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## **NEWTON City Ordinances DIVISION 8. COMMUNITY PRESERVATION COMMITTEE**

### ***Sec. 2-350. Establishment, duties and organization.***

(a) The Newton community preservation committee is hereby established to carry out the functions and duties of such a community preservation committee as provided in General Laws chapter 44B.

(b) The committee shall annually elect one of its members to serve as chairperson and may elect such other officers, adopt procedural rules and regulations and establish any subcommittees as it deems appropriate. (Ord. No. W-66, 11-19-01)

### ***Sec. 2-351. Composition; eligibility.***

(a) The committee shall consist of nine members, as follows:

1) The conservation commission, planning and development board, housing authority, historic commission and parks and recreation commission shall each designate one of its members, who may be an alternate member, to serve as a member of the committee (the "statutory members").

2) The remaining four members (the "appointed members") shall be appointed in accordance with section 2-8. The appointed members shall include at least one citizen who has expertise or demonstrated interest in open space, at least one citizen who has expertise or demonstrated interest in recreation, at least one citizen who has expertise or demonstrated interest in historic preservation and at least one citizen who has expertise or demonstrated interest in affordable housing. In making such appointments, the mayor shall be guided by the goal that the membership of the committee include persons with professional expertise in real estate development, finance, architecture and law.

(b) There shall be a ward residency requirement for the appointed members. One appointed member shall be appointed from ward 1 or 2; one from ward 3 or 4; one from ward 5 or 6; and one from ward 7 or 8. In order to qualify, an appointee must be a resident of such ward on the effective date of the appointment. An appointed member who subsequently removes his or her

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residence to another location in the city may continue to serve for the remainder of the term. However, an appointed member who removes his or her residence from the city shall be considered thereby to have resigned from the committee. (Ord. No. W-66, 11-19-01)

Sec. 2-352. Terms of office; limits

(a) Members shall serve for terms of three (3) years or until their successors shall take office. However, in order to provide for staggered terms, the initial appointments shall be as follows:

1) Statutory members: The planning and development board shall designate one member for a one (1) year term. The parks and recreation commission and historic commission shall each designate one statutory member for a two (2) year term. The housing authority and the conservation commission shall each designate a statutory member for a three (3) year term.

2) Appointed members: Two appointed members shall be appointed for a one year term; one appointed member shall be appointed for a two year term; and one appointed member shall be appointed for a three year term.

(b) No person shall be eligible to serve as a member for more than two (2) consecutive full terms. For purposes of this clause, the initial one (1) and two (2) year appointments shall be deemed not to constitute full terms. (Ord. No. W-66, 11-19-01)

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**Sec. 22-76. Preservation of city-owned properties subject to funding under the Community Preservation Act.**

**(a) Purpose and Intent:** The purpose of this section is to encourage (1) the preservation and protection of city-owned buildings, structures and properties (2) the maintenance and improvement of landscapes, grounds and settings of such buildings and structures and (3) compatible development to preclude destruction or damage of such resources

**(b) Definitions:** For the purpose of this division, the following words and phrases shall be defined as follows:

*Alter/alteration:* Rebuilding, reconstructing, restoring, removing, demolishing or similar actions relating to regulated buildings, structures and properties including a change to the exterior paint color or colors.

*Building:* A combination of materials including a roof forming a shelter for persons, animals or property.

*Certificate of Appropriateness:* The certificate issued by the commission if it 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 city-owned building or structure.

*Certificate of hardship:* The certificate issued by the commission if it determines that owing to the conditions especially affecting the building or structure involve failure to approve an application will involve a substantial hardship to a city department or agency and that such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this section.

*Certificate of non- applicability:* The certificate issued by the commission or its designee if it determines that the construction or alteration for which a certificate of appropriateness or a certificate of non-applicability has been filed does not involve any exterior architectural feature, any interior primary space, or involves an exterior architectural feature which is not subject to review by the commission.

*City:* The City of Newton.

*Commission:* The Newton Historical Commission.

*Commissioner:* The Commissioner of the Newton Inspectional Services Department.

*Demolish/Demolition:* To destroy or to alter in such a substantial manner as to constitute destruction.

*Structure:* Any construction, erection, assemblage or other combination of materials other than a building at a fixed location upon the land including but not limited to, a bridge, tower or other engineering work, sign, fence, wall, terrace, walk, or driveway.

**(c) Application of this section to city-owned properties of Newton:** This section shall apply to the exterior and the interior of those historically significant city-owned buildings or structures including such structures and buildings owned by the city but leased to third parties for which community preservation funds are expended as necessary for the rehabilitation or restoration of historic resources pursuant to the provisions of the Community Preservation Act, G. L. c. 44B.

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However, such interior spaces shall be classified as either primary or secondary spaces, as follows:

- (1) **Primary spaces:** Spaces designated not only based on function, but also on their architectural features, details, surface finishes and design proportions that together serve to define the historic character of the building. These spaces are generally open to public access with formal areas designed to contribute to the historic character created by the structure as a whole. Primary spaces within city hall include but are not limited to the following:
    - a) rotunda/lobby;
    - b) first and second floor hallways;
    - c) staircases;
    - d) aldermanic chambers;
    - e) conference rooms 202, 203, 222 and 209;
    - f) mayor's office, hallway and reception area; and
    - g) War Memorial and hallway museum displays.
    - h) Such other primary spaces as shall be determined by the commission or may be delegated to the commission staff.
  - (2) **Secondary spaces:** Spaces defined chiefly by their function with little or no architectural detail or decoration. These spaces are usually designed to be easily adaptable and can be extensively altered without affecting the historic nature of the structure. Public access is generally limited. Secondary spaces within city hall include, but are not limited to the following:
    - a) departmental offices;
    - b) cafeteria;
    - c) basement hallways; and
    - d) storage and building maintenance areas.
    - e) Such other secondary spaces as shall be determined by the commission or commission staff.
  - (3) **Landscapes, grounds and setting:** Outdoor spaces, such as landscapes, grounds and settings by themselves, such as burying grounds, cemeteries, and playground fields, or by their relation and historical context to one or more buildings or structures erected thereon or adjoining. Outdoor spaces are designated not only based on function, but also on their features, details, decoration and design including their being created by or associated with a particular landscape architect, architect, designer or historic person or events, or with the architectural, cultural, political, economic or social history of the city of Newton, the Commonwealth of Massachusetts or the United States of America.
- (d) **Mandated review and approval:** Any proposed alteration or demolition of the exterior or the interior primary spaces of any city-owned building or structure shall require an application for prior review and commission approval except for temporary alterations which do not permanently change the exterior of the city-owned building or structure, such as the seasonal installation of door or window screens, seasonal window air conditioning units, and temporary signs.

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The commission shall review and approve in advance all proposed plans for alteration or demolition of city-owned properties in accordance with the procedural standards set forth in subsection (d)(1) below.

**(1) Procedure:**

- a) No building permit or demolition permit for a historically significant city-owned building, structure or property shall be issued by the commissioner except in conformity with the provisions of this section.
- b) The public buildings department is encouraged to submit plans and proposed materials directly to the commission while still in the planning and development stage. Before receiving a building or demolition permit for a proposed alteration or demolition of the exterior or the interior primary spaces of a city-owned building or structure or the alteration of city-owned property such as landscapes, grounds or settings, the city, or the applicant for such permit if other than the city, shall file an application with all plans as required by the commissioner to the commission for a certificate of appropriateness for the proposed plans of alteration or demolition.
- c) The commission shall hold a public hearing with due public notice within forty-five (45) days after the filing of the completed application for a certificate of appropriateness or a certificate of hardship unless both the applicant and the commission agree to additional time.
- d) The commission shall use its best efforts to render a decision within forty-five (45) days after the filing of a completed application for a certificate of appropriateness unless additional information is deemed necessary by the commission.
- e) Provided there is a quorum present, the concurring vote of a majority of the members in attendance shall be required to issue a certificate.
- f) 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 section.
- g) 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, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant. If the commission determines that owing to such conditions, failure to approve the application will involve substantial hardship to the applicant and approval thereof may be made without detriment or derogation to the purpose of this section, the commission shall issue a certificate of hardship.
- h) If the commission or its designee determines that an application for a certificate of appropriateness or for a certificate of non-applicability does not involve any exterior architectural feature, any interior primary space, or involves an exterior architectural feature which is not subject to review by the commission, the commission shall cause a certificate of non-applicability to be issued to the applicant.

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- i) Reconstruction, construction or alteration of secondary interior spaces may be performed by the public buildings department or its authorized agent without review by and approval of the commission upon satisfaction of all requirements for receipt of a building or demolition permit from the inspectional services department. The public buildings department shall consult with the commission staff, if necessary, on a determination whether the interior space in question is deemed a primary or secondary space as defined herein.
- j) The commission shall send a copy of the certificates and disapprovals issued to the applicant and shall file a copy with the city clerk and the commissioner of inspectional services. The decision of the commission shall be final.

**(e) Factors to be considered by the commission:**

The commission shall consider among other things the following factors when determining whether the proposed demolition or alteration plans are appropriate for or compatible with the preservation of the city-owned building or structure:

- (1) In general: (1) the historical and architectural value, and significance of the area to be altered on the building, structure or property; (2) the general design, arrangement, texture, materials, color finishes, and condition of the features involved; and (3) the relation of such features to similar features of buildings, structures and property in the surrounding area.
- (2) Specifically, the commission, in considering architectural features and finishes may examine (1) all materials utilized in flooring, walls and ceilings, (2) furniture which has been built into the room (3) light fixtures or other decorative elements which were designed specifically for the space, and (4) paint color, stains, varnishes and other finishes which could alter or affect the visual impact of the space. The commission may also consider structural systems including but not limited to framing elements, exposed load-bearing walls or columns and stone foundations, and mechanical systems which directly relate to the historic nature of the building or decorative elements which contribute to the historic nature of the building and which are part of a mechanical system including but not limited to grills, radiators, light fixtures and switch plates.
- (3) In the case of new construction or additions to existing buildings or structures, the commission may consider the appropriateness of the size, shape, and location 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.

**(f) Non-compliance** Any agency of the city or any entity that alters or demolishes a city-owned historically significant building, structure or property without first obtaining and complying fully with a certificate of appropriateness issued in accordance with this section shall not be permitted to obtain any further building or demolition permits for the same building, structure, or site. This ban on the issuance of any further building or demolition permits can only be waived by a majority vote of the commission if the commission determines that new plans submitted to the commission will substantially benefit the neighborhood and provide compensation for the loss of the historic elements of the property.

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**(g) Legal Effect** This section shall not be construed to abrogate, diminish nor replace the protective measures already adopted in the City of Newton, but is designed to provide further protection and to assure preservation of city-owned buildings, structures and properties

**(h) Severability** If any section, paragraph or part of this section is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph, or part of this section shall continue in full force and effect. (Ord. No. X-188, 12-19-05; rd. No. X-204, 04-03-06)