

Chapter 38 HISTORICAL PRESERVATION ^[1]

ARTICLE I. - IN GENERAL

ARTICLE II. - HISTORICAL COMMISSION

ARTICLE III. - REGISTER OF SIGNIFICANT STRUCTURES

FOOTNOTE(S):

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Cross reference— Buildings and building regulations, ch. 10; environment, ch. 26; housing, ch. 42; streets, sidewalks and other public places, ch. 66; utilities, ch. 74; zoning, ch. 86. (Back)

State Law reference— Exception from building code requirements for historical structures, M.G.L.A. c. 143, § 4. (Back)

ARTICLE I. IN GENERAL

Secs. 38-1—38-30. Reserved.

Secs. 38-1—38-30. Reserved.

ARTICLE II. HISTORICAL COMMISSION ^[2]

Sec. 38-31. Established; membership; powers and duties.

Secs. 38-32—38-60. Reserved.

Sec. 38-31. Established; membership; powers and duties.

There is hereby established under the provisions of M.G.L.A. c. 40, § 8D, the historical commission of the city, for the purposes and with the rights and duties provided by law, to be composed of seven members.

(Rev. Ords. 1988, § 10-16)

Editor's note—

Historical commission, M.G.L.A. c. 40, § 8D, was accepted by the city on September 16, 1977.

Secs. 38-32—38-60. Reserved.

FOOTNOTE(S):

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Cross reference— Boards, committees and commissions, § 2-221 et seq. (Back)

State Law reference— Historical commission, M.G.L.A. c. 40, § 8D. (Back)

ARTICLE III. REGISTER OF SIGNIFICANT STRUCTURES

DIVISION 1. - GENERALLY

DIVISION 2. - HEARINGS AND DETERMINATIONS

DIVISION 3. - NOTICE OF INTENT TO DEMOLISH STRUCTURE

DIVISION 4. - REQUESTS FOR EXEMPTION

DIVISION 1. GENERALLY

Sec. 38-61. Definitions.

Sec. 38-62. Penalty.

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Sec. 38-67. Enforcement.

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Secs. 38-69—38-90. Reserved.

Sec. 38-61. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building inspector means the person authorized to issue permits for the demolition of structures.

Chairperson means the chairperson of the historical commission or his designee.

Demolition means the act of pulling down, destroying, removing or razing a structure, or commencing the work of total or substantial destruction with intent of completing such destruction, and shall apply to the exterior of the structure only.

Historical commission means the historical commission established by section 38-31 under the provisions of M.G.L.A. c. 40, § 8D.

Significant structure means a structure that shall be deemed to be significant for purposes of this article if:

- (1) It is listed on the national register of historic places; or
- (2) In the judgment of the historical commission, it is or may be eligible for listing on the national register of historic places under the criteria applied to evaluate properties for possible inclusion in the register, as set forth in chapter 1, title 36, Code of Federal Regulations, part 60, section 60.6, as amended from time to time.

(Rev. Ords. 1988, § 10-31)

Cross reference— Definitions generally, § 1-2.

Sec. 38-62. Penalty.

Whoever knowingly violates any provision of this article shall be punished by a fine as provided in section 1-15. Such fine shall in no way be deemed or considered to be or to create a lien or encumbrance of any kind upon or with respect to the real estate in issue.

(Rev. Ords. 1988, § 10-38)

Sec. 38-63. Preparation; contents.

The historical commission shall prepare, maintain and deposit with the building inspector a written listing of structures in the city determined by it, after nomination and hearing, to be significant structures. This listing shall be called the Fall River Register of Significant Structures and shall indicate, for each structure listed on it, the date it was determined to be significant, the address and location, and such further information as the historical commission may, from time to time, deem desirable to include.

(Rev. Ords. 1988, § 10-32)

Sec. 38-64. Methods of nomination.

A nomination for the listing of any structure on the Fall River Register of Significant Structures shall be made in the form of a writing submitted to the chairperson of the historical commission signed by the owner of record, by a member of the historical commission, or by 25 residents of the city. The following requirements for each method must be met:

- (1) The owner of record shall provide the property location and all pertinent information and history regarding such structure that is available to the owner, and the reason for the request.
- (2) Members of the historical commission shall provide the property location, with a description of the structure, and the reason for the request.
- (3) The petition of 25 city residents shall provide the property location by street address, assessor's plat and lot number, owner of record, narrative description of the property, and reason for nomination. Any nomination by this method is limited to 25 structures per petition.

(Rev. Ords. 1988, § 10-33)

Sec. 38-65. Effect of nomination on other proceedings.

A nomination under the provisions of this article shall by itself have no effect on the issuance of any demolition or other permit applied for with respect to the structure which is the subject of such nomination.

(Rev. Ords. 1988, § 10-34)

Sec. 38-66. Procedure for listing on register exclusive.

No structure may be listed on the Fall River Register of Significant Structures other than pursuant to the procedures set forth in this article.

(Rev. Ords. 1988, § 10-35)

Sec. 38-67. Enforcement.

The chairperson of the historical commission and the building inspector are each specifically and individually authorized to institute any and all actions and proceedings in law or in equity as they may deem necessary and appropriate to obtain compliance with the requirements of this article and to prevent any violation thereof.

(Rev. Ords. 1988, § 10-36)

Sec. 38-68. Emergency demolition.

The notice requirements of this article shall not apply in the case of an imminent and serious danger to the safety of the public.

(Rev. Ords. 1988, § 10-39)

DIVISION 2. HEARINGS AND DETERMINATIONS

Sec. 38-91. Scheduling of hearings.

Sec. 38-92. Notice of hearings.

Sec. 38-93. Determination.

Secs. 38-94—38-110. Reserved.

Sec. 38-91. Scheduling of hearings.

Upon receipt of a nomination under the provisions of this article, the chairperson of the historical commission shall schedule a public hearing before the full historical commission, to be held within 30 days of such receipt.

(Rev. Ords. 1988, § 10-51)

Sec. 38-92. Notice of hearings.

- (a) Notice of the public hearing provided for by this division shall, no later than 15 days prior thereto, be:
- (1) Mailed by certified mail, return receipt, postage prepaid, to the owner of record;
 - (2) Mailed to any organization or individual concerned with the preservation of structures within the city that has indicated to the chairperson of the historical commission a desire routinely to receive such notices, in stamped, self-addressed envelopes provided by such organization or individual;
 - (3) Given to each member and duly appointed alternate member of the historical commission pursuant to such rules as the historical commission may adopt; and
 - (4) Given to the office of historic preservation.
- (b) Notice of the hearing shall be mailed by first class mail to the owner of record five days prior to the public hearing if the request for nomination was received from the owner of record.

(Rev. Ords. 1988, § 10-52)

Sec. 38-93. Determination.

Within 21 days following the close of the public hearing provided for this division, the historical commission shall reach, by majority vote of the members or duly appointed alternate members, and announce its determination, either:

- (1) That the subject structure is a significant structure and that it shall be forthwith listed on the Fall River Register of Significant Structures and subject to the requirements of division 3 of this article; or
- (2) That the subject structure is not presently a significant structure and that it shall be exempt from nomination and consideration for listing on the Fall River Register of Significant Structures for a period of five years from the date of such determination.

(Rev. Ords. 1988, § 10-53)

Secs. 38-94—38-110. Reserved.

DIVISION 3. NOTICE OF INTENT TO DEMOLISH STRUCTURE

Sec. 38-111. Notice required.

Sec. 38-112. Acknowledgment of notice.

Sec. 38-113. Restrictions on issuance of demolition permit.

Sec. 38-114. Persons and organizations to be notified of proposed demolition.

Secs. 38-115—38-130. Reserved.

Sec. 38-111. Notice required.

At least six months, but not more than one year, prior to the filing of an application for a permit to demolish, in whole or in part, any structure listed on the Fall River Register of Significant Structures, the individual or entity intending to file such application shall give written notice of such intent to the chairperson of the historical commission.

(Rev. Ords. 1988, § 10-66)

Sec. 38-112. Acknowledgment of notice.

- (a) Upon his receipt of a written notice under section 38-111, the chairperson of the historical commission shall prepare and sign a statement in writing acknowledging receipt of such notice and specifying the date of such receipt.
- (b) Within seven days of such receipt, duplicate originals of the statement prepared and signed under subsection (a) of this section shall be filed with the building inspector or his department and mailed or otherwise made available to the prospective applicant.

(Rev. Ords. 1988, § 10-67)

Sec. 38-113. Restrictions on issuance of demolition permit.

The building inspector shall not approve any application for a permit to demolish, in whole or in part, any structure listed on the Fall River Register of Significant Structures unless, with respect to such structure, there has been filed with him or with his department the statement, in writing, required under the provisions of section 38-112, nor shall he approve any such application prior to the expiration of six months from the date the chairperson of the historic commission received the written notice of intent required under section 38-111.

(Rev. Ords. 1988, § 10-68)

Sec. 38-114. Persons and organizations to be notified of proposed demolition.

Within 14 days of his receipt of a written notice of intent under section 38-111, the chairperson of the historical commission shall:

- (1) Mail notice of such receipt to any organization or individual concerned with the preservation of structures within the city that has indicated to the chairperson of the historical commission a desire routinely to receive such notice, in stamped, self-addressed envelopes provided by such organization or individual;
- (2) Give notice of such receipt to each member and duly appointed alternate member of the historical commission pursuant to such rules as the historical commission may adopt; and
- (3) Give notice of such receipt to the office of historic preservation.

(Rev. Ords. 1988, § 10-69)

Secs. 38-115—38-130. Reserved.

DIVISION 4. REQUESTS FOR EXEMPTION

Sec. 38-131. Authority of city council.

Sec. 38-132. Procedure.

Sec. 38-133. Period of exemption.

Sec. 38-131. Authority of city council.

At the request of the owner of record of any structure, the city council may exempt such structure from the notice requirements of division 3 of this article if enforcing compliance with such requirements would constitute an unjustifiable hardship to such owner.

(Rev. Ords. 1988, § 10-81)

Sec. 38-132. Procedure.

A request under the provisions of this division shall be made to the president of the city council, who shall call a meeting of the full city council to rule on the owner's request, such meeting to be held no later than 30 days from the date of receipt of such request.

(Rev. Ords. 1988, § 10-82)

Sec. 38-133. Period of exemption.

A structure exempted from the notice requirements of division 3 of this article shall remain exempt from such requirements for a period of five years from the date of original exemption.

(Rev. Ords. 1988, § 10-83)