

972 CMR: OLD KING'S HIGHWAY REGIONAL
HISTORIC DISTRICT COMMISSION

972 CMR 1.00: RULES OF PROCEDURE

Section

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1.01: Authorization and Purpose

(1) Authorization. In accordance with St. 1973, c. 470, § 4 of the Old King's Highway Regional Historic District Act, the Rules and Regulations of the Old King's Highway Regional Historic District Commission are herein established.

(2) Purpose. 972 CMR 1.00 delineates the Old King's Highway Regional Historic District Commission's procedures and to furnish other information which said Commission considers useful for those appearing before it.

1.02: Definitions

As used in 972 CMR 1.00:

Commission means the Old King's Highway Regional Historic District Commission.

Committee means a member town's historic district Committee as created under St. 1973, c. 470, § 5, the Old King's Highway Regional Historic District Act.

Appellant means the person or party who is appealing the decision of a town's historic district committee.

Applicant means the person or party whose application to a town's committee is the subject of the appeal.

Date of Receipt as it applies to appeals shall be the date upon which a written appeal is received by Commission counsel or properly postmarked, whichever is earlier.

Certificate mean a Certificate of Appropriateness, Certificate for Demolition or Removal, or Certificate of Exemption, whichever is applicable to the issue of appeal.

Historic District Act means the Old King's Highway Regional Historic District Act, St. 1973, c. 470.

District means the Old King's Highway Regional Historic District.

1.03: General Procedures

(1) Committee Hearings. All hearings shall be conducted under the supervision of the Chairman with a minimal amount of formality. The applicant or his agent is encouraged to present to the Committee a complete explanation of the project with a minimum amount of repetition and emotion. All interested persons will be given an opportunity to speak at the hearing. Formal procedures will be used only to the extent that it is necessary to protect the rights of all interested persons.

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(2) Revisions To Approved Plans.

(a) Only minor changes may be approved by the Committee without the filing of a new application and a new hearing. Minor changes include alterations that can be done without a detrimental impact on the overall appearance of the project such as altering a single window or door change or a minor change of colors. All minor changes by amendment will require the local Committee's or its designee's approval.

(b) Upon failure of a Committee to approve a proposed amendment, the applicant's only remedy is to file a new application for a Certificate of Appropriateness specifically addressing the proposed change. A new public hearing in accordance with the requirements of St. 1973, c. 470 shall then be held by the Committee.

(3) Commission Procedures.

(a) Correspondence. All communications to the Commission shall be addressed to: Old Kings Highway Regional Historic District, P.O. Box 140, Barnstable, MA 02630-0140, Telephone: (508) 775-1776.

(b) Official Commission Business. Official Commission Business shall be conducted at an open public meeting presided over by the Chairman. Four members shall constitute a quorum unless the number required for a quorum shall be changed by legislative action.

(c) Commission Meetings. Commission meetings shall be held on the first Tuesday of each month or as otherwise designated by the Chairman. Notice of all meetings including date, time and place shall be published at least seven days in advance of the date of such meeting in a newspaper published within Barnstable County and distributed within each of the Towns of the District. In addition, the notice for all Commission meetings shall be posted at the County Commissioners' Office at least 48 hours prior to the meeting.

(d) Commission Membership. The Commission membership shall be comprised of the Chairperson of each town's historic district committee. In the event that the town committee's Chairperson is unable to attend Commission meetings, another member of the Committee may be designated as Chairperson *Pro Tem* to sit on the Commission and have full powers *pro tem*.

(e) Computation of Time Periods. For the purposes of St. 1973, c. 470, the computation of time periods shall be as follows:

1. Whenever an action is required, by law or 972 CMR 1.00, to be performed within a specific number of days after or not less than a specified number of days before, the day of such action shall not be counted as one of such specified number of days.
2. Whenever the final day of taking any action, including the filing of appeals or rendering of decisions pursuant to St. 1973, c. 470 falls on a Saturday, Sunday or legal holiday, the time for taking such action shall be extended to the next following business day.
3. All appeal petitions shall be deemed filed on the date of receipt except for mailed appeal petitions, which shall be deemed filed as of the postmark date.

(4) Appeal Petitions.

(a) Appeal petitions submitted to the Commission shall be in written form and contain the following:

1. the signature and address of the aggrieved person or his designated representative;
2. the grounds for appeal;
3. the relationship of the Appellant to the subject of the appeal (*i.e.* applicant, abutter, or other aggrieved party); and
4. the remedy being sought.

(b) Appeal petition forms provided by the Commission shall be used. (*See Appendix Form D*).

(c) A certified copy of the town committee's decision must be obtained by the Appellant from the Town Clerk and submitted with the appeal petition.

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(d) The appeal petition must be postmarked not more than ten days after the date on which the Committee's decision is filed with the Town Clerk. If the case is one where the approval of an application resulted from a Committee's failure to act within the period prescribed by St. 1973, c. 470, the appeal must be filed not more than ten days after the expiration of said period. Appeals may not be filed by the use of facsimile machines or electronic mail systems.

(e) Prior to the expiration of time within which an appeal may be submitted, the Appellant shall also mail or deliver a copy of the appeal petition to the:

1. Town Clerk,
2. Town Committee, and
3. Applicant (if different from appellant).

(f) A \$100.00 filing fee must be paid to the Commission at the time of filing the appeal.

(5) Notification after Receipt of an Appeal Petition.

(a) A public hearing upon the appeal shall be held by the Commission not more than 30 days after the date of receipt of the appeal petition. The Commission shall mail a written notice of the date, time and place of such hearing not less than seven days before such date to:

1. Appellant,
2. Applicant (if different from the Appellant),
3. Town Clerk (of the affected town) and
4. Commission members.

(b) Not less than seven days before the hearing the notice shall be printed in a newspaper which is published within Barnstable County and distributed within each of the towns in the District.

(6) Committee Records. Upon notification of an appeal, a town Committee shall assemble the file pertaining to the subject of the appeal. This information shall include plans, specifications, elevations, minutes of the committee's hearing and any other relevant data. The Committee Chairperson or Chairperson *Pro Tem* shall bring the file to the Commission hearing for review. Upon completion of the Commission hearing the said file shall be returned to the Committee.

(7) Appeal Withdrawal. An appeal may be withdrawn at any time prior to the opening of the public hearing by the Commission by filing a letter requesting the same with Commission Counsel. The Commission will take no further action without a new review by the respective Town Committee.

1.04: Conduct of Appeals

(1) General.

(a) The appeal hearings shall be conducted during a public meeting of the Commission presided over by the Chairman.

(b) The voting members of the Commission shall be those present, including *pro tem* members, but excluding the member whose town committee originally decided the issue being appealed. A present but non-voting member shall be included for purposes of determining a quorum.

(c) The Commission shall not be bound by the strict rules of evidence applicable to the courts of law.

(2) Order of Presentation.

(a) A clear, concise statement setting forth a description of the proposed project and identifying specific reasons and/or factors supporting the granting of a Certificate shall be made by or on behalf of the Applicant (if different from the Appellant).

(b) A clear, concise statement of the appellant's objections to the Town Committee's decision shall be made by or on behalf of the Appellant. Such statement shall include the grounds for the appeal.

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(c) The Chairman of the respective town committee or his designee shall make a clear, concise statement of the basis for the decision of the Committee.

(d) Other persons may be heard by the Commission and may present testimony and evidence relevant to the appeal. The Commission may impose reasonable time limits to all debate or discussion.

(3) Decorum. All parties, counsel, witnesses and any other persons present at an appeal shall conduct themselves in a manner consistent with the standards of decorum commonly observed in a court of law. In situations when such decorum is not observed, the Commission may take such action, as it deems necessary to ensure the just and orderly conduct of the appeal hearing.

(4) Non Appearance. If no representative appears for one or more of the involved parties in an appeal, the Commission may still carry out the appeal hearing in accordance, as nearly as possible, with the guidelines set forth in 972 CMR 1.04.

(5) Continuance of a Hearing.

(a) The Commission may, for good cause shown, postpone or continue an appeal hearing to a time within the review period designated in St. 1973, c. 470.

(b) The Commission may extend its review period for an appeal beyond 30 days if written consent is obtained from the Appellant and Applicant (if different from the Appellant).

(6) Public Record. A copy of all appeal petitions and written decisions shall be maintained as the official public record of the Commission's actions.

(7) Appeal Decision. The Commission shall render its decision in writing, stating the grounds thereof, within 30 days after the date upon which the appeal hearing was conducted. A copy of the decision shall be mailed or delivered to the Appellant, Applicant (if different from the Appellant), the Town Committee Chairperson, and the Town Clerk.

1.05: Amendment of Rules and Regulations: General

972 CMR 1.00 may be amended or supplemented from time to time by a vote of not less than $\frac{2}{3}$ of the members of the Commission.

REGULATORY AUTHORITY

972 CMR 1.00: St. 1973, c. 470, § 4.