapter.

CONSTRUCTION, TO CONSTRUCT

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

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, sign and other appurtenant exterior features.

PERSON

Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, administrative agency, public or quasi-public corporation or body, the commonwealth or political subdivision thereof.

PERSON AGGRIEVED

The applicant, the 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, BUILDING or DISTRICTS.

SIGN

For purposes of this chapter the term “sign” shall have the same meaning as set forth in Section 2.0 of the City of Holyoke Zoning Ordinances.

STRUCTURE

Anything erected at a fixed location on the ground to give support,

provide shelter, or satisfy other purposes (includes the term "building").

TEMPORARY STRUCTURE or BUILDING

A BUILDING not to be in existence for a period or more that 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.

Sec. 18 - 94. Fairfield Avenue Historic District Boundaries.

A Fairfield Avenue Historic District (DISTRICT) is established within the City of Holyoke. The Fairfield Avenue Historic District shall be bounded as shown on a map entitled "Historic District Map of the City of Holyoke, Sheet 093, 103 and 104" which is attached and made part of this chapter and on file with the City Clerk.

Sec. 18 - 95. Commission.

1. A Historic District COMMISSION is hereby established in the City of Holyoke in accordance with Massachusetts General Laws Ch. 40C. *Membership at all times no less than 5 members of the committee would have to be residents of Holyoke. (Amended)*

2. Membership.

- (a) The COMMISSION shall consist of seven members and three alternates. The Mayor shall appoint all members and alternates, subject to City Council confirmation.
- (b) The COMMISSION shall include at least one member who owns property in the DISTRICT; one member from two nominees solicited from the City of Holyoke's Historical Commission; one member from two nominees solicited from the chapter of the American Institute of Architects covering Holyoke; and one member from two nominees of the Board of Realtors covering Holyoke. If within thirty (30) days after submission of a written request for nominees to an organization entitled to submit nomination for membership on the COMMISSION, no such nominations have been made, the Mayor may proceed to appoint the COMMISSION without nomination by such organization.
- (c) Initial appointments to the COMMISSION shall be as follows: three members to be appointed for one year, two members for two years and two members for three years. Successive appoints shall be for three years.
- (d) Alternate members need not be from organizations entitled to nominate members. 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. Two alternate members shall initially be appointed for terms of two years and one shall be appointed for three years, and for three-year terms thereafter.

3. Members of the COMMISSION shall, at the beginning of each fiscal year hold an organizational meeting and elect a new Chairman, a Vice Chairman and a Secretary from its members. Notice of such election shall be filed with the Office of the City Clerk.

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.

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

6. Four members or alternates of the COMMISSION shall constitute a quorum.

Sec. 18 - 96. Commission power and duties.

The COMMISSION shall have all the powers and duties provided by Chapter 40C of the Massachusetts General Laws.

1. The COMMISSION shall exercise its power in administering and regulating the CONSTRUCTION and ALTERATION of the EXTERIOR ARCHITECTURAL FEATURES of any STRUCTURES or BUILDINGS within the DISTRICT as set forth under the procedures and criteria established in this chapter. In exercising its powers and duties hereunder, the COMMISSION shall pay due regard to the distinctive characteristics of each BUILDING, STRUCTURE and DISTRICT area. (Based on documentation in the Historic Inventories for the City of Holyoke).

2. The COMMISSION may adopt, and from time to time amend, reasonable rules and regulations not inconsistent with the provisions of this chapter or Massachusetts General Law 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 City Clerk and Building Commissioner.

3. The COMMISSION, after a public hearing duly posted and advertised at least fourteen (14) days in advance in a conspicuous place in City 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.

4. The COMMISSION shall keep a permanent record of its resolutions, transactions, decisions, and determinations and of the vote of each member participating therein on file with the City Clerk.

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

Sec. 18 – 97. Alterations and construction prohibited without a certificate.

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

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

Sec. 18 – 98. Procedures for review of applications.

1. Prior to any construction, alteration, or demolition that in any way affects exterior architectural features, except those activities excluded under Section 9, any person must apply for and receive from the COMMISSION a CERTIFICATE of Appropriateness, of Non-Applicability or of Hardship, as the case may be.

2. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the COMMISSION to make a determination on the application.

3. 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.

4. Issuance of Certificates.

(a) Non-Applicability. 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 chapter, the COMMISSION shall forthwith issue a CERTIFICATE of Non-Applicability.

(b) Public Hearing. If the COMMISSION determines that such application involves any EXTERIOR ARCHITECTURAL FEATURES subject to review under this chapter, it shall hold a public hearing on the application, except as may otherwise be provided in this chapter.

(i) The COMMISSION shall hold such a public hearing within forty-five (45) days from the date of the filing of the application.

(ii) At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in City Hall and in a newspaper of general circulation in Holyoke. Such notice shall identify the time, place and purpose of the public hearing.

(iii) 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 and to the Building Commissioner, to any person filing a written request for notice of hearings, such request to be renewed yearly in December.

(c) Waiver of public hearing. 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 determined 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 an application.

(d) Time for Determination. 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 make a determination on the application

(i) 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 CERTIFICATE of Appropriateness.

(ii) 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 further 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.

(iii) In the case of a disapproval of an application for a CERTIFICATE, the COMMISSION must 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. Prior to the issuance of any disapproval, the commission shall notify the applicant of its proposed action, accompanied by recommendations of changes in the applicant's proposal, which, if made and filed with the COMMISSION would make the application acceptable to the COMMISSION. If within fourteen (14) 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.

(iv) If the COMMISSION should fail to issue a CERTIFICATE or 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.

5. The majority vote of the COMMISSION shall be required to issue a CERTIFICATE.

6. 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 of this bylaw.

7. 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 City Clerk and the Building Commissioner and to the Planning Department. 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 City Clerk.

8. Each CERTIFICATE issued by the COMMISSION shall be dated and signed by its chairman or secretary of the COMMISSION.

9. Appeals. A PERSON AGGRIEVED by a determination of the COMMISSION may, within twenty (20) days after the filing of the notice of such determination with the city clerk 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 Pioneer Valley Planning Commission. The finding of the person or persons making such review shall be filed with the City Clerk within forty-five (45) days after the request, and shall be mailed to the applicant and the COMMISSION. Said finding shall be binding on the applicant and the COMMISSION unless a further appeal is sought in the Superior Court as provided in M.G.L. Ch. 40C, Sec. 12A.

Sec. 18 - 99. Criteria for determinations.

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 as compared to similar features of BUILDINGS AND STRUCTURES in the surrounding area.

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

additions to those required by applicable statute or ordinance as determined in conjunction with the Building Commissioner.

3. When ruling on applications for CERTIFICATES on solar energy systems as defined in Section 1A of Chapter 40C of the General Laws of Massachusetts, the COMMISSION shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.

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

Sec. 18 - 100. Exclusions.

1. The COMMISSION shall EXCLUDE from its purview the following:

(a) Temporary BUILDING, 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 or as outlined in the zoning or building codes.

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

(c) Storm windows and doors, screen windows and doors, and window air conditioners.

(d) The color of paint.

(e) The color of materials used on roofs.

(f) Signs shall follow the ordinances of the City of Holyoke.

(g) The reconstruction, substantially similar in exterior design, of a BUILDING, STRUCTURE, or EXTERIOR ARCHITECTUREAL 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.

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

3. Nothing in this chapter shall be construed to prevent the ordinary maintenance, repair or replacement of any EXTERIOR ARCHITECTUREAL FEATURE within a DISTRICT which does not involve a change in design, materials or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, not 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 conditions, nor construed to prevent any CONSTRUCTION or ALTERATION under permit duly issued prior to the effective date of this chapter.

Sec. 18 - 101. 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 City Hall and in a newspaper of general circulation in Holyoke, 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 chapter.

Sec. 18 - 102. Enforcement and penalties.

1. The COMMISSION shall determine whether a particular activity is in violation of this chapter or not, and the COMMISSION shall be charged with the enforcement of this chapter.
2. The COMMISSION, upon a written complaint of any resident of Holyoke, or owner of property within Holyoke, or upon its own initiative, shall institute any appropriate action or proceedings in the name of the City of Holyoke to prevent, correct, restrain, or abate violation of this chapter. In the case where 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.
3. Whoever violates any of the provisions of this chapter shall be punishable by a fine of up to \$500.00 for each offense. Each day during any portion of which such a violation continues to exist shall constitute a separate offense.
4. The COMMISSION may designate the Building Commissioner of the City of Holyoke to act on its behalf and to enforce this Chapter under the direction of the COMMISSION.

Sec. 18 – 103. Amendments.

This chapter may be amended by a two-thirds vote of the City Council in accordance with the provisions of M.G.L. Ch. 40C.

Sec. 18 – 104. Effective date.

This chapter shall take effect upon appointment of the initial members of the Historic District Commission and the filing of the map of the boundaries of the Historic District with the Holyoke City Clerk and the Hampden County Registry of Deeds.

Sec. 18 -105. Local Historic District Guidelines.

1. Features subject to regulation. The following features are to be controlled and their guidelines may be adopted so that the individual character of each house on Fairfield Avenue will be respected and that the integrity and visual cohesiveness of the neighborhood is retained:

FEATURE

GUIDELINES

Fencing/Screen Planting

To protect the street vista, fencing or screen planting between the public way and the foundation line or an extension thereof, the design will be reviewed on a case-by-case basis. (Amended)

Steps

Replacement shall be in the shape, design, and location of the original, materials such as wood, brick, and concrete are preferred.

Roof

The shape of the roof should not be changed and original roofing material should be retained if possible.

Building Additions

Additions should be confined to the rear of building and the design will be reviewed on a case-by-case basis.

Grillwork (on roofs and porches)

Grillwork should be retained unless it can be demonstrated to the COMMISSION that retention

would result in a safety or economic hardship.

Siding

Original clapboard, shingles, brick or stucco. Siding should be maintained whenever possible. Any change in type of material of siding requires approval on a case by case basis.

Trim

(Corner board, window detail, cornices, etc.) Trim features should not be removed or altered in design.

Doors

All doors except storm doors, should not be changed in size, location, or design.

Porches (including railings)

Porches are extremely important to Victorian houses. Porches should not be changed in shape, location, or design. They should not be enclosed. Temporary, seasonal screens are permissible.

Chimneys

Any change in shape or design shall require approval.

Awnings

Rigid permanent awnings are not allowed. Canvas or other fabric is recommended. Retractable aluminum awnings will be considered.

Signs

Size, shape, and design of SIGNS follow the City of Holyoke Sign Ordinance (6-4)

Garages

Changes in shape or design subject to approval feature by feature.

Paint

Color of paint is not controlled; however approval must be sought prior to painting any previously unpainted brick, brownstone or other masonry.

Wide Median Park

Any plantings/landscape changes need approval

Utilities

All utilities to maintain their “behind-home” location. Any proposed changes need approval by the COMMISSION.

2. Features not subject to regulation. The following are those features NOT subject to Historical Commission regulations:

- (a) Ordinary maintenance, repair or replacement of any exterior feature which does not involve a change in design, material or outward appearance thereof.
- (b) Landscaping with plants, shrubs, trees.
- (c) Temporary signs or structures
- (d) Terraces, walks, driveways, and sidewalks provided they are substantially at grade level.
- (e) Storm windows, screens, window air conditioners, antennae, and similar appurtenances.
- (f) Color of paint.
- (g) Color of roof material.
- (h) Signs of not more than one square foot
- (i) Reconstruction, substantially similar in exterior design, of a building, structure, or exterior architectural feature damaged by fire, storm or other disaster.
- (j) Gutters and down spouts. (Such features should be as unnoticeable as possible and painted to match the trim or siding on which they are attached)
- (k) Light fixtures
- (l) Fencing and screen planting not lying between the foundation line or an extension thereof and the public way.
- (m) Screen and storm doors. (storm doors should be un-elaborated and contain as much glass as possible. Colonial-style doors are especially inappropriate for non-colonial houses.)

Sec. 18 - 106. Validity and severability.

The provisions of this chapter 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 chapter shall continue to be in full force and effect.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on the date of passage.

APPROVED AS TO FORM:

Karen T. Betournay
City Solicitor

In City Council December 18, 2007. Adopted on a call of the roll of the yeas and nays—
Yeas 15
Nays 0
Absent 0
With amendments listed below: Susan M. Egan (Clerk)

Presented to the Mayor for Approval: December 19, 2007
Susan M. Egan (City Clerk)

Mayor's Office: Holyoke, Mass.
Date: December 19, 2007
Approved: Mayor Michael Sullivan

Sec. 18-95 (a)
Membership at all times no less than 5 members of the committee would have to be residents of Holyoke.

Sec. 18-105 guidelines- Siding
Place a period after case by case basis and remove all other wording.