

## Chapter 9

### HISTORIC DISTRICT COMMISSION\*

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\* **Editors Note:** An ordinance of Sept. 17, 1990, amended the Code by adding a new Ch. 2.1; however, in order to maintain the alphabetical sequence of chapters. Such provisions have been redesignated as Ch. 9.

**Cross References:** Administration, Ch. 2; buildings and structures, Ch. 4; zoning, App. A.

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#### **Sec. 9-1. Authority.**

This chapter is adopted in accordance with Title 45-24.1 of the General Laws of Rhode Island, as amended (1988 amendment), which:

- (1) Declares the preservation of structures of historic or architectural value to be a public purpose;
- (2) Authorizes historic district zoning and the creation of a historic district commission for that purpose in each city and town;
- (3) Provides for definitions of terms used in historical area zoning; and
- (4) Establishes a uniform procedure regarding historical area zoning.

(Ord. of 9-17-90)

#### **Sec. 9-2. Legislative intent.**

The regulations in this chapter have been adopted to preserve districts and specific buildings of the town which reflect elements of its cultural, social, economic, political and architectural history. This chapter is designed to stabilize and improve property values in such historic districts, to preserve specific buildings, to foster civic beauty, to strengthen the local economy and to promote the use of such districts and specific buildings for the education, pleasure and welfare of the residents of the town.

(Ord. of 9-17-90)

### **Sec. 9-3. Definitions.**

The following terms shall have the following respective meanings:

*Alteration* means an act that changes one or more of the exterior architectural features or its appurtenances, including but not limited to the erection, construction, reconstruction, or removal of any structure or appurtenance.

*Appurtenances* means features other than primary or secondary structures which contribute to the exterior historic appearance of a property, including but not limited to paving, doors, windows, signs, materials, decorative accessories, fences, and historic landscape features.

*Certificates of appropriateness* means a certificate issued by the town historic district commission established under this chapter indicating approval of plans for alteration, construction, repair, removal, or demolition of a structure or appurtenances of a structure within a historic district. Appropriate for the purpose of passing upon an application for a certificate of appropriateness means not incongruous with those aspects of the structure, appurtenances, or the district which the commission has determined to be historically or architecturally significant.

*Construction* means the act of adding to an existing structure or erecting a new principal or accessory structure or appurtenances to a structure, including but not limited to buildings, extensions, outbuildings, fire escapes, and retaining walls.

*Demolition* means an act or process that destroys a structure or its appurtenances in part or in whole.

*Historic district* means a specific division of a city or town as designated by ordinance of a town pursuant to this chapter. A historic district may include one or more structures.

*Removal means* a change meant to remedy damage or deterioration of a structure or its appurtenances.

*Repair* means a change meant to remedy damage or deterioration of a structure or its appurtenances.

*Structure* means anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including but not limited to buildings, gazebos, billboards, outbuildings, decorative and retaining walls, and swimming pools.  
(Ord. of 9-17-90)

### **Sec. 9-4. Designation of historic districts.**

(a) For the purposes of this chapter, the boundaries of historic districts are established as shown on a map entitled "Historic District Map," which map is filed in the office of the town clerk. Such map is hereby incorporated as a part of this chapter.

(b) It is the intent of this chapter that historic property owned by the town within the boundaries of designated historic districts as shown on the "Historic District Map" shall not be exempt from the provisions of this chapter.

(Ord. of 9-17-90)

**Sec. 9-5. Historic district commission.**

- (a) *Establishment.* There is hereby established a historic district commission to carry out the purpose of this chapter.
- (b) *Membership and appointment.*
  - (1) The commission shall consist of seven qualified members, residents of the town, to be appointed by the town council president with the consent of the council. Members shall be appointed for three year terms, except that the initial appointments of two members shall be for one year, two members for two years, and three members for three years. Members shall be eligible for reappointment.
  - (2) Members of the commission shall have a demonstrated interest in historic preservation. Duly organized and existing preservation societies may present to the town council president lists of qualified citizens to be considered for appointment.
  - (3) The town council president shall have the right to name an auxiliary member to the commission in addition to the regular members, which auxiliary member shall sit as an active member, upon the request of the chairman of the commission when and if a regular member of the commission is unable to serve at any meeting of the commission.
  - (4) In the event of a vacancy on the commission, the town council president shall promptly make an interim appointment, with the consent of the council, for the remainder of the unexpired term. Vacancies on the commission shall be filled within 45 days.
- (c) *Organization of the commission.*
  - (1) The commission shall organize annually and, by election, shall select from its membership a chairman, vice-chairman and a secretary.
  - (2) The commission shall:
    - a. Adopt and publish all rules and regulations necessary to carry out its functions under the provisions of this chapter; and
    - b. Adopt and publish standards of review which shall be in harmony with the Secretary of the Interior's Standards and Guidelines for Rehabilitating Historic Buildings, 36 CFR 671, as amended, within 12 months following the adoption of this chapter to inform historic district residents, property owners, and the general public of those criteria by which the commission shall determine whether to issue a certificate of appropriateness. The commission may from time to time amend these standards as reasonably necessary, and it shall publish all such amendments.

(3) Conduct of business.

- a. The chairman shall preside over all commission meetings and shall have the right to vote.
- b. The vice-chairman shall, in the case of absence or disability of the chairman, perform the duties of the chairman.
- c. All meetings of the commission shall be open to the public and any person or his duly constituted representative shall be entitled to appear and be heard on any matter before the commission reaches its decision.
- d. The secretary shall keep a record of all resolutions, proceedings, finding of fact, decisions and actions and such record shall be on file for public view at the office of the town clerk.
- e. Notice of the commission meetings shall appear in a newspaper of general circulation in the town seven days prior to such meetings.
- f. Five members shall constitute a quorum and the concurring vote of a majority, but not less than four of the members present shall be necessary for either approval or rejection of any plans before the commission for review and for establishing or amending commission rules, regulations and standards of review.

(d) *Powers and procedures.*

(1) Certificate of appropriateness required.

- a. Before a property owner may authorize or commence construction, alteration, repair, removal or demolition affecting the exterior appearance of a structure or its appurtenances within any designated historic district, the owner must apply for and receive a certificate of appropriateness from the commission approving such construction, alteration, repair, removal or demolition.
- b. In applying for a certificate of appropriateness, a property owner must comply with the application procedures as established by the commission pursuant to Chapter 45-24.1 of the General Laws, as amended, and the provisions of this chapter.
- c. A certificate of appropriateness is necessary only if a building permit is required for such construction, alteration, repair, removal or demolition. The building official may not issue a permit until the commission has granted a certificate of appropriateness.

(2) Application for certificate of appropriateness.

- a. Applications for certificates of appropriateness shall be filed with the commission at the office of the zoning enforcement officer/building inspector, who shall determine if such application is complete and who shall forward complete applications, together with all maps, plans, and other data to the commission. Incomplete applications shall be returned to

the applicant within seven working days of receipt of the zoning enforcement officer/building inspector.

- b. The commission shall require the owner to submit information which is reasonably necessary to evaluate the proposed construction, alteration, repair, removal or demolition including but not limited to site plans, elevation drawings, photographs or other information deemed appropriate by the commission and set forth in the commission's rules and regulations adopted pursuant to this chapter.
- c. In reviewing the applications and plans, the commission shall give consideration to:
  - 1. The historic and architectural significance of the structure and its appurtenances;
  - 2. The way in which the structure and its appurtenances contribute to the historical and architectural significance of the district;
  - 3. The appropriateness of the general design, arrangement, texture, material and siting proposed in the plans; and
  - 4. The commission shall pass only on exterior features of a structure and its appurtenances and shall not consider interior arrangements.
- d. All decisions of the commission shall be in writing. The commission shall articulate and explain the reasons and bases of each decision on a record, and the commission shall include the basis for its conclusion that the proposed activity would be incongruous with those aspects of the structure, appurtenances, or the district which the commission has determined to be historically or architecturally significant. The commission shall send a copy of the decision to the applicant.
- e. The following are special considerations regarding valuable historic resources and demolition:
  - 1. In the case of an application for construction, repair, or alteration, removal, or demolition affecting the exterior appearance of a structure or its appurtenances, which the commission deems so valuable to the town, state or nation that the loss thereof will be a great loss to the town, state or nation, the commission shall endeavor to work out with the owner an economically feasible plan for the preservation of such structure.
  - 2. Unless the commission is satisfied that the retention of such structure constitutes hazard to public safety, which hazard cannot be eliminated by economic means available to the owner, including the sale of the structure to any purchaser willing to preserve such structure, the commission shall file with the zoning enforcement officer/building inspector its rejection of such application.
  - 3. Unless the commission votes to issue a certificate of appropriateness for such

construction, alteration, and repair, removal and demolition, the commission shall file with the zoning enforcement officer/building inspector its rejection of such application.

4. In the absence of change in such structure arising from casualty, no new application for the same or similar work shall be filed within one year after such rejection.
5. In the case of any structure deemed to be valuable for the period of architecture it represents and important to the neighborhood within which it exists, the commission may file with the zoning enforcement officer/building inspector its certificate of appropriateness for such application if any of the circumstances under which a certificate of appropriateness might have been given under the proceeding paragraph are in existence, or if:
  - (i) Preservation of such structure is a deterrent to a major improvement program which will be of substantial benefit to the community;
  - (ii) Preservation of such structure would cause undue to unreasonable financial hardship to the owner, taking into account the financial resources available to the owner including sale of the structure to any purchaser willing to preserve such structure;
  - (iii) The preservation of such structure would not be in the best interest of the majority of the community;
  - (iv) When considering an application to demolish or remove a structure of historic or architectural value, the commission shall assist the owner in identifying and evaluating alternative to demolition, including sale of the structure on its present site. In addition to any other criteria, the commission also shall consider whether there is a reasonable likelihood that some person or group other than the current owner is willing to purchase, move and preserve such structure and whether the owner has made continuing bona fide and reasonable efforts to sell the structure to any such purchaser willing to move and preserve such structure.

(Ord. of 9-17-90)

#### **Sec. 9-6. Failure of the commission to act.**

The failure of the commission to act within 45 days from the date of a completed application filed with it shall be deemed to constitute approval, unless an extension is agreed upon mutually by the applicant and the commission. In the event, however, that the commission shall make a finding of fact that the circumstances of a particular application require further time for additional study and information than can be obtained within the aforesaid period of 45 days, then and in said event, the commission shall have a period of up to 90 days within which to act upon such application.

(Ord. of 9-17-90)

**Sec. 9-7. Advisory role.**

In order to assist the town, its agencies, boards, commissions, staff, administrator, and council on matters of historic preservation, the commission may provide its expertise and advise as appropriate.  
(Ord. of 9-17-90)

**Sec. 9-8. Educational role.**

In order to assist the citizens of the town, especially the owners of historical properties, on matters of historic preservation, the commission may provide its expertise by undertaking educational programs to promote the historic districts contained within the town.  
(Ord. of 9-17-90)

**Sec. 9-9. Exceptions.**

Nothing in this chapter shall be construed to prevent routine maintenance or repair of any structure within a historic district, provided that such maintenance or repair does not result in any change of design, type of material, or appearance of the structure or appurtenance; nor shall anything in this chapter be construed to prevent the construction, alteration, repair, moving, or demolition of any structure under a permit issued by the building official prior to the passage of this chapter.  
(Ord. of 9-17-90)

**Sec. 9-10. Equitable actions.**

Where there is a violation of any of the provisions of this chapter or of any action taken thereunder, the zoning enforcement officer/building inspector, through the town solicitor, shall institute an appropriate action to prevent, enjoin, abate or remove such violation.  
(Ord. of 9-17-90)

**Sec. 9-11. Preservation of endangered structures.**

The town council, in consultation with the historic district commission may identify structures of historical or architectural value whose deteriorated physical condition endangers the preservation of such structure or its appurtenances. The council shall publish standards for maintenance of properties within historic districts. Upon the petition of the historic district commission that a historic structure is so deteriorated that its preservation is endangered, the council may establish a reasonable time not less than 30 days within which the owner must begin repairs. If the owner has not begun repairs within the allowed time, the council shall hold a hearing at which the owner may appear and state his or her reasons for not commencing repairs. If the owner does not appear at the hearing or does not comply with the council's orders, the council may cause the required repairs to be made at the expense of the town and cause a lien to be placed against the property for repayment.  
(Ord. of 9-17-90)

**Sec. 9-12. Appeals.**

Any person aggrieved by a decision of the historic district commission shall have the right to appeal such decision to the zoning board of review. When hearing appeals from the commission decision, the zoning board of

review shall not substitute its own judgement for that of the commission, but must consider the issue upon the findings and the record of the commission. The zoning board of review shall not reverse a commission decision except on a finding of prejudicial procedural error, clear error or lack of support by the weight of the evidence in the record. The zoning board of review shall put all decisions on appeal in writing. The zoning board of review shall articulate and explain the reasons and bases of each decision on the record, and the zoning board of review shall send a copy of the decision to the applicant and to the historic district commission. Any person aggrieved by a decision of the zoning board of review on a matter appealed under this chapter may apply to the superior court of Rhode Island.

(Ord. of 9-17-90)

### **Sec. 9-13. Enforcement.**

The zoning enforcement officer/building inspector may bring an action against any property owner who fails to comply with the requirements of this chapter. Such actions shall be brought in the superior court having jurisdiction where the violation occurred or is likely to occur. Plaintiffs may seek restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this chapter.

(Ord. of 9-17-90)