

Chapter 350. Zoning

Article IX. Historic District Zoning

§ 350-67. Authority.

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

- A. Declares the preservation of structures of historic or architectural value to be a public purpose;
- B. Authorizes historic district zoning and the creation of an historic district commission for that purpose in each city and town;
- C. Provides for definitions of terms used in historical area zoning; and
- D. Establishes a uniform procedure regarding historical area zoning.

§ 350-68. Legislative intent.

The regulations in this chapter have been adopted to preserve districts and specific buildings of the Town of Gloucester 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 structures, 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 of Gloucester.

§ 350-69. Definitions.

The following terms shall have the following respective meanings:

ALTERATION

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

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.

CERTIFICATE OF APPROPRIATENESS

A certificate issued by the Gloucester Historic District Commission indicating approval of plans for alteration, construction, repair, removal, or demolition of any structure or appurtenances of a structure within an historic district.

CONSTRUCTION

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

An act or process that destroys a structure or its appurtenances in part or in whole.

HISTORIC DISTRICT

A specific division of a city or town as designated by ordinance of the Town of Gloucester pursuant to this chapter. An historic district may include one or more structures.

REMOVAL

A relocation of a structure on its site or to another site.

REPAIR

A change meant to remedy damage or deterioration of a structure or its appurtenances.

STRUCTURE

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.

§ 350-70. Designation of Historic Districts.

- A. For purposes of this chapter, the boundaries of Historic Districts are established as shown on a map entitled "Historic District Designation Map," which designation map is filed in the office of the Gloucester Town Clerk. Such designation map is hereby incorporated as a part of this chapter.
- B. It is the intent of this article that historic property owned by the Town of Gloucester within the boundaries of designated historic districts as shown on the Historic District Designation Map shall not be exempt from the provisions of this chapter.

§ 350-71. Historic District Commission.

- A. Establishment. There is hereby established an Historic District Commission to carry out the purpose of this article.

B. Membership and appointment.

1. The Commission shall consist of seven qualified members, electors of the Town of Gloucester, to be appointed by the Town Council. Members shall be appointed for three-year terms, except that the initial appointments of some of the members shall be for less than three years to the end that the initial appointments shall not reoccur at the same time. Members shall be eligible for reappointment.
2. At least four members of the Commission shall have a demonstrated knowledge or interest in historic preservation (such as, but not limited to, architect, owner of an historic home, or builder versed in historic restoration).
3. The Town Council 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 shall make an interim appointment, for the remainder of the unexpired term. Vacancies on the Commission shall be filled within 60 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 article. Such rules and regulations and any additions and amendments thereto shall be submitted to the Council for its approval and shall, thereon, become part of this chapter; and
 - b. Adopt and publish standards and guidelines (which shall use as a guide the Secretary of the Interior's Standards and Guidelines for Rehabilitating Historic Buildings, 36 CFR 671, as amended), within six months following the adoption of this article 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 Historic District Commission shall be open to the public and any person, organization or duly authorized representative shall be entitled to appear and be heard on any matter before the Historic District Commission reaches its decision. All meetings shall be posted in accordance with the open meetings laws of the State of Rhode Island.
- 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 Gloucester Town Clerk.
- e. 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.

§ 350-72. Authority and Procedures.

- A. Reviewable actions. The Historic District Commission shall review all plans for new construction on any existing lot or lots, including window replacements, paint color changes and any construction, alteration, removal or demolition of a structure affecting the exterior appearance of any structure, including appurtenances within the Historic District. The Historic District Commission shall have the authority to review and approve such plans before a building or demolition permit is issued.
- B. General Procedures
 - 1. Before a property owner may authorize or commence construction, alteration, repair, removal or demolition affecting the exterior appearance of a contributing 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.
 - 2. A certificate of appropriateness is necessary for all new construction on any existing lot or lots, including window replacements, paint color changes and any construction, alteration, removal or demolition of a structure affecting the exterior appearance of any structure, including appurtenances within the Historic District. A certificate of appropriateness is required before the issuance of a building permit.

3. 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. Application for certificate of appropriateness.

1. Applications for certificate of appropriateness shall be filed with the Commission at the office of the Building Official, 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 by the Building Official.
2. 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 article.
3. In reviewing the applications and plans, the Commission shall give consideration to:
 - a. The historic and architectural significance of the contributing structure and its appurtenances;
 - b. The way in which the structure and its appurtenances, as existing or planned, contribute to the historical and architectural significance of the district;
 - c. The appropriateness of the general design, arrangement, texture, material and siting proposed in the plans; and
 - d. The Commission shall pass only on exterior features of a structure and its appurtenances and shall not consider interior arrangements.
4. All decisions and recommendations of the Commission shall be in writing. The Commission shall articulate and explain the reasons and bases of each decision and recommendation on a record, and in the case of a decision not to issue a certificate of appropriateness, 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.
5. Any certificate of appropriateness granted by the HDC shall expire one year after the date of approval, unless the applicant shall have obtained a building permit and proceeded with the approved construction. An applicant's failure to proceed with approved construction within the one-year timeframe shall cause the certificate of appropriateness to become null and void.

6. An application for a certificate of appropriateness which has been denied by the HDC shall not be heard again for a period of one year from the date the application was denied, unless a majority of the HDC present at a meeting agrees to waive this requirement.

D. Demolition of structures

1. In addition to complete demolition of a structure, the following actions shall require a demolition permit and review by the Historic District Commission:
 - a. Removal of a roof including raising the overall height of a roof, rebuilding the roof to a different pitch, or addition another story to a building;
 - b. Removal of one side of a building;
 - c. Gutting of a building's interior to the point where the exterior features are impacted and;
 - d. Removal of more than 25% of a structure.
2. In order to preserve the historic fabric of the Town, demolition of historic properties shall be discouraged. When reviewing an application for a certificate of appropriateness to demolish an historic structure or appurtenance, the Commission shall consider the following criteria, in addition to the provisions of the adopted Standards of Review:
 - a. the listing of a structure on the National Register of Historic Places and
 - b. the eligibility of the structure for listing on the National Register of Historic Places.
3. When considering an application to demolish a significant historic building, the Commission shall assist the owner in identifying and evaluating alternatives to demolition, including an economically feasible plan for the preservation of the structure or sale of the structure on its present site.
4. 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.
5. The Commission shall issue a certificate of appropriateness for the demolition of a contributing structure only if at least one of the following primary findings exists:
 - a. If the structure is deemed valuable to the Town, State or Nation, such that its loss will be a great loss to the Town, State or Nation, then in order for the GHDC to approve demolition, the structure must constitute a hazard to public safety, which hazard cannot be eliminated by economic means available to the owner, including sale of the structure to any purchaser willing to preserve the structure.
 - b. If the structure is deemed valuable for the period of architecture which it represents, or to the district as a whole, then at least one of the following requirements must be met
 1. Retention of such structure constitutes a hazard to public safety which hazard cannot be eliminated by the economic means available to the owner, including sale of the structure on its present site to any purchaser willing to preserve such structure; or

2. Preservation of such structure is a deterrent to a major improvement program which will be of substantial benefit to the community; or
 3. Preservation of such structure would cause undue or 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; or
 4. Preservation of such structure would not be in the general interest of the community.
- c. If the primary criteria have been met, then any or all of the following secondary criteria may be considered in deciding whether to approve or deny the application:
1. The merit of the structure to be demolished.
 2. The effect of the demolition on the surrounding buildings.
 3. The effect of the demolition on the historic district as a whole.
 4. The value or usefulness of the proposed replacement structure to the community and the appropriateness of its design to the historic district.
 5. If the lot is to be left open, the impact of open space in that location and on the district as a whole.
 6. The effect of the demolition on the local economy.
 7. Whether the demolition will foster civic beauty.
 8. Whether the demolition will stabilize and improve property values in the district.
 9. The effect of the demolition on safeguarding the heritage of the Town, State or Nation.
 10. The effect of the demolition on promotion of the district for the education, pleasure and welfare of the citizens of the Town.
- d. If a structure is deemed non-contributing, the GHDC may consider any or all of the secondary criteria above in deciding whether to issue a Certificate of Appropriateness for demolition.
6. A certificate of appropriateness must be obtained prior to the issuance of a demolition permit.
 7. Emergency demolition. The Commission shall approve an application for demolition when, in the opinion of the Building Official or Fire Chief, the building constitutes an imminent hazard to public safety.

§ 350-73. Failure of 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 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.

§ 350-74. Advisory role of Commission.

In order to assist the Town of Gloucester, its agencies, boards, commissions, staff and Council on matters of historic preservation, the Commission may provide its expertise and advice as appropriate.

§ 350-75. Exceptions.

Nothing in this article shall be construed to prevent painting, routine maintenance or repair of any structure within the Historic District, provided that such maintenance or repair does not result in any change of design, type of material, color, or appearance of the structure or appurtenances; nor shall anything in this article be construed to prevent the construction, alteration, repair, moving or demolition of any structure under permit issued by the Building Official prior to the passage of this article.

§ 350-76. Violations and penalties.

Where there is a violation of any of the provisions of this article or of any action taken thereunder, the Building Official, through the Town Solicitor, shall institute an appropriate action to prevent, enjoin, abate, or remove such violation.

§ 350-77. 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 Commission decisions the Zoning Board of Review shall not substitute its own judgment 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 article may apply to the Superior Court of Rhode Island.

§ 350-78. Enforcement.

The Building Official, through the Town Solicitor, may bring an action against any property owner who fails to comply with the requirements of this article. 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 article.

§ 350-79. Amendments.

Amendment or additions to the article or to the Historical District shall be by the same process and procedure as amendments to this chapter.