

# Harvard Historical Commission

## Rules and Regulations



Approved by the Commission on October 13, 2020 and updated by vote as Noted, June 2020, July 2021, January 2023, and May 3, 2023.

## **Section 1. Introduction and Purpose**

1. The Harvard Historical Commission (HHC) was created by Chapter § 48 of the Bylaws of the Town of Harvard, Massachusetts to preserve and protect its historic assets, under the provisions of Chapter 40C of the Massachusetts General Laws. These Rules and Regulations, including any amendments, have been prepared for the regulation of HHC affairs and the conduct of its business as provided in Harvard Bylaw Chapter § 48-5 and were duly approved for adoption by unanimous vote of the commissioners on October 14, 2020 and subsequently amended from time to time as noted.
2. These Rules and Regulations (and any amendments thereto) will be filed with the Town Clerk and posted on the HHC website.
3. Prior Policies and Procedures established by the HHC and amended over time are hereby revoked in their entirety and replaced by these Rules and Regulations.
4. Proposed amendments to these Rules and Regulations may be considered at a meeting of the HHC if the proposed amendments are listed as an agenda item and a quorum is present. Proposed amendments may be approved by a majority vote.
5. These Rules and Regulations will educate and help guide members of the HHC, ensure that the HHC operates in a predictable and consistent manner, and inform the public how the HHC conducts its business. They are meant to be consulted in conjunction (and not conflict) with Chapter § 48 of the Bylaws of the Town of Harvard, Massachusetts General Laws Chapter 40C, the Massachusetts Open Meeting Laws, and other relevant statutes and regulations.

## **Section 2. Harvard Historical Commission Leadership and other Positions**

The officers of the HHC shall consist of a Chair, a Vice-Chair and a Secretary. The HHC shall elect officers at its June meeting, or at another meeting if necessary to fill a vacancy. The term of service of the officers shall begin on July 1 and shall be for one year or until the next annual election. The Town Clerk shall be informed of officer elections. No officer shall serve for more than four consecutive years in an office. Except as otherwise provided by law, officers shall hold office until their successors are elected.

1. **Chair** The principal duties of the Chair shall be as follows:
  - a. Preside over meetings and hearings of the HHC;

- b. Direct meetings and ensure procedures are followed in accordance with the provisions of these Rules and Regulations;
  - c. Prepare a yearly description of the activities of the HHC, to be reviewed by the HHC and then sent to the town clerk for inclusion in the town's annual report.
  - d. Serve as spokesperson for the HHC and present the HHC's position, unless otherwise determined by the HHC or delegated by the Chair to one or more members;
  - e. Serve as an ex-officio member of HHC committees and working groups;
  - f. Receive, process and sign on behalf of the HHC, petitions, applications for certificates and other official correspondence. All official documents and correspondence will be filed by the Secretary.
  - g. Prepare agenda for meetings with input and recommendations from HHC membership.
  - h. Periodically schedule internal workshops on historical preservation, design reviews and other topics pertinent to HHC business.
2. **Vice-Chair** The principal duties of the Vice-Chair shall be to:
- a. Function as the Chair during his/her absence (or if delegated by the Chair) and to otherwise assist and work with the Chair.
  - b. Preside over the Membership Committee
3. **Secretary** The Secretary shall:
- a. Be elected from the HHC membership.
  - b. Record, distribute and file minutes of all meetings as required.
  - c. File all incoming and outgoing "official correspondence" for the Commission. Official correspondence includes:
    - i. Documents pertaining to Applications submitted by district residents;
    - ii. Correspondence with town residents and organizations on any subject (all electronic correspondence will be copied to the Secretary);
  - d. Maintain the files and records of the HHC and file copies with the Town Clerk and other officers in accordance with Chapter 48 and any other relevant bylaws. Electronic copies of minutes, agendas, applications, decisions and related documents are to be permanently stored on the HHC website maintained on the town website.

- e. Hard copies of significant documentation used in discussions during HHC meetings and hearings that is not filed electronically on the website will be maintained by the Secretary.
- 4. **Advocate** The Chair may appoint any commissioner to act as an Advocate for a homeowner, to guide him/her through the application project and answer questions.
- 5. **Project Inspector** At the time that an application is approved, or subsequently, the HHC may appoint a commissioner to act as Project Inspector to monitor and report on the progress and outcome of the approved project

### **Section 3. Harvard Historical Commission Membership and Related Rules**

Membership in the HHC provides an opportunity for residents to serve the Town of Harvard and to aid in the preservation of its historic assets.

1. **Qualifications.** Interested residents who would like to join the HHC (as either a voting or alternate member) should:
  - a. Express a willingness to serve to a current member of the HHC;
  - b. Attend at least one HHC meeting to learn about the Commission and how it operates.
  - c. Be willing and able to attend monthly and special meetings, and to perform assigned tasks in a timely fashion.
  - d. Have an interest in the history of Harvard and the preservation of its historic homes, structures, places, sites and surrounding setting.
2. **Appointment.** Members and alternate members will be appointed as outlined in Chapter 48 of the Harvard Bylaws.
3. **Resignation.** If a Commissioner is unable to maintain regular attendance or cannot actively contribute to the work of the HHC, the member will advise the Chair and will submit his/her resignation in writing, copying the Select Board. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the occurrence of some event. The absence of more than three meetings in a row without justification may be viewed as a voluntary resignation from the HHC and may be referred to the Select Board.
4. **Membership Committee.** The HHC Vice-Chair will chair the Membership Committee which will also include two other HHC members who shall be

appointed at the June meeting. The principal duties of the Membership Committee shall be to:

- a. Lead discussions among current members of the HHC regarding candidates for nomination to the offices of the Chair, Vice-Chair and Secretary.
  - b. Recruit Harvard residents to join the HHC as voting or alternate members to fill any vacancies.
  - c. Oversee the orientation of new Commissioners.
  - d. Coordinate the appointment of new Commissioners with the Select Board Liaison for the HHC.
5. **Ethics.** All Commissioners and Alternates shall abide by the MGL c. 268A, as amended by c. 194 (Acts of 2011) and other conflict of interest and ethics laws and guidelines.
6. **Guidelines for Recusal.** Following are some, but not all, of the conditions under which a member shall declare a potential conflict and recuse him/herself from the discussion and vote on an Application:
- a. Member missed the presentation and discussion at a public hearing related to the Application (does not include initial discussion as to whether application required a public hearing);
  - b. Member is an abutter to the property under consideration;
  - c. Member is also a voting member of another town government organization which is the applicant.
  - d. Member is related to or a business associate of the applicant.

#### **Section 4. Concept Review**

In advance of filing an Application for Certificate, any property owner, or his/her agent, may contact the HHC to request an informal review of a contemplated project at the next scheduled meeting. During this review, the property owner shall present the project with as much detail as possible including photographs of the existing features of the structure and drawings of proposed changes or additions. The Commissioners will offer feedback, suggestions and advice, especially with regard to aspects of the project as they relate to the HHC Design Guidelines as well as the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties. While the Commissioners will indicate their initial reaction to the

project, no vote will be taken and the review will be considered non-binding on any future Application. (This section added June 2021)

## **Section 5. Applications for Certificate**

The following rules govern the procedures for Applications for Certificate.

1. **Scope of Review.** No property located in either of Harvard's Historic Districts shall be constructed or altered in any way that affects the exterior architectural features visible from a public way unless a Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship has first been issued by the HHC or the work is exempt as provided below. Alterations include, but are not limited to, changing windows and doors, changing a paint color, new additions, partial or complete demolitions, new fences, new paved walkways, new steps, and adding solar panels. Approval is not required for interior changes or landscaping. For more information see the Harvard Historic District bylaw (Chap. 48), the HHC Design Guidelines, and the application materials on the HHC website.
2. **Burden of Proof.** An applicant coming under the HHC's scope of review has the burden of proof to demonstrate to the HHC that the applicant's Application For Certificate of Appropriateness is appropriate for the property and the historic district as a whole. (This paragraph added July 2021.)
3. **Application Document.** The HHC Application for Certificate is considered a part of these Rules and Regulations. The HHC shall annually review, and if necessary, revise, the application and related materials.
4. **Submit an Application**  
An Application For Certificate may be downloaded from the HHC website or retrieved from the Town Clerk. Completed applications should be submitted to the Town Clerk in triplicate (one for Town Clerk, one for the HHC, and one for the Building Inspector). **Note: The application process begins when a completed application is filed with and time stamped by the Town Clerk.** In order to be considered complete and duly filed, the application MUST include:
  - a. The applicant's name, address, and a detailed description of the project; and

- b. Pictures, scaled drawings and plans detailed enough to show the architectural design, paint colors, and a plot plan (if applicable to the project). Examples of materials to be used may be requested by the HHC as part of its review process.
- c. Applications For Certificate must be completed with reasonable particularity to include the general scope, scale, and design of the work to be performed so that the HHC can make preliminary findings of fact as to whether the Application For Certificate proposes a Substantial Change to the property, requiring HHC review, public hearing and approval; an Insubstantial Change requiring HHC review without a public hearing; is non-applicable because the work is determined to be ordinary maintenance (as defined below), in which case the HHC will grant a Certificate of Non-Applicability after review; or is non-applicable because the work is exempt (as defined below), in which case work may commence at once.
- d. After the HHC makes its initial determination, if the HHC finds the Application For Certificate requires further hearing and fact-finding (i.e. a finding of a substantial or insubstantial change), any Commissioner may move by motion that the applicant furnish a specifically requested piece of evidence to aid the HHC in making its final determination at the next hearing (e.g. scaled drawings, sample material, etc.). For this request to be binding on the applicant a majority of commissioners must vote in favor of the motion for the requested evidence. If the evidence is not furnished at the next hearing the applicant should demonstrate good cause as to why it could not be obtained. Failure to obtain such requested evidence, absent good cause, may be deemed an adverse factor in the HHC's final deliberations on the Application for Certificate.  
(This paragraph added July 2021)

5. **Incomplete Applications.** A vague, incomplete or cursory Application For Certificate will be treated as preliminary and will not trigger the 60 day time limit for the HHC to issue a Certificate even if filed with the Town Clerk. Such applications must be amended and re-filed in order for the process to commence. To ensure a timely review and decision, the HHC encourages prospective applicants to contact the HHC so that an advocate (who will aid in the preparation of the Application) can be consulted prior to filing.

Alternatively, applicants might seek a Concept Review as provided above in order to obtain feedback on the project before proceeding with an Application. (Previous sentence added June 2021) The Chair will review applications as they are submitted and will inform applicants as soon as possible if they appear to be incomplete, however, as the HHC may not deliberate outside of a public meeting, the HHC reserves the right to determine that an application is incomplete at its next meeting.

6. **14 Day Rule.** Pursuant to the Town of Harvard Bylaws § 48-7 C, the Commission has 14 days after a completed Application has been filed to determine whether the Application involves any features which are subject to its approval. In the event that an Application is filed more than 14 days prior to the next scheduled meeting, the Chair may decide whether the Application needs to be reviewed and, if so, will inform the applicant and place the Application on the agenda for the next meeting. If the Chair determines that the Application is non-applicable he/she shall follow the process outlined below. However, if the chair has any reservations or questions as to whether an Application is subject to review, the Chair may call a special meeting and refer the question to the entire Commission. (This paragraph added July 2021.)

## **Section 6. Application Types and Definitions**

The following definitions and procedures are provided to guide property owners through the process and to help both owners and commissioners determine the type of change proposed.

1. **Substantial Change.** A Substantial Change requires HHC review, a public hearing and approval.
  - a. In general, a project that involves a change in design or materials, could have considerable effect on the historic district, or is likely to be controversial and/or of interest to neighbors and the public will be deemed to be substantial requiring a public hearing.
  - b. If an Application For Certificate is determined to involve a Substantial Change, a hearing will be held at the next HHC meeting, and notice will be published in a local newspaper of general circulation. Notice of the public hearing will be mailed to abutters, the Town Clerk, The Planning Board, and the Building Inspector.



- c. The Applicant must obtain a list from the Assessor's Office of abutters within a 300 (three-hundred) foot radius, in mailing label format, for a residential certificate and an all-district abutters list for a commercial property or municipal structure. The Applicant should forward the list to the Chair who will prepare the notice and mail it on behalf of the HHC and the Applicant.
- d. The HHC will review the application during a public hearing following the procedures outlined below, deliberate, and vote.

**2. Insubstantial Change.** An insubstantial change is an exterior modification that does not result in the physical demolition, destruction, relocation, or alteration of the property, structure or immediate surroundings. These changes are performed in such a way that the significance and integrity of a historical resource is not materially impaired. Insubstantial alterations require an Application for Certificate, but are not subject to a public hearing, per Sections 48 7D and E. The HHC would likely find the following changes to be insubstantial if they are made in accordance with HHC Design Guidelines and are in keeping with the architecture, scale and appearance of the structure and the surrounding buildings, however the HHC reserves the right to make a determination in each case and may decide that any feature is substantial, especially if it is likely to be of interest to the public:

- a. Addition of lighting fixtures
- b. Construction of driveways, walkways, and sidewalks, provided that any such structure is substantially at grade level and work is done in accordance with the Design Guidelines

If the HHC dispenses with a public hearing on an Application for Certificate, notice of such application shall be given to the owners of all adjoining property and of other property deemed by the HHC to be materially affected thereby as above provided, and ten (10) days shall elapse after the mailing of such notice before the HHC may act upon such application.

The application will be reviewed without a public hearing unless a resident requests within the 10-day period cited above that it be reviewed in a public hearing. If no requests for a public hearing are received the HHC will proceed to review and adjudicate the Application For Certificate without

public hearing at the next HHC meeting. (This section updated to reflect new exemptions January 2023)

3. **Non-Applicable Change.** A non-applicable change is one that is either determined to be ordinary maintenance (after review), or does not require review because the project is exempt.
  - a. A change will be determined to be non-applicable if it involves “ordinary maintenance” as defined in § 48-6 C and further defined below in paragraph 4. Subject to the provisions of paragraph c of this section, changes that are ordinary maintenance require an application but will be deemed non-applicable and may proceed once a certificate is issued. Non-Applicable applications for ordinary maintenance will be considered at the meeting following the filing of the application provided that the application is filed at least one week before the meeting. An advocate will be assigned to work with the applicant to review the change and provide an initial assessment that it is ordinary maintenance. The advocate will visit the property after the work is completed to ensure that the scope of work does not exceed that described in the application. The Chair may approve an application for ordinary maintenance without review by the HHC in the case of an emergency, for example a collapsed foundation or roof that is badly leaking, if in the judgment of the Chair there exists an emergency that (1) was not foreseeable by the applicant (2) could not have been reviewed at a prior meeting because it was unknown, and (3) substantial damage could result by delay.
  - b. A change will be determined to be non-applicable if it falls into one of the exemptions listed below or Harvard Bylaw § 48-6 D. Changes that are exempt do not require an application and may proceed without review, however, HHC will produce a Certificate of Non-Applicability for any such change upon request.
  - c. Exception to the Non-Applicable Change Rule. § 48-6 C shall not apply to a feature that is in violation of Chapter 48 of the Town of Harvard Bylaws. A violation will exist where the design or materials of such feature would not be acceptable under the guidelines (for example vinyl siding or plastic shutters), and were not approved by a prior application, or were not in place at the time the historic district was established. Such feature may not be repaired or replaced without

a Certificate of Appropriateness and may be subject to corrective remediation as provided below. (Changes were made to allow an expedited process for ordinary maintenance January 2023)

4. Definition of Ordinary Maintenance. A change that qualifies as ordinary maintenance is not exempt from review but is considered to be Non-Applicable and can be undertaken after review and once a Certificate of Non-Applicability is issued. For purposes of these Rules (and consistent with the Town of Harvard Bylaw § 48-6 C and § 48-7 A, and the provisions of Chapter 40C of the Massachusetts General Laws), ordinary maintenance is defined as the repair or replacement of any exterior architectural feature *which does not involve a change in design, material or outward appearance thereof*. The following examples are meant to provide guidance on changes that would usually be considered to be ordinary maintenance:
  - a. Replacement of an asphalt three-tab roof with a new asphalt three-tab roof
  - b. Replacing the wood trim on a structure with wood trim of the same design, proportions and appearance
  - c. Replacing wood porch columns with new wood columns of the same design
  - d. Repointing a brick chimney using the same material and color
  - e. Repairing a brick foundation using the same kind and color bricks
  - f. Repair or replacement of an asphalt driveway with asphalt or a cement sidewalk with cement
  - g. Replacement of an existing wood fence with a new wood fence of the same design, appearance and dimensions
  - h. Replacing areas of cedar shingle siding with cedar shingles of the same size and design

The following are examples of changes that would *not* be considered to be ordinary maintenance and would require a certificate of appropriateness:

- a. Replacement of a slate or wooden shingle roof with an asphalt roof
- b. Removing and replacing existing wood clapboards with clapboards of a different size or spacing or material
- c. Replacement of windows
- d. Replacement of an existing wood door with a wood door of a different design
- e. Repair of a historic brick chimney with modern bricks

- f. Replacement of existing wooden shutters with vinyl shutters
- g. Replacement of copper gutters with aluminum gutters
- h. Replacement of a cobblestone driveway with an asphalt driveway
- i. Replacement of wood porch columns with fiberglass columns of the same design
- j. Replacement of a fiberglass garage door with a fiberglass door of a different design (This section was added to provide a definition of ordinary maintenance as well as examples January 2023)

## **Section 7. Exemptions from Review**

In addition to the limitations and exemptions outlined in Town of Harvard Bylaw § 48-6, the following architectural features, structures, signs and activities may be constructed or altered without review by the Commission:

1. Storm doors
2. Chimney caps placed on top of an existing chimney where no change is made to the chimney
3. Temporary (removable) window boxes
4. 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.
5. Paint color for siding, trim and other features including doors (does not include roofing materials)
6. Repainting a structure (treated as exempt and not ordinary maintenance).
7. Temporary structures provided that they are installed for no more than 60 days
8. Screens
9. Flagpoles, arbors and trellises
10. Playground equipment that occupies less than 100 square feet of surface area, and
11. The reconstruction, substantially similar in exterior design and materials, 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.

These exemptions were considered at a public hearing and approved by the Commission pursuant to § 48-5 E on January 2, 2020 with additions on May 3, 2023.

## **Section 8. Meetings**

The following rules and procedures govern the type, timing, notice, topics, participation, and recording of HHC meetings.

1. **Regular Meetings.** Regular Meetings of the HHC will be held at 7 PM on the first Wednesday of the month, unless changed by a majority of the Commissioners.
2. **Special Meetings.** Special meetings may be called at the request of the Chair or by two or more Commissioners.
3. **Public Hearings.** Public hearings shall be held when required as provided in the HHC Bylaw to consider applications and other matters, and may be held in conjunction with a regular or during special meeting. Public hearings will be conducted as provided below.
4. **Notice.** Notice for all meetings and hearings shall be given as required by the HHC Bylaw, other relevant Town of Harvard Bylaws, and the Open Meeting Law.
5. **Agendas.** Agendas will be based on the boilerplate in the appendix. While the agendas will generally be set by the Chair with advice from the Secretary, any Commissioner may suggest a topic for the agenda by informing the Chair and the Secretary.
6. **Minutes.** The meeting minutes shall be taken by the Secretary, or such other Commissioner as appointed by the Chair in the Secretary's absence, and shall include the date, time and place, the members present or absent, names of others who participated in the meeting, a summary of the discussion on each subject, a list of documents and other exhibits used at the meeting, and a summary of the decisions made and the actions taken, including the record of all votes. Minutes will be distributed to members at least one week before the meeting at which they will be reviewed. Once approved, the minutes will be filed electronically with the Town Clerk and on the HHC website. The Secretary may choose certain handouts and visual aids that were used during a meeting to be appended to and filed with the

minutes if the materials are important to understanding the decisions/votes of the HHC.

7. **Participation and Voting by Alternate Commissioners.** Alternate Commissioners may vote on matters before the HHC when designated by the Chair as a substitute for an absent or disqualified Commissioner. Upon convening a meeting (or during the meeting if necessary), the Chair shall identify the voting members. If the absent Commissioner arrives during the course of the meeting, he or she may take the alternate members place and vote following the conclusion of the agenda item then under consideration. A recused member will take the alternate member's place once the agenda item causing the recusal is completed. When not designated to vote, Alternate Members shall sit with the HHC and participate in discussions but shall not participate in the decision-making and voting process. Alternate Commissioners may chair committees and working groups.
8. **Open Meeting Law.** All meetings and hearings shall be conducted in accordance with in accordance with MGL c. 30A, §§18 - 25, commonly referred to as the Open Meeting Law (OML).
9. **Absence of Chair.** In the event that the HHC Chair is absent from a meeting, or is disqualified, or otherwise designates, the Vice Chair shall serve as the Chair. If both the HHC Chair and Vice-Chair are absent from a meeting (or otherwise disqualified), the most senior member present (or that person's designee) shall serve as Chair. (Seniority will be determined according to time on the HHC.)
10. **Quorums.** A quorum for HHC meetings or public hearings shall consist of any four Commissioners and Alternate Commissioners if appointed by the Chair to vote. A quorum for a committee, subcommittee, or working group shall be a simple majority of members.
  - a. In the absence of a quorum, the Chair cannot convene a meeting. If during the course of a meeting, a Commissioner must leave and no Alternate is available such that a quorum would no longer exist, the Chair must adjourn the meeting and may continue the meeting to a later date. If a Commissioner is disqualified from participating in an agenda item and there is no longer a quorum, the item cannot be considered.
11. **Continuing a Meeting.** In general meetings shall conclude by 9:30 pm. If the business before the HHC cannot be completed during one meeting, or if

approved by a majority vote, the Commission may continue the meeting to a later date.

12. **Decisions.** Motions for decisions by the HHC require a simple majority vote of the voting members (including any alternates as designated by the Chair) who are present, *except* that the concurring vote of four Commissioners is required to issue a certificate.
13. **Cancelling Meetings.** If there is no HHC business to conduct, the Chair may cancel a meeting by giving notice to all Commissioners, and by posting a notice of the cancellation at least 48 hours prior to the scheduled time.

## Section 9. Conduct of Public Hearings

This summary of the process for public hearings is supplemented by the detailed rules that follow it.

1	<b>Motion to Open Public Hearing</b> Chair announces purpose of meeting, name of Applicant, and address of property Chair checks for conflicts
2	<b>Motion to Open Presentation</b> Presentation of Application by Applicant <b>Motion to close Presentation</b>
3	<b>Motion to Open Public Participation</b> Public speaking in <i>favor</i> of Application (Abutters first, then others) Public speaking <i>against</i> Application (Abutters first, then others)
4	Written Communications read aloud (if any)
5	Comments/Questions by HHC
6	Summary of Evidence and Facts If no objections, the statements appearing in the record are uncontested <b>Motion to Close Public Participation</b>
7	HHC Deliberation (may be deferred to a later meeting – if so proceed to close hearing)

8	HHC Decision (may be deferred) Call for a vote in favor or against a finding that the application is appropriate If approved certificate issued If disapproved reasons given with suggestions for changes <b>Motion to Close Public Hearing</b>
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Detailed Rules for Public Hearings:

1. **Chair's Role.** The Chair presides over and determines the format of the hearing, the order in which persons speak, who is recognized to speak, and the amount of time allotted to a speaker. The Chair may order a person to stop speaking.
  - a. The applicant may be invited to join the members at the table in order to discuss the application.
  - b. The Chair will check for conflicts of interest among HHC members. Noted conflicts will be recorded and any members having conflicts are recused from the discussion and vote.
  - c. The Chair will present an overview of the public hearing agenda and of some of the important rules of order. The Chair will note that the objective of the HHC as given by the Town Bylaws on historical preservation (Chapter 48) is to determine whether the proposed changes or additions to the exterior architecture of a building are appropriate.
2. **Presentation of Application.** The Chair will invite the applicant (or designee) to present the application and review the proposed changes and/or the new additions to the structure.
  - a. HHC members may ask clarifying questions during this portion but may not express opinions or deliberate.
  - b. There will be no questions from the public at this time.
  - c. For each change, the applicable HHC General Design Guideline(s) shall be identified and reviewed to assist the HHC in determining a finding of appropriateness.
3. **Public Participation/Commentary.** All persons wishing to speak must state their name and address for the record and whether they are speaking for themselves or another (and if another, who, or what, they represent). They should address their question or comment to the Chair and indicate whether



they are for or against the proposed changes. Members of the public may also ask clarifying questions during this portion of the hearing.

4. **Written Communications.** The Chair will ask that any written communication(s) received from the public or another town entity read into the record. Any such written communications received after the hearing is closed will not be accepted as part of the hearing record.
5. **Comments/Questioning by the HHC.** Questioning by the HHC of the applicant or any other person present shall take place without interference or participation from the applicant or the public. HHC deliberations may occur during this portion of the hearing.
6. **Summary of Evidence and Facts.** The Chair will summarize the evidence and facts, giving parties concerned with each statement an opportunity to make corrections.
7. **HHC Deliberations.** The HHC may wish to begin deliberations immediately or continue the hearing to a future date and time.
  - a. During the deliberations portion of the hearing, the HHC may ask clarifying questions of the Applicant or any other person, however, the public may not speak.
  - b. For each change, the applicable General Design Guideline shall be identified and reviewed to assist the HHC in making a finding.
8. **HHC Decision.** The HHC members shall vote in favor or against a finding that the application is appropriate. If the application contains multiple alterations, each may be considered separately. **The concurring vote of four commissioners is required to issue a certificate.** If the HHC finds that part or all of an application is not appropriate, it may recommend changes that would make the application acceptable. When an application is approved, in whole or part, the HHC may appoint a commissioner to act as Project Inspector to monitor and report on the progress and outcome of the project.
9. **Alternate Commissioners** Alternate Commissioners who are present may participate in the hearing and in the deliberation leading to the vote to approve or reject an application. However, an Alternate Commissioner shall not participate in the final vote to approve or reject an application unless designated to do so by the Chairman.

## **Section 10. Approval or Disapproval of Applications**

If the HHC approves an Application, it will issue a Certificate of Appropriateness for the project (or the parts of the project that have been approved). An approved Certificate will be valid for any work that is substantially completed within 2 years of the date of Certificate. If work on the project is not substantially completed within 2 years, the applicant must request that the Certificate be renewed in order to proceed. The HHC, in its discretion (and considering factors such as the time that has elapsed, whether any of the work has commenced, changes in conditions or any other factors), may renew the approval of the Certificate or require the applicant to file an updated Application which will be reviewed according to the procedures outlined in these Rules & Regulations. Alterations in the project as described in the Certificate will be reviewed and may require an amended Application.

In the event that an Application, or any part of an Application, is not approved, the Commission may, in its discretion, either (1) issue a disapproval accompanied by recommended changes, if any, that would make a subsequent application acceptable, OR (2) prior to issuing a disapproval, notify the applicant of modifications to the Application that, if made, would make it acceptable. In that case the applicant will have 14 days to make such changes upon which a Certificate of Appropriateness will be issued. If the applicant elects not to modify the Application, a disapproval will be issued. If an Application is disapproved the applicant may not file a new Application for the same project for a period of 2 years, unless modifications, including any suggested modifications, have been made or new evidence is discovered which in the sole discretion of the HHC merits a new review of the Application. (This section added June 2021)

## **Section 11. Committees and Working Groups**

In order to work effectively and efficiently, HHC members may allocate and track projects as follows:

1. **Working Groups and Committees.** Working Groups, Committees and Sub-Committees may be created and appointed to work on specific topics or projects by a motion that is approved by a simple majority. A Working Group is an informal group of HHC members that performs investigatory work on behalf of the HHC and reports its findings to the HHC for consideration and deliberation. A Committee or Sub-Committee within the HHC is a deliberative subgroup of HHC members appointed by the HHC to investigate, deliberate and make findings on issues within HHC jurisdiction.

Working Groups, Committees and Sub-Committees shall have their own Chair, and comply with all relevant Massachusetts Open Meeting Laws and rules and regulations promulgated therein. Working Groups, Committees, and Sub-Committees will report on their work at HHC meetings and may make recommendations related to this work for consideration by the HCC.

2. **Liaison to Other Commissions.** Any member may be appointed as a Liaison to another town committee, commission or board (or other organization) in order to represent the HHC, report back to the other members on the work of that group, and make recommendations for action.
3. **HHC Work Plan.** The HHC may create a Work Plan that outlines specific projects and initiatives that support the goals of historic preservation as outlined in the Bylaw. The Work Plan shall outline the purpose of each project, action steps for its completion, those responsible for executing those steps, and a proposed timeline.

## **Section 12. Violations, Precedent, Non-Conforming Conditions, and Enforcement**

The HHC shall treat as “grandfathered” the condition of any structure at the time of the creation of an Historic District even if the structure incorporates work inconsistent with its Design Guidelines. The transfer of ownership or control of a property subsequent to the date when work was completed that required a Certificate of Appropriateness shall not constitute “grandfathering” of said work if it was undertaken after the establishment of an Historic District and without, or in violation of, a Certificate.

Existing features on structures within the historic districts may have been in place before the districts were established, undertaken without approval by the HHC, or approved through the application process. Standards for what is appropriate evolve over time and under different circumstances and commissions. Therefore, while existing features within an historic district provide some guidance when considering proposed changes or additions to other structures, they are not binding and cannot be considered as precedent (even if approved in the past).

If the HHC believes that a particular activity was undertaken after the establishment of an historic district, was not authorized by a Certificate, and is in violation of the terms of Chapter 48 of the Town of Harvard Bylaws, *or* that the activity is not in conformity with an approved certificate, the HHC may ask the property owner to appear at a meeting to discuss the activity and possible

remediation including requiring a retroactive Application for Certificate of Appropriateness. If the matter is not resolved to the satisfaction of the HHC, the HHC may take further steps as provided in § 48-9.

If an existing violation is present on a property that is the subject of an Application for a Certificate of Appropriateness, the HHC may deny the application on that basis if the property owner fails to modify the application to include acceptable curative action. The HHC may: (i) require the property owner to cure any such violations before a building permit is issued for the work requested in the application or (ii) allow the curing work to proceed contemporaneously with the application work. As used herein, "existing violation" means a previous alteration to the exterior architectural features of a structure that was undertaken without a Certificate of Appropriateness from the HHC under circumstances that required such a certificate to be issued, or an alteration that is not in conformity with an approved certificate, as determined by the HHC.