

Chapter 121
HISTORIC DISTRICTS AND COMMISSIONS

Part 1
Ashley Falls

ARTICLE I
General Provisions

- § 121-1. Statutory authority.
- § 121-2. Purpose.
- § 121-3. Alteration and construction of buildings in district.
- § 121-4. Severability.
- § 121-5. Conflicts with other laws.

ARTICLE II
District Boundaries

- § 121-6. Establishment.
- § 121-7. Alteration of lines; creation of new districts.

ARTICLE III
Historic District Commission

- § 121-8. Membership.
- § 121-9. Terms; alternates; compensation; officers.
- § 121-10. Meetings; quorum; majority vote required on certain matters.
- § 121-11. Powers and duties.
- § 121-12. Limitations.

ARTICLE IV
Definitions; Administration; Enforcement

- § 121-13. Terms defined.
- § 121-14. Application for certificate.
- § 121-15. Public hearings; determination.
- § 121-16. Certificate of appropriateness.
- § 121-17. Certificate of nonapplicability.
- § 121-18. Certificate of hardship.
- § 121-19. Filing of certificate and disapprovals.
- § 121-20. Certificates required for issuance of permits.
- § 121-21. Enforcement.
- § 121-22. Violations and penalties.

ARTICLE V
Appeals

- § 121-23. Filing; decision.

ARTICLE VI
Amendments

- § 121-24. Procedure to be followed.

Ashley Falls Historic District Boundaries

[HISTORY: Adopted by the Town of Sheffield: Part 1, 5-8-1988 Annual Town Meeting, Art. 24. Amendments noted where applicable.]

GENERAL REFERENCES

Historical Commission -- See Ch. 25.
Signs -- See Ch. 168.
Zoning -- See Ch. 215.

ARTICLE I
General Provisions

§ 121-1. Statutory authority.

This Part 1 is enacted by the Town of Sheffield under the authority of Chapter 40C of the Massachusetts General Laws, hereinafter referred to as the "Historic Districts Act."

§ 121-2. Purpose.

The purpose of this Part 1 is to promote the educational, cultural, economical and general welfare of the public through the preservation and protection of the distinctive characteristics of the buildings and places significant in the history of Ashley Falls or significant for their architecture and the maintenance and improvement of settings for such buildings and places and the encouragement of design compatible therewith.

§ 121-3. Alteration and construction of buildings in district.

Buildings or structures within the Ashley Falls Historic District shall not be constructed or altered in any way that affects exterior architectural features unless the Ashley Falls Historic District Commission shall have issued a certificate in accordance with §§ 121-16 through 121-18 hereof or unless such construction or alterations are exempt from review in accordance with § 121-12, Limitations, hereof.

§ 121-4. Severability.

The provisions of this Part 1 shall be deemed to be severable. If any of its provisions shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

§ 121-5. Conflicts with other laws.

A. In case of any conflict between wording of this text and the Massachusetts General Laws, the Massachusetts General Laws shall govern.

B. Where this Part 1 imposes a greater control upon setback or other external features than is imposed by other bylaws of the Town of Sheffield, the provisions of this Part 1 shall govern.

ARTICLE II
District Boundaries

§ 121-6. Establishment.

The location, boundaries and extent of this Ashley Falls Historic District are hereby established as shown on a plan entitled "Historic District Plan of the Village of Ashley Falls," which plan is incorporated herein by reference.¹ Whenever any uncertainty exists as to the exact location of a district boundary line, the location of such line shall be fixed and determined by the Ashley Falls Historic District Commission.

§ 121-7. Alteration of lines; creation of new districts.

The district may be enlarged or reduced or additional historic districts may be created in accordance with the Historic Districts Act, Section 3.²

ARTICLE III
Historic District Commission

§ 121-8. Membership.

The Ashley Falls Historic District Commission shall consist of five (5) members and two (2) alternate members appointed by the Board of Selectmen. The majority of members must be residents of or property owners in the district. Not more than one (1) member may be a nonresident or nonproperty owner of Sheffield. The Commission shall include, if possible, one (1) member from two (2) nominees submitted by the Sheffield Historical Society, one (1) member from two (2) nominees submitted by the Board of Realtors covering the area and one (1) member from two (2) nominees submitted by the Chapter of the American Institute of Architects covering the area. If within thirty (30) days of submission of a written request for nominees to an organization entitled to submit nominations for membership on the Commission no such nominations have been made, the Board of Selectmen may proceed to make an appointment to the Commission without nomination by such organization.

¹Editor's Note: The boundary description of the Ashley Falls Historic District is included at the end of this chapter. The Map depicting such boundaries is on file.

²Editor's Note: See M.G.L.A. C. 40C, ~ 3.

§ 121-9. Terms; alternates; compensation; officers.

- A. The appointments to membership in the Commission shall be arranged so that the term of the member nominated by the Board of Realtors and the term of the member nominated by the American Institute of Architects shall originally be for a period of one (1) year. The term of the member nominated by the Sheffield Historical Society and the term of one (1) member at large shall originally be for a period of two (2) years, and the term of the remaining member at large shall be for a period of three (3) years. Thereafter, all appointments shall be for periods of three (3) years. Vacancies shall be filled in the same manner as the original appointment for the unexpired term. Alternates shall be appointed annually.
- B. In case of the absence, inability to act or unwillingness to act because of self-interest on the part of a member of the Commission, the member's place shall be taken by an alternate member designated by the Chairman.
- C. Each member and alternate shall continue in office after expiration of the member's or the alternate's term until a successor is duly appointed and qualified.
- D. All members shall serve without compensation.
- E. The Commission shall elect annually a Chairman and a Vice Chairman from its own number and a Secretary from within or without its number.

§ 121-10. Meetings; quorum; majority vote required on certain matters.

- A. Meetings of the Commission shall be held at the call of the Chairman or shall be called at the request of two (2) members of the Commission or in such other manner as the Commission shall determine in its rules.
- B. A majority of the members of the Commission shall constitute a quorum.
- C. The concurring vote of a majority of the members of the Commission present shall be necessary to issue a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship.

§ 121-11. Powers and duties.

- A. In passing upon matters before it, the Commission shall consider, among other things, the historic and architectural value and significance of the site, building or structure, the general design, arrangement, texture and material of the features involved and the relation of such features to similar features of buildings and structures in the surrounding area. In case of new construction or additions to existing buildings or structures, the Commission shall consider the appropriateness of the size, scale and shape of the same in relation to the land area upon which the building or structure is situated to adjacent buildings and structures and to buildings and structures in the surrounding area.
- B. The Commission may, in appropriate cases, impose dimensional and setback requirements in addition to those required by applicable bylaws.
- C. The reconstruction of a building, structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster should be begun within one (1) year and carried forward with due diligence. Before reconstruction, a certificate of appropriateness must be obtained from the Commission.
- D. The Commission may determine, from time to time, after public hearing, that certain categories of exterior architectural features or structures may be constructed or altered without review by the Commission without causing substantial derogation from the intent and purposes of this chapter.
- E. The Commission may, after public hearing, set forth in such a manner as it may determine materials and appurtenances which will meet the requirements of an historic district, but no such determination shall limit the right of the applicant to present other designs or colors to the Commission for its approval.
- F. The Commission shall require appropriate drawings to show the nature and extent of proposed construction or alterations.
- G. The Commission may, subject to appropriations, employ clerical and technical assistants or consultants and incur other expenses appropriate to the carrying on of its work and may accept money gifts and expend the same for such purposes. The Commission may administer on behalf of the town any properties or easements or restrictions or other interests in real property which the town may have or may accept as gifts or otherwise and which the town may designate the Commission as the administer thereof.
- H. The Commission shall have, in addition to the powers, authority and duties granted to it by this chapter, such other powers, authority and duties as may be delegated or assigned to it, from time to time, by vote of a Town Meeting.
- I. The Commission shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein and may adopt and amend such rules and regulations not inconsistent with the provisions of the Historic District Act³ and prescribe such forms as it shall deem desirable and necessary for the regulation of its affairs and the conduct of its business. The Commission shall file a copy of any such rules and regulations with the Town Clerk.

³Editor's Note: Chapter 40C of the Massachusetts General Laws.

§ 121-12. Limitations.

- A. The Commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the district.
- B. The Commission shall not extend its review to:
- (1) Ordinary repair, maintenance or replacement of any exterior feature which does not result in change of design, material or exterior appearance thereof.
 - (2) Landscaping, except where made a condition of granting a certificate.
 - (3) Interior arrangements.
 - (4) Architectural features not subject to public view from an elevation of five (5) feet from public ways within the district when deciduous foliage is off.
 - (5) Temporary signs, banners or placards nor temporary events, such as art shows, church fairs or bazaars nor temporary structures approved by special permission of the Selectmen.
 - (6) Temporary structures or seasonal decorations which are removed within thirty (30) days of installation.
 - (7) Painting or paint color, unless the existing color is to be changed.
 - (8) Storm doors, screen doors, storm windows or window screens.
 - (9) Air conditioners installed in existing openings.
 - (10) Replacement of roofing materials, provided that the appearance of the new material is substantially similar to the existing in color and texture.
 - (11) Resurfacing of sidewalks, terraces, driveways or parking areas if the appearance of the new material is substantially similar to the old in texture and color.
 - (12) Any construction or alteration under a permit duly issued prior to the effective date of this Part 1.
 - (13) Buildings or structures used for agriculture on a working farm, except that buildings on such farms used for personal residence are subject to Commission review.

ARTICLE IV

Definitions; Administration; Enforcement

§ 121-13. Terms defined.

As used in this Part 1, the following terms shall have the meanings indicated:

ALTERED -- Includes the words "rebuilt," "reconstructed," "restored," "removed" and "demolished."

BUILDING -- A combination of materials forming a shelter for persons, animals or property.

COMMISSION -- The commission acting as the Ashley Falls Historic District Commission.

CONSTRUCTED -- Includes the words "built," "erected," "installed," "enlarged" and "moved."

DISTRICT -- The Ashley Falls Historic District.

EXTERIOR ARCHITECTURAL FEATURE -- Such portion of the exterior of a building or structure as is open to public view, including but not limited to the architectural style and general arrangement and setting thereof, the kind and texture of exterior materials and the type and style of windows, doors, lights and other exterior appurtenances.

STRUCTURE -- A combination of materials other than a building, including but not limited to a sign, fence, wall, terrace, walk, driveway, parking area or swimming pool.

§ 121-14. Application for certificate.

Any person who desires to obtain a certificate from the Commission shall file with the Commission an application for a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship, as the case may be, in such form as the Commission may reasonably determine, together with such plans, elevations, specifications, material and other information, including, in the case of demolition or removal, a statement of the proposed condition and appearance of the property thereafter as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

§ 121-15. Public hearings; determination.

A. The Commission shall determine promptly and in all events within fourteen (14) days after the filing of an application for a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship, as the case may be, whether the application involves any exterior architectural features which are subject to approval by the Commission. If the Commission determines that such application involves such features, the Commission shall hold a public hearing on such application unless such hearing is dispensed with as hereinafter provided.

- B. The Commission shall fix a reasonable time for the hearing on any application and shall give public notice of the time, place and purposes thereof at least fourteen (14) days before said hearing in such manner as it may determine and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors, to the Planning Board of the town, to any person filing written request for notice of hearings, such request to be renewed yearly in December and to such other persons as the Commission shall deem entitled to notice.
- C. As soon as convenient after such public hearing, but in any event within sixty (60) days after filing of such application or within such further time as the applicant may allow, in writing, the Commission shall make a determination on the application. If the Commission shall fail to make a determination within such a period of time, the Commission shall thereupon issue a certificate of hardship.
- D. A public hearing on an application need not be held if such hearing is waived, in writing, by all persons entitled to notice thereof. In addition, a public hearing on an application may be waived by the Commission if the Commission determines that the change to the exterior architectural feature involved is so insubstantial in its effect on the historic district that it may be reviewed by the Commission without public hearing on the application; provided, however, that if the Commission dispenses with a public hearing on an application, notice shall be given to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby, as above provided, and ten (10) days shall elapse after the mailing of such notice before the Commission may act upon such application.

§ 121-16. Certificate of appropriateness.

If the Commission 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 historic district, the Commission shall cause a certificate of appropriateness to be issued to the applicant. In the case of disapproval of an application for a certificate of appropriateness, the Commission shall place upon its records the reasons for such determination and shall forthwith cause a notice of its determination, accompanied by a copy of the reasons therefor as set forth in the records of the Commission, to be issued to the applicant, and the Commission may make recommendations to the applicant with respect to appropriateness of design, arrangement, texture, material and similar features. Prior to the issuance of any disapproval, the Commission may notify the applicant of its proposed action accompanied by recommendations of changes in the applicant's proposal which, if made, would make the application acceptable to the Commission. If, within fourteen (14) days of the receipt of such notice, the applicant files a written modification of his application in conformity with the recommended changes of the Commission, the Commission shall cause a certificate of appropriateness to be issued to the applicant.

§ 121-17. Certificate of nonapplicability.

In the case of a determination by the Commission that an application for a certificate of appropriateness or for a certificate of nonapplicability does not involve any exterior architectural features or involves an exterior architectural feature which is not then subject to review by the Commission in accordance with the provisions of Article III, the Commission shall cause a certificate of nonapplicability to be issued to the applicant.

§ 121-18. Certificate of hardship.

If the construction or alteration for which an application for a certificate of appropriateness has been filed shall be determined to be inappropriate 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 but not affecting the district generally, failure to approve an application shall involve a substantial hardship, financial or otherwise, 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 Part 1. If the Commission determines that, owing to such conditions, failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation or in the event of failure to make a determination on an application within sixty (60) days after the filing of an application, the Commission shall cause a certificate of hardship to be issued to the applicant.

§ 121-19. Filing of certificate and disapprovals.

The Commission shall file with the Town Clerk and with the Building Inspector a copy or notice of all certificates and determinations of disapproval issued by it. Each certificate issued by the Commission shall be dated and signed by its Chairman or such other person designated by the Commission to sign such certificates on its behalf.

§ 121-20. Certificates required for issuance of permits.

No building permit for construction of a building or structure or for alteration of an exterior architectural feature within

the district and no demolition permit for demolition or removal of a building or structure within the district shall be issued by the town or any department thereof until the certificate required by this Article has been issued by the Commission.

§ 121-21. Enforcement.

The Berkshire Superior Court sitting in equity shall have jurisdiction to enforce the provisions of this Part 1 and the determinations, rulings and regulations issued pursuant thereto and may, upon the petition of the Board of Selectmen or of the Commission, restrain, by injunction, violations thereof; and without limitation, such Court may order the removal of any building, structure or exterior architectural feature constructed in violation thereof or the substantial restoration of any building, structure or exterior architectural feature altered or demolished in violation thereof and may issue such other orders for relief as may be equitable.

§ 121-22. Violations and penalties.

Whoever violates any of the provisions of this Part 1 shall be punished by a fine of not less than ten dollars (\$10.) nor more than five hundred dollars (\$500.). Each day during any portion of which a violation continues to exist shall constitute a separate offense.

ARTICLE V

Appeals

§ 121-23. Filing; decision.

- A. Any applicant aggrieved by a determination of the Commission may, within twenty (20) days after the filing of the notice of such determination with the Town Clerk, file a written request with the Commission for a review by a person or persons of competence and experience in such matters, designated by the regional planning agency of which the town is a member. The finding of the person or persons making such a review shall be filed with the Town Clerk within forty-five (45) days after the request and shall be binding on the applicant and the Commission unless a further appeal is sought in the Superior Court, as provided in the following Subsection.
- B. Any applicant aggrieved by a determination of the Commission or by the finding of a person or persons making a review may, within twenty (20) days after the filing of such determination with the Town Clerk, appeal to the Berkshire Superior Court sitting in equity. The Court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds the decision of the Commission to be unsupported by the evidence or to exceed the authority of the Commission, or it may remand the case for further action by the Commission or make such other decree as justice and equity may require. The remedy provided by this section shall be exclusive, but the parties shall have all rights of appeal and exception as in other equity cases. Costs shall not be allowed against the Commission unless it shall appear to the Court that the Commission acted with gross negligence, in bad faith or with malice in the matter for which the appeal was taken. Costs shall not be allowed against the party appealing from such determination of the Commission unless it shall appear to the Court that the appellant acted in bad faith or with malice in making the appeal to the court.

ARTICLE VI

Amendments

§ 121-24. Procedure to be followed.

This Part 1 creating the Ashley Falls Historic District may, from time to time, be amended in any manner not inconsistent with the provisions of the Historic District Act⁴ by a two-thirds vote of a Town Meeting, provided that the substance of such an amendment has first been submitted to the Historic District Commission having jurisdiction over such district for its recommendation and that its recommendation has been received or sixty (60) days have elapsed without such recommendation.

⁴Editor's Note: Chapter 40C of the Massachusetts General Laws.

Ashley Falls Historic District Boundaries

The Ashley Falls Historic District shall be bounded as follows:

Beginning at a point in the north/east corner of the Sackett Cemetery on Clayton Road and proceed westerly on the southerly side of said Clayton Road to a point opposite the easterly line of the school property;

Thence northerly crossing Clayton Road and along the easterly line of said school property to the north/east corner of said property, thence westerly along the northerly line of said school property to the north/westerly corner, thence southerly along the westerly line of said school property and crossing said Clayton Road to a point in the southerly line of Clayton Road;

Thence westerly along the south side of Clayton Road crossing East Main Street and continuing westerly along the southerly side of School Street;

Thence crossing United States Route 7A to the southerly line of Schneck;

Thence westerly, southerly, westerly, southerly, westerly and northerly along line of Schneck;

Thence northerly and westerly along the easterly line of Dellert to the center line of the Housatonic River;

Thence northerly along center line of said Housatonic to a point opposite the south/easterly corner of Howden;

Thence westerly along the southerly line of said Howden and crossing Rannapo Road to a point in the westerly line of Rannapo Road;

Thence northerly along the westerly line of said Rannapo Road to the south/easterly corner of said Howden;

Thence westerly along the southerly line of said Howden to a point in the south/westerly corner of Howden;

Thence southerly along the westerly line now formerly of Feist and crossing Bull Hill Road to a point in the southerly line of said Bull Hill Road and the land of Hutzler;

Thence north/westerly along the southerly line of Bull Hill Road to the north/westerly corner of said Hutzler;

Thence southerly along the westerly line of Hutzler, crossing land of Frisch and continuing southerly along the westerly land of the Trustees of Reservations and crossing Cooper Hill Road;

Thence easterly along the southerly line of said Cooper Hill Road to the corner of the Trustees of Reservations;

Thence southerly, westerly and southerly along land of said Trustees to the Connecticut State line;

Thence easterly along the Connecticut State line to the Conklin;

Thence northerly, easterly, northerly and easterly along line of said Conklin;

Thence crossing Weatogue Road to a point in the easterly line of said Weatogue Road;

Thence south/easterly along the easterly line of said Weatogue Road to the Connecticut State line;

Thence easterly along said Connecticut State line to the center of the Housatonic River;

Thence north/westerly along the center line of said Housatonic River to the intersection of the Konkapot River;

Thence in a northerly and easterly direction along the center line of said Konkapot River to a point opposite the north/westerly corner of Welch;

Thence easterly along the northerly line of said Welch to the westerly line of Route 7A;

Thence north/westerly along the westerly line of Route 7A to the center line of the said Konkapot River;

Thence north/easterly along the center line of said Konkapot River and crossing the railroad right-of-way to a point opposite the easterly line of Ellis and westerly line of Dellert;

Thence northerly, westerly, northerly, easterly and northerly along land of said Dellert to the southerly line of Smith;

Thence easterly along the northerly line of Dellert to the south/easterly corner of the Sackett Cemetery;

Thence northerly along the easterly line of said cemetery to the point of beginning.