

AN ACT CREATING THE HISTORIC BEACON HILL DISTRICT IN THE CITY OF BOSTON AND ESTABLISHING IN THE BUILDING DEPARTMENT OF SAID CITY THE BEACON HILL ARCHITECTURAL COMMISSION AND DEFINING ITS POWERS AND DUTIES. Chap. 616

*Be it enacted, etc., as follows:*

SECTION 1. *Creation of the District.* — There is hereby created in the city of Boston a district to be known as the Historic Beacon Hill District, bounded as follows: — southerly by the northerly side line of Beacon street; westerly by a line parallel with and one hundred and fifty feet distant westerly from, the westerly side line of Beaver street; northerly by Beaver place; easterly by Brimmer street; northerly again by Byron street; westerly again by a line parallel with, and eighty feet distant westerly from, the westerly side line of Charles street; northerly again by the southerly side line of Revere street; easterly again by the westerly side line of Myrtle street; northerly again by the southerly side line of Myrtle street; and easterly again by the westerly side line of Hancock street and said side line extended southerly to Beacon street; excluding, however, from said area land of the commonwealth and the estates numbered twenty-six to eighty-eight, inclusive, and ninety-eight to one hundred and thirty-six, inclusive, on Myrtle street.

SECTION 2. *Purpose.* — The purpose of this act is to promote the educational, cultural, economic and general welfare of the public through the preservation of the historic Beacon Hill district, and to maintain said district as a landmark in the history of architecture and as a tangible reminder of old Boston as it existed in the early days of the commonwealth.

SECTION 3. *Definitions.* — As used in this act, the following words shall have the following meanings: —

“Building commissioner”, the building commissioner of the city of Boston.

“City”, city of Boston.

“Commission”, the commission provided for by section four.

“Exterior architectural feature”, the architectural style and general arrangement of such portion of the exterior of a structure as is designed to be open to view from a public way, including kind, color and texture of the building material of such portion and type of all windows, doors, lights, signs, and other fixtures appurtenant to such portion.

“Structure”, a structure as defined in the Boston building code.

SECTION 4. *Beacon Hill Architectural Commission.* —

There shall be in the building department of the city a board, known as the Beacon Hill Architectural Commission, consisting of five commissioners appointed by the mayor of the city as follows: — one from two candidates nominated

by the Beacon Hill Civic Association, Inc., one from two candidates nominated by the Boston Real Estate Board, one from two candidates nominated by The Boston Society of Architects, one from two candidates nominated by the Society for the Preservation of New England Antiquities, and one member selected at large by the mayor. The commissioners initially appointed hereunder shall serve, in the case of the commissioner appointed upon nomination of the Beacon Hill Civic Association, Inc., for a term expiring one year, in the case of the commissioner appointed upon nomination of the Boston Real Estate Board, for a term expiring two years, in the case of the commissioner appointed upon nomination of The Boston Society of Architects, for a term expiring three years, in the case of the commissioner appointed upon nomination of the Society for the Preservation of New England Antiquities, for a term expiring four years, and, in the case of the commissioner selected at large by the mayor, for a term expiring five years, from the first day of May in the year nineteen hundred and fifty-five. As the term of any such commissioner, or of any subsequent commissioner, expires, his successor shall be appointed in like manner as such commissioner for a term of five years. Vacancies in the commission shall be filled in the same manner for the unexpired term. Every commissioner shall continue in office after the expiration of his term until his successor is duly appointed and qualified. Any commissioner may be removed by the mayor as provided in section fourteen of chapter four hundred and eighty-six of the acts of nineteen hundred and nine.

The commission shall annually on the first day of May, or as soon thereafter as conveniently may be, elect one of its members as chairman and another as vice chairman. The commission shall also elect a secretary outside of its membership who shall be exempt from the civil service laws and rules and shall receive from the city such compensation as the commission, with the approval of the mayor, shall from time to time fix. Whenever the secretary shall not be in attendance at a meeting of the commission, the commission shall elect a secretary pro tem for such meeting, who shall receive such compensation as the commission with the approval of the mayor shall fix. The members of the commission shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their duties. The records of the commission shall set forth every determination made by the commission and the vote of every member participating therein and the absence or failure to vote of every other member.

The commission shall not be subject to the supervision or control of the building commissioner; but unless otherwise ordered by the mayor, the commission shall not communicate with the mayor except through the building commissioner and shall not make any annual or other report except through the building commissioner.

SECTION 5. *Limitation on Issuance of Building Permit.* — No permit shall be issued by the building commissioner for the construction of any structure in the historic Beacon Hill district or the reconstruction, alteration or demolition of any structure now or hereafter in said district, except in cases excluded by section nine of this act, unless the application for such permit shall bear a certificate under section six of this act that no exterior architectural feature is involved or shall be accompanied by a certificate of appropriateness issued under section seven of this act or, in the case of the demolition of a structure, a certificate under section eight of this act that twenty days or such lesser period as the commission may have determined has expired after receipt by the commission of notice of demolition.

SECTION 6. *Certificate of Non-applicability of Statute.* — Except in cases excluded by section nine of this act, every person about to apply to the building commissioner for a permit to construct any structure in the historic Beacon Hill district or to reconstruct, alter or demolish any structure now or hereafter in said district shall deposit with the secretary of the commission his application for such permit together with all plans and specifications for the work involved. Within five days thereafter, Saturdays, Sundays and legal holidays excluded, the commission shall consider such application, plans and specifications and determine whether any exterior architectural feature is involved. If the commission determines that no exterior architectural feature is involved, it shall cause its secretary to endorse on the application forthwith a certificate of such determination and return the application, plans and specifications to the applicant.

SECTION 7. *Certificate of Appropriateness.* — No person shall construct any exterior architectural feature in the historic Beacon Hill district, or reconstruct or alter any such feature now or hereafter in said district, until such person shall have filed with the secretary of the commission an application for a certificate of appropriateness in such form and with such plans, specifications and other material as the commission may from time to time prescribe and a certificate of appropriateness shall have been issued as hereinafter provided in this section.

Within five days after the filing of an application for a certificate of appropriateness, Saturdays, Sundays and legal holidays excluded, the commission shall determine the estates deemed by it to be materially affected by such application and, unless a public hearing on such application is waived in writing by all persons entitled to notice thereof, shall forthwith cause its secretary to give by mail, postage prepaid, to the applicant, to the owners of all such estates as they appear on the then most recent real estate tax list, and to any person filing written request for notice of hearings, such request to be renewed yearly in December, reasonable notice of a public hearing before the commission on such application.

As soon as conveniently may be after such public hearing or the waiver thereof, but in all events within twenty days, Saturdays, Sundays and legal holidays excluded, after the filing of the application for the certificate of appropriateness, or within such further time as the applicant may in writing allow, the commission shall determine whether the proposed construction, reconstruction or alteration of the exterior architectural feature involved will be appropriate to the preservation of the historic Beacon Hill district for the purposes of this act, and whether, notwithstanding that it may be inappropriate, owing to conditions especially affecting the structure involved, but not affecting the historic Beacon Hill district generally, failure to issue a certificate of appropriateness will involve a substantial hardship to the applicant and such a certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this act. In passing upon appropriateness, the commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style, general design, arrangement, texture, material and color of the exterior architectural feature involved and the relationship thereof to the exterior architectural features of other structures in the immediate neighborhood.

If the commission determines that the proposed construction, reconstruction or alteration of the exterior architectural feature involved will be appropriate or, although inappropriate, owing to conditions as aforesaid, failure to issue a certificate of appropriateness will involve substantial hardship to the applicant and issuance thereof may be made without substantial detriment or derogation as aforesaid, or if the commission fails to make a determination within the time hereinbefore prescribed, the secretary of the commission shall forthwith issue to the applicant a certificate of appropriateness. If the commission determines that a certificate of appropriateness should not issue, the commission shall forthwith spread upon its records the reasons for such determination and may include recommendations respecting the proposed construction, reconstruction or alteration. Thereupon the secretary of the commission shall forthwith notify the applicant of such determination, transmitting to him an attested copy of the reasons and recommendations, if any, spread upon the records of the commission.

SECTION 8. *Notice of Demolition.* — No person shall demolish any exterior architectural feature now or hereafter in the historic Beacon Hill district until he shall have filed with the secretary of the commission on such form as may be from time to time prescribed by the commission a written notice of his intent to demolish such feature and a period of twenty days, Saturdays, Sundays and legal holidays excluded, or such lesser period as the commission, because the feature is not historically or architecturally significant or otherwise worthy of preservation, may in a particular case

determine, shall have expired following the filing of such notice of demolition. Upon the expiration of such period the secretary of the commission shall forthwith issue to the person filing the notice of demolition a certificate of the expiration of such period.

SECTION 9. *Exclusions.* — Nothing in this act shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature now or hereafter in the historic Beacon Hill district; nor shall anything in this act be construed to prevent the construction, reconstruction, alteration or demolition of any such feature which the building commissioner 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 construction, reconstruction, alteration or demolition of any such feature under a permit issued by the building commissioner prior to the effective date of this act.

SECTION 10. *Appeals.* — Any applicant aggrieved by a determination of the commission may, within thirty days after the making of such determination, appeal to the superior court sitting in equity for the county of Suffolk. The court shall hear all pertinent evidence and shall annul the determination of the commission if it finds the reasons given by the commission to be unwarranted by the evidence or to be insufficient in law to warrant the determination of the commission or make such other decree as justice and equity may require. The remedies provided by this section shall be exclusive; but the parties shall have all rights of appeal and exception as in other equity cases.

SECTION 11. *Enforcement.* — Whoever constructs, reconstructs, alters or demolishes any exterior architectural feature now or hereafter in the historic Beacon Hill district in violation of this act shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars.

The superior court sitting as aforesaid may, upon application of the commission, restrain the construction, reconstruction, alteration or demolition of any exterior architectural feature now or hereafter in the historic Beacon Hill district in violation of this act and order the removal of any such exterior architectural feature constructed or reconstructed in violation thereof and the substantial restoration of any such exterior architectural feature altered in violation thereof.

SECTION 12. *Severability of Provisions.* — The provisions of this act shall be deemed to be severable; and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

*Approved July 28, 1955.*