

# CODE OF THE TOWN OF DENNIS

## Chapter 111

### HISTORIC DISTRICT

#### **§ 111-1. Purpose.**

The purpose of this act is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of buildings and places in a district of historic, cultural or literary significance through the development and maintenance of appropriate settings and appearance of such buildings and to preserve and maintain such district as a landmark compatible with the historic, cultural and literary tradition of the Town of Dennis and as a reminder of Old South Dennis as it existed in the early days of Cape Cod.

#### **§ 111-2. District established.**

There is hereby established in the Town of Dennis a district to be known as the "South Dennis Historic" District," hereinafter called the "district," as shown on a plan with the Town Clerk.

#### **§ 111-3. Definitions.**

As used in this act, the following words and terms shall have the following meanings:

**BUILDING** — A combination of material having a roof and forming a shelter for persons, animals or property. This includes artificial pools and ponds.

**BUILDING INSPECTOR** — The Building Inspector of the Town of Dennis.

**ERECTED** — Includes the words "built," "constructed," "reconstructed," "restored," "altered," "enlarged" and "maintained."

**EXTERIOR ARCHITECTURAL FEATURE** — The architectural style and general arrangements of such portion of the exterior of a structure as is designed to be open to view from a public way or public place, including kind, color and texture of the building materials of such portion and type of all windows, doors, lights, signs and other fixtures appurtenant to such portion.

**STRUCTURE** — A combination of materials other than a building, sign or billboard, but including stone walls and fences.

**§ 111-4. South Dennis Historic District Commission established.**

- A. There is hereby established the South Dennis Historic District Commission, under the provisions of MGL c. 40C, hereinafter called the "Commission," consisting of five members appointed by the Selectmen, including one member where possible, from two nominees of the Dennis Historical Society, one member where possible from two nominees of the Massachusetts State Chapter of the American Institute of Architects and one member where possible, from two nominees of the Cape Cod Board of Realtors. One or more of the members shall be residents of the district. The Selectmen shall annually appoint one person residing in the district to serve as an alternate member who may, upon designation by the Chairman of the Commission, sit as a member in order to establish a quorum during Commission meetings. [Amended 5-7-1996 ATM, Art. 40]
- B. When the Commission is established, one member shall be appointed for a term of one year, two shall be appointed for terms of two years, and two shall be appointed for terms of three years, and their successors shall be appointed in like manner for terms of three years.
- C. Any vacancy occurring before the end of the term of any member shall be filled by the Selectmen by appointment for the remainder of the unexpired term.
- D. The Commission shall elect a Chairman, a Vice Chairman and a Secretary from its membership. In the case of the absence of the Chairman from any meeting, the Vice Chairman shall preside.
- E. Three members of the Commission shall constitute a quorum.
- F. Any member may be removed for cause by the Selectmen of the Town of Dennis upon written charges and after a public hearing.

**§ 111-5. General restrictions.**

- A. No building, structure or part thereof, except as provided under § 111-6, shall be erected within the district unless and until an application for a certificate of appropriateness as to the exterior architectural features shall have been filed with the Commission and either a certificate of appropriateness or a certificate that no exterior architectural feature is involved shall have been issued by the Commission.
- B. No building, structure or any part thereof within the district, except as provided under § 111-6, shall be demolished or removed unless and until an application for a certificate to demolish or remove the same shall have been filed with the Commission and such certificate shall have been issued by the Commission.
- C. No occupational, commercial or other sign, except as provided under § 111-6, and no billboard shall be erected or displayed on any lot or the exterior of any building or structure within the district unless and until an application for a certificate of appropriateness shall have been filed with the Commission and such certificate shall have been issued by the Commission. In the case of such sign or billboard erected or displayed prior to the effective date of this act, there shall be allowed a period of five years subsequent to said effective date in which to obtain such certificate.

- D. Except in cases excluded by § 111-6, no permit shall be issued by the Building Inspector for any building or structure to be erected within the district unless the application or said permit shall either be accompanied by a certificate of appropriateness or a certificate that no exterior architectural feature is involved has been issued under § 111-9.
- E. No permit shall be issued by the Building Inspector for the demolition or removal of any building or structure within the district unless the application for said permit shall be accompanied by a certificate issued under § 111-9.

**§ 111-6. Exceptions.**

- A. Nothing in this act shall be construed to prevent the ordinary maintenance and such repairs as do not change any exterior architectural feature of any building or structure within the district; nor shall anything in this act be construed to prevent the erection, construction, reconstruction, restoration, alteration or demolition of any such existing feature which the Building Inspector shall certify is required by the public safety because of an unsafe or dangerous condition; nor shall anything in this act be construed to prevent the erection, construction, reconstruction, restoration, alteration or demolition of any such feature under a permit issued by the Building Inspector prior to the effective date of this act.
- B The following structures and signs may be erected or displayed within the district without the filing of an application for or the issuance of a certificate of appropriateness:
  - 1. Temporary structures or signs for use in connection with any official celebration or parade or any charitable drive in the Town of Dennis, provided that any such structure or sign shall be removed within three days following the termination of the celebration, parade or charitable drive for which said structure or sign shall have been erected or displayed. Any other temporary structures or signs which the Commission shall determine do not substantially derogate from the intent and purposes of this act may from time to time be excluded from the provisions of § 111-5.
  - 2. Real estate signs of not more than three square feet in area advertising the sale or rental of the premises on which they are erected or displayed.
  - 3. Occupational signs of not more than one square foot in area and not more than one such sign, irrespective of size, bearing the name, occupation or address of the occupant of the premises on which such sign is erected or displayed where such premises are located within an R-20 One-Family Dwelling District as defined in the Zoning Bylaws of the Town of Dennis.
  - 4. A wooden fence in the open picket, rail or split rail style, provided it does not exceed four feet (4'0") in height, above the finished grade".

C The exterior color of any building or structure within the district may be changed to white without the filing of an application for or the issuance of a certificate of appropriateness or to any color or any combination of colors which the Commission shall determine from time to time may be used without substantial derogation from the intent and purposes of this act.

**§ 111-7. Filing of applications.**

Excepting cases excluded by § 111-6, any person, including the Town of Dennis, who desires to erect, move or demolish or remove or change the exterior color features of any building or structure within the district or to erect or display within the district any sign or billboard for which a certificate of appropriateness is required under § 111-5 shall file with the Commission an application for a certificate of appropriateness or a certificate for demolition or removal, as the case may be, together with such plans, elevations, specifications, material and other information as shall be deemed necessary by the Commission to enable it to make a determination on the application.

**§ 111-8. Meetings, hearings and determinations of Commission.**

- A. Meetings of the Commission shall be held at the call of the Chairman and also when called in such other manner as the Commission shall determine by its rules.
- B. The Commission shall determine promptly after the filing of an application for a certificate of appropriateness as to exterior architectural features whether the application involves any such features. If the Commission determines that such application involves any exterior architectural features, the Commission shall hold a public hearing thereon.
- C. The Commission shall fix a reasonable time for the hearing on any application and shall give public notice thereof by publishing notice of the time, place and purpose of the hearing in a local newspaper at least 14 days before said hearing and also, not less than seven days prior to said hearing by mail a copying of said notice to the applicant, to owners of property abutting the premises to be affected as they appear on the most recent local tax list, to the Planning Board, the town and to such other persons as the Commission shall deem entitled to notice.
- D. As soon as convenient after such public hearing, but in any event within sixty (60) days after the filing of the application, or within such further time as the applicant shall allow in writing, the Commission shall make a determination on the application. If the Commission shall fail to make a determination within said sixty (60) days or within such further time allowed by the applicant, the Commission shall be deemed to have approved the application.

**§ 111-9. Powers and duties of Commission.**

- A. The Commission shall pass upon:
  - (1) The appropriateness of exterior architectural features of buildings and structures to be erected within the district.

- (2) The demolition or removal of any building or structure or any part thereof, within the district. The Commission may refuse a certificate for the demolition or removal of any building or structure of architectural or historic interest, the removal of which, in the opinion of the Commission, would be detrimental to the public interest.
  - (3) The appropriateness of the erection or display of occupational, commercial or other signs and billboards within the district wherever a certificate of appropriateness for any such sign or billboard is required under § 111-5.
- D. In passing upon appropriateness, demolition or removal, the Commission shall determine whether the features, demolition or removal of the building, structure, sign or billboard involved will be appropriate for the purposes of this act and, if it shall be determined to be inappropriate, shall determine whether, owing to conditions especially affecting the building structure, sign or billboard involved but not affecting the district generally, failure to approve an application will involve a substantial hardship 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 act. If the Commission determines that the features, demolition or removal of the building, structure, sign or billboard involved will be appropriate or, although inappropriate, owing to conditions as aforesaid, failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without substantial detriment or derogation as aforesaid, the Commission shall approve the application; but if the Commission does not so determine, the application shall be disapproved.
- E. In passing upon appropriateness, the Commission shall consider, among other things, the historical value and significance of the building or structure, the general design, arrangement, texture, material and color of the features, sign or billboard involved and the relation of such factors to similar factors of buildings and structures in the immediate surroundings. The Commission shall consider settings and relative size of buildings and structures but shall not consider detailed designs, interior arrangement and other building features not subject to public view. The Commission shall not make any recommendations or requirements except for the purpose of preventing changes in exterior architectural features obviously incongruous to the purposes set forth in this act.
- F. The concurring vote of three members of the Commission shall be necessary to make a determination in favor of the applicant on any matter upon which the Commission is required to under this act. The Commission shall adopt rules and regulations for the conduct of its business not inconsistent with the provisions of the MGL C. 40C and may, subject to appropriation, employ clerical and technical assistants or consultants and may accept money gifts and expend the same for such purposes.

**§ 111-10. Appeals.**

- A. Any person aggrieved by the determination of the Commission or by approval of an application through failure of the Commission to make a determination within the time allowed under § 111-8, whether or not previously a party to the proceeding, may within 20 days after the filing of a notice of such determination or approval with the Town Clerk, appeal to the Superior Court sitting in equity for the County of Barnstable. The Court shall hear all pertinent evidence and determine the facts; and if, upon the facts so determined, such determination or approval is found to exceed the authority of the Commission, the court shall annul such determination or approval and remand the case for further action by the Commission. The remedies provided by this action shall be exclusive, but the parties shall have all rights of appeal and exception as in other equity cases.
- B. Costs shall not be allowed against the Commission unless it shall appear to the Court that the Commission acted in bad faith or with malice in the matter from which the appeal was taken.
- C. Costs shall not be allowed against the party appealing from such determination or approval of the Commission unless it shall appear to the Court that said party acted in bad faith or with malice in making the appeal to the Court.

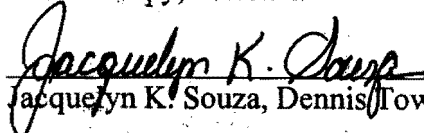
**§ 111-11. Violations and penalties; enforcement.**

- A. Any person who violates any provision of this bylaw shall be fined not less than \$100 nor more than \$500. Each day of violation of this act shall constitute a separate offense.
- B. The Building Inspector and/or his agent or designee shall have the power and the duty to enforce the provisions of this bylaw.
- C. The Superior Court for the County of Barnstable shall have jurisdiction to enforce the provisions of this bylaw and the determinations, rulings and regulations issued thereunder and may restrain by injunction violations thereof and issue such other orders for relief of violations as may be required.

**§ 111-12. Severability.**

The provisions of this act shall be deemed to be severable; and in case any part of this act shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair the validity of any other part.

A True Copy, Attest:

  
Jacquelyn K. Souza, Dennis Town Clerk

Amendment under Chapter 111, Historic District, §111-6, paragraph b(4) approved on February 20, 2008 by Assistant Attorney General Kelli E. Gunagan.

# South Dennis Historic District

