

CHAPTER

No. **AN ORDINANCE IN AMENDMENT OF CHAPTER 27 OF THE CODE OF ORDINANCES OF THE CITY OF PROVIDENCE ENTITLED: “THE CITY OF PROVIDENCE ZONING ORDINANCE,” APPROVED NOVEMBER 24, 2014, AS AMENDED, TO ADD PROVISIONS TO SECTION 1911 CERTIFICATE OF APPROPRIATENESS**

Be it ordained by the City of Providence:

1911 CERTIFICATE OF APPROPRIATENESS

A. Purpose

Before a property owner commences construction, alteration, repair, removal, or demolition of any existing structure or its appurtenances within a Historic District Overlay District, the owner shall be granted a certificate of appropriateness from the Historic District Commission.

A certificate of appropriateness is required whether or not a building permit is required.

B. Initiation

A property owner, or person expressly authorized in writing by the property owner, shall file an application for a certificate of appropriateness for any development, including demolition, within a Historic District Overlay District.

A property owner may only file an application for a certificate of appropriateness for property under his/her control.

No demolition permit shall be issued and no demolition may occur until the Historic District Commission has issued a certificate of appropriateness.

C. Authority

1. The Historic District Commission, as applicable, will approve a certificate of appropriateness. The Historic District Commission may delegate to the staff authority to issue a certificate of appropriateness in certain circumstances without a public hearing in accordance with the Standards and Guidelines as adopted or by action of the Historic District Commission at a public hearing. The staff may not deny a certificate of appropriateness, but shall refer such action to the Historic District Commission for a hearing.

2. The Historic District Commission may, at the applicant’s expense, hire experts to opine on the validity of evidence and testimony submitted as part of a demolition application. This may include, but is not limited to, an initial evaluation of the historic or architectural significance of the building, and, for structures found by the Historic District Commission to be historically or architecturally significant, an appraisal of the property and/or structural analysis of the building.

D. Applicability

All construction, alteration, repair, removal, or demolition of any existing structure or its appurtenances within a Historic District Overlay District requires a certificate of appropriateness.

E. Procedure

1. Within 45 days of receipt of a complete application, the Historic District Commission shall hold a public meeting on an application for a certificate of appropriateness. Notice is required in accordance with Section 1801.
2. An application for a certificate of appropriateness may be approved, approved with conditions, or denied. The Historic District Commission shall issue written findings for the reasons and basis of each decision regarding the certificate of appropriateness. When denying an application, the Historic District Commission shall include the basis for its finding of denial 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 Historic District Commission shall send a copy of the decision to the applicant and to the Director of the Department of Inspection and Standards and the action taken by the Historic District Commission is binding on the Director. No application may be denied without a hearing.
3. If the Historic District Commission fails to act within 45 days of receipt of a complete application, the application is deemed approved, unless an extension of time has been agreed to by the applicant and the Historic District Commission.
4. If the Historic District Commission makes a finding of fact within the 45 day period that a particular application requires additional time for study and information, then the Historic District Commission has an additional 90 days from the date of the receipt of a complete application to act upon such application. An extension of time may be agreed to by the applicant and the Historic District Commission beyond this 90 day period.
5. A certificate of appropriateness may be issued without a public hearing for ordinary maintenance or repair of any structure within an 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 its appurtenances. The Historic District Commission may delegate to the staff the authority to approve and issue certificates of appropriateness in such circumstances.

F. Approval Standards

1. General

The Historic District Commission will evaluate all applications in accordance with the criteria established in its adopted "Standards and Guidelines." The Historic District Commission acts only on exterior features of a structure and its appurtenances. In reviewing an application for a certificate of appropriateness, the Historic District Commission has the power to call in experts to aid in its deliberations and may incorporate the conclusions of such experts in its decisions.

2. Special Criteria for Demolition

In order to preserve the historic fabric of the City, demolition of historic properties is discouraged. When reviewing an application for a certificate of appropriateness to demolish an historic structure or appurtenance, the Historic District Commission shall consider the following criteria, in addition to the provisions of the adopted "Standards and Guidelines."

a. Structures Valuable to the City

In the case of an application for demolition of any structure, appurtenance, or a portion of a structure which the Historic District Commission deems so valuable to the City, the state, or the nation, that the loss thereof will be a great loss to the City, the state, or the nation, the Historic District Commission will endeavor to work out with the owner an economically feasible plan for the preservation of such structure on its present site. The Historic District Commission may issue a certificate of appropriateness to demolish only if it is satisfied that the retention of such structure constitutes 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 such structure.

b. Structures Valuable for the Period

In the case of an application for demolition of any structure, appurtenance, or a portion of a structure deemed to be valuable for the period of architecture which it represents and its importance to the neighborhood within which it exists, the Historic District Commission may issue a certificate of appropriateness to demolish only if it finds that at least one of the following conditions exists:

- i. Retention of such structure constitutes a hazard to public safety which hazard cannot be eliminated by economic means available to the owner, including sale of the structure on its present site to any purchaser willing to preserve such structure.
- ii. Preservation of such structure is a deterrent to a major improvement program that will be of substantial benefit to the community.
- iii. 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.
- iv. Preservation of such structure would not be in the interest of the majority of the community.

G. Demolition Regulations

1. Alternatives to Demolition

The Historic District Commission will assist the owner in identifying and evaluating alternatives to demolition, including sale of the structure on its present site. When considering an application to demolish a structure of historic or architectural value, in addition to any other criteria, the Historic District Commission shall consider the following: a. 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. b. 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.

2. Avoiding Demolition Through Owner Neglect

The City Council, or its designee, 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 will 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 of no less than 30 days within which the owner shall begin repairs. If the owner has not begun repairs within the allowed time, the Council or its designee shall hold a hearing at which the owner may appear and state his 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 or its designee may cause the required repairs to be made at the expense of the City and cause a lien to be placed against the property for repayment. The Historic District Commission will cooperate with and assist the City Council in exercising the provisions of this section.

3. Emergency Demolition

Should the Director of the Department of Inspection and Standards determine that a structure is unsafe or hazardous and an imminent hazard to public safety for a reason such as being in danger of imminent collapse from damage caused by human action or an act of God, a committee consisting of the Director of the Department of Inspection and Standards, Fire Marshal, Planning Director, a structural engineer to be hired under City auspices, and the Chair of the Historic District Commission, or their designees, shall convene immediately to evaluate whether the structure shall be demolished. The committee shall evaluate all pertinent information including, but not limited to, the structural condition of the structure, the historic value of the structure, and

the danger to the public. The Director may order partial or full demolition based on the consensus of the committee. If the Director of the Department of Inspection and Standards, in consultation with on-site life safety officials, determines that the structure is in danger of imminent collapse or is an immediate danger to public safety and there is no time to convene the aforementioned committee, he/she may order the structure demolished immediately. The Director of the Department of Inspection and Standards shall issue a report to the Historic District Commission stating the reasons for the order.

4. Demolition Delay

Notwithstanding the other provisions of this section, in the case of an application for demolition of any structure, appurtenance, or a portion of a structure within a Historic District Overlay District, the Historic District Commission shall not issue a certificate of appropriateness any sooner than a period of six months from the date of application; provided, however, that said delay shall not apply in the case of emergency demolition.

5. Archival Documentation

Prior to demolition of any structure determined to be valuable to the city or for the period, as provided for in this section, the applicant shall assemble an archival package, including a history of the property, elevation drawings, floor plans, and exterior and interior photographs, and shall submit the package to the Rhode Island Historical Preservation and Heritage Commission as part of the Rhode Island Historical Resources Archive as well as to the city archives department. The requirements and guidelines for this documentation may be further defined and regulated by the Historic District Commission.

H. Inspections

The Historic District Commission may inspect work in progress after a certificate of appropriateness has been issued to insure that work is proceeding in accordance with the approval received. If the Historic District Commission finds that the work in progress does not conform to the certificate of appropriateness, the Historic District Commission will advise the Director of the Department of Inspection and Standards, who will enforce the requirements of the Certificate of Appropriateness in accordance with this Ordinance.

I. Appeals

An aggrieved party has the right to appeal a decision of the Historic District Commission to the Zoning Board of Review, and a further right of appeal from the Zoning Board of Review to the Superior Court, and from the Superior Court to the Supreme Court by writ of certiorari. The appeal to the Zoning Board shall be made within 20 days of the issuance of a written determination by the Historic District Commission on any plan or petition submitted to it or any revisions thereof.

G. Reapplication Restrictions

In the absence of change in such structure arising from a casualty event or occurrence, following the denial of an application, no new application for the same or similar work shall be filed within one year after such rejection.