

## **96-003 - ESTABLISHING HISTORIC DISTRICT ZONING**

### AN ORDINANCE ESTABLISHING HISTORIC DISTRICT ZONING

IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NORTH PROVIDENCE AS FOLLOWS:

#### Section 1 - AUTHORITY

This ordinance is 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 a 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.

#### SECTION 2 - LEGISLATIVE INTENT

The regulations in this ordinance have been adopted to preserve districts and specific buildings of the Town of North Providence which reflect elements of its cultural, social, economic, political, and architectural history. This ordinance 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 pride of the residents of the Town of North Providence.

#### SECTION 3 - DEFINITIONS

The following terms: for the purpose of this ordinance, shall have the following respective meanings:

- (A) Alteration: An act that changes one (1) 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.
- (B) 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.
- (C) Certificate of Appropriateness: A certificate issued by the North Providence Historic District Commission indicating approval of plans for alteration, construction, repair, removal, or demolition of a contributing structure or it's appurtenances within an historic district. Appropriate for the purpose of passing upon an application for a Certificate of Appropriateness means not incongruous with those aspects of the contributing structure, appurtenances, or the district which the Commission has determined to be historically or architecturally significant.

(D) 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.

(E) Contributing Structure: Any structure of historical or architectural significance.

(F) Demolition: An act or process that destroys a structure or its appurtenances in part or in whole.

(G) Historic District: A specific district of the town as designated by this ordinance and shown as an overlay district on the North Providence Zoning Map. An historic district may include one (1) or more structures.

(H) Recommendation of Compatibility: An authorization by the North Providence Historic District Commission with respect to plans for alteration, construction, repair, removal, or replacement of any structure other than a contributing structure, including appurtenances of such structure. A Recommendation shall specifically state those ways in which the plans are or may be made more compatible with any surrounding aspects of the district which the commission has determined to be historically or architecturally significant.

(I) Removal: A relocation of a structure on its site or to another site.

(J) Repair: A change meant to remedy damage or deterioration of a structure or its appurtenances.

(K) 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.

#### SECTION 4 - GENERAL STANDARDS

##### (A) CONSTRUCTION AND FEATURES:

The following apply to permanent and temporary construction of the existing buildings within the historic districts, as well as new construction.

(1) Original or historical significant materials and/or features of a structure or site shall be maintained and repaired rather than replaced whenever possible.

(2) If replacement of existing materials or features is necessary, the new features shall match the old in design, color, texture, and other visual qualities.

(3) Replacement of missing features should be based on historical, documentary, physical or pictorial evidence.

(4) Minimal alteration of the building, structure, site or environment shall be made.

(5) Changes to a building or site which have taken place over time are evidence of its history and development. These have significance in their own right. Alterations that seek to create a false sense of historical development shall be discouraged.

(6) New additions, exterior alterations, or new construction shall not destroy historic materials or general features that characterize the property. The new work may be differentiated from the old and shall be compatible with the size, scale and architectural features of the property and the surrounding area.

(7) New additions and alterations to structures shall be done in such a manner that if removed in the future, the essential form and integrity of the structure and the site would be unimpaired.

## (B) SIGNS:

All signs shall be in compliance with article VI of the North Providence Zoning Ordinance and the following:

(1) Painted or applied wall signs, horizontally projecting signs below the first story roof lines, signs on awnings or canopies, and freestanding signs are acceptable. Shapes include rectangle, square and oval.

(2) A sign should be located so as not so obscure architectural details. The location should be coordinated with signs on adjacent storefronts.

(3) Wood is the most traditional sign material. Other materials may be metal, brass, granite, marble, slate, etc. Plastic is discouraged.

(4) A sign may identify the name, function, and address of the business. This may be in the form of words, pictures, names, symbols, and/or logos.

(5) Colors should be compatible with the buildings and the surrounding buildings.

(6) Signs may be lighted indirectly with exterior fixtures. Internally lit signs (backlit plastic) are not acceptable.

## C) MOVING HISTORIC STRUCTURES

(1) When an historic structure is moved from its original site, it loses its integrity of setting and its sense of time and place. Their loss is irreplaceable. A contributing historic structure listed on the National Register of Historic Places may lose its National Register status if moved from its original site.

(2) Moving of historic structures within, into or out of historic districts is discouraged except as a last alternative to demolition.

(3) Structures may be moved intact, partially disassembled, and completely disassembled. It is important that the structure be moved by a professional building moving firm with experience in moving historic structures. Adequate insurance coverage must be provided for all phases of the operation. The property owner must get various licenses and permits from agencies such as the public works, traffic engineering, police, fire, and building departments, and from utility companies. The owner must provide proof of ability to comply with all local and state safety regulations, and supply the necessary equipment and vehicles. If the owner is using federal assistance to move a structure listed on the National Register, archeological investigations may be required.

## SECTION 5 - DESIGNATION OF HISTORIC DISTRICTS

A) For purposes of this ordinance, the boundaries of Historic Districts are established as shown on a map entitled "Historic District Designation Map". Such Designation Map is hereby incorporated as a part of this ordinance and as an overlay district to the North Providence Zoning Ordinance and Map.

B) It is the intent of this Ordinance that historic property owned by the Town of North Providence within the boundaries of designated historic districts as shown on the "Historic District Designation Map" shall not be exempt from the provisions of this ordinance.

## SECTION 6 - HISTORIC DISTRICT COMMISSION

(A) Establishment: There is hereby established a North Providence Historic District Commission to carry out the purpose of this ordinance.

## (B) Membership and Appointment.

(1) The Commission shall consist of five (5) qualified members, electors of the Town of North Providence, to be appointed by the Town Council President and approved by a majority of Town Council Members. Appointments will be made for three (3) year terms, except that the initial appointments shall not reoccur at the same time. Members shall be eligible for re-appointment.

(2) At least three (3) members of the Commission shall have a demonstrated knowledge or interest in historic preservation (such as, but not limited to, architect, historian, planner, council person, owner of an historic home, or builder versed in historic restoration).

(3) The Town Council President and approved by a majority of Town Council Members shall have the right to name one (1) alternate member to the Commission in addition to the regular members. The alternate 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. The alternate member will be appointed yearly by the Town Council President and approved by a majority of Town Council Members.

(4) In the event that a vacancy occurs on the Commission, The Town Council President and approved by a majority of Town Council Members shall make an interim appointment, for the remainder of the unexpired term. Vacancies on the commission shall be filled within sixty (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 ordinance; and

(b) adopt and publish Standards of Review (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 (6) months following the adoption of this ordinance 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.

(c) such rules, procedures and standards, and any additions and amendments thereto shall be submitted to the North Providence Town Council for its approval.

## (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 subject to the Rhode Island Public Meeting Act. Any person shall have the right, upon request, to appear before the Commission in person or with or by a representative prior to decision on his or her application.

(d) The Secretary shall keep a record of all resolutions, proceedings, findings of fact, decisions and actions and such record shall be on file for public view at the office of the North Providence Town Clerk.

(e) Three (3) shall constitute a quorum and the concurring vote of a majority of the Commission shall be necessary to approve any certificate or application.

## SECTION 7 - CERTIFICATES AND RECOMMENDATIONS

### (A) Certificates of Appropriateness Required

(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, alterations, repair, removal or demolition.

(2) A Certificate of Appropriateness is necessary only if a building permit is required for such construction, alteration, repair, removal, or demolition of a contributing structure. The Building Official may not issue a permit until the Commission has granted a Certificate of Appropriateness.

### (B) Recommendation of Compatibility Required.

(1) Before a property owner may authorize or commence construction, alteration, repair, removal or replacement affecting the exterior appearance of a structure within any designated Historic District other than a contributing structure, including appurtenances of such structure, the owner must apply for and receive a Recommendation of Compatibility from the Commission with respect to the plans for such work.

2) A Recommendation of Compatibility is necessary only if a building permit is required for such construction, alteration, repair, removal or replacement of such structure. The Building Official may not issue a permit until the Commission has issued a Recommendation of Compatibility.

### (C) Certification of Appropriateness and Recommendation of Compatibility.

(1) Applications for Certificate of Appropriateness and Recommendation of Compatibility shall be filed with the Commission at the office of the Division of Inspections, who shall deliver such application together with all maps, plans, and other data to the Commission. Incomplete applications shall be returned to the applicant within seven (7) working days of receipt by the office of the Division of Inspections.

(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 as set forth in the Commission's rules and regulations adopted pursuant to this ordinance.

(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 citing 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 the 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 or recommendation to the applicant.

(5) The following are special considerations regarding valuable historic resources and demolition:

(a) In the case of an application for construction, repair, or alteration, removal, or demolition affecting the exterior appearance of a contributing structure or its appurtenances, which the Commission deems so valuable to the Town of North Providence, state, or nation, that the loss there of 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.

(b) Unless the Commission is satisfied that the retention of such contributing structure constitutes a hazard to public safety, which hazard cannot be eliminated by economic means available to the owner, including the sale of the contributing structure to any purchaser willing to preserve such structure, the Commission shall file with the Division of Inspections its rejection of such application.

(c) 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 Division of Inspection its rejection of such application.

(d) Unless as a result of change in such contributing structure arising from casualty, (i.e. fire), no new application for the same or similar work shall be filed within one (1) year after such rejection.

(e) In the case of any contributing structure or its appurtenances 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 Building Official 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:

(f) preservation of such structure is a deterrent to a major improvement program which will be of substantial benefit to the community;

(g) 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

(h) the preservation of such structure would not be in the best interest of the majority of the community.

(I) when considering an application to demolish or remove a contributing structure or historic or architectural value, the Commission shall assist the owner in identifying and evaluating alternatives to demolition, including sale of the structure on its present site. In addition to any other criteria, the Commission shall also consider whether there is 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 bonafide and reasonable efforts to sell the structure to any such purchaser willing to move and preserve such structure.

(j) when a building, site, or landmark has been identified by the North Providence Town Council, in consultation with the Historic District Commission, as having historical or architectural value and whose deteriorated physical condition endangers the preservation of the structure or its appurtenances, the Town Council shall enforce published 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 Town Council may establish a reasonable time not less than thirty (30) days within which the owner must begin repairs. If the owner has not begun repairs within the allowed time, the Town 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.

#### SECTION 8 - FAILURE OF THE COMMISSION TO ACT

The failure of the Commission to act within forty-five (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 that can be obtained within the aforesaid period of forty-five days, then in said event, the Commission shall have a period of up to ninety days within which to act upon such application.

#### SECTION 9 - ADVISORY ROLE

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

#### SECTION 10 - EXCEPTIONS

Nothing in this ordinance 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, or appearance of the structure or appurtenances; nor shall anything in this ordinance be construed to prevent the construction, alteration, repair, moving or demolition of any structure under permit issued by the Division of Inspections prior to the effective date of this ordinance.

#### SECTION 11 - EQUITABLE ACTIONS

Where there is a violation of any of the provisions of this ordinance 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.

#### SECTION 12 - RIGHT OF APPEAL

Any person, or persons jointly or severally, aggrieved by a decision of the Historic District Commission shall have the right of appeal, concerning the decision, to the zoning board, and a further right of appeal from the zoning board to the Superior Court in the same manner provided in chapter 45-24 of the General Laws of the State of Rhode Island and from the Superior Court to the Supreme Court by writ of certiorari.

#### SECTION 13 - SCOPE OF REVIEW BY ZONING BOARD

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 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.

SECTION 14 - ENFORCEMENT

The Building Official or any duly authorized local official may bring an action against any property owner who fails to comply with the requirements of this ordinance. Actions shall be brought in the Superior Court having jurisdiction where the violation occurred.

SECTION 15 - AMENDMENT

Amendments or additions to this Ordinance or to the Historical District shall be the same process and procedure as amendments to the North Providence Zoning Ordinance.

SECTION 16 - PERIODIC REVIEW

The Town Council or its successor ordinance-creating authority shall be required at fifteen (15) year intervals commencing in the year 2010 to review the regulations issued by the U.S. Secretary of the Interior or other appropriate federal agency for the purpose of changing the definition of contributing structure and advancing the goals of historic preservation.

APPROVED AS TO FORM AND LEGALITY:

*William J. Fallone*  
*Tom Johnston*  
ADOPTED: *January 23, 1996*  
APPROVED: *1-24-96*

*Charles Lombardi*  
Council President

*G. Richard Fosse*  
Mayor

*Joseph E. Rendine*  
Town Clerk