

2010 -- S 2791

LC02343

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO TOWNS AND CITIES

Introduced By: Senators Jabour, Pichardo, Goodwin, Crowley, and Metts

Date Introduced: April 13, 2010

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-24.1-4 of the General Laws in Chapter 45-24.1 entitled  
2 "Historical Area Zoning" is hereby amended to read as follows:

3 **45-24.1-4. Permit required to construct, alter, or demolish structure -- Application --**  
4 **Written decisions of commission -- Powers of commission. --** (a) The commission shall, within  
5 twelve (12) months of the date the local historic district zoning ordinance takes effect:

6 (1) Adopt and publish all rules and regulations necessary to carry out its functions under  
7 the provisions of this chapter; and

8 (2) Publish standards as necessary to inform historic district residents, property owners,  
9 and the general public of those criteria by which the commission determines whether to issue a  
10 certificate of appropriateness. The commission may amend these standards as reasonably  
11 necessary, and it shall publish all amendments.

12 (b) Before a property owner or public utility as defined in subdivision 39-1-2(20) that is  
13 installing a gas regulator or gas meter may authorize or commence construction, alteration, repair,  
14 removal, or demolition affecting the exterior appearance of a structure or its appurtenances within  
15 a historic district or affecting a historic cemetery wherever located within a city or town, the  
16 owner or public utility must apply for and receive a certificate of appropriateness from the  
17 commission. In applying, the owner or public utility must comply with application procedures  
18 established by the commission pursuant to this chapter and the applicable local ordinance. The  
19 commission shall require the owner or public utility to submit information which is reasonably

1 necessary to evaluate the proposed construction, alteration, repair, removal, or demolition,  
2 including, but not limited to, plans, drawings, photographs, or other information. The owner of  
3 the property or the public utility must obtain a certificate of appropriateness for the project  
4 whether or not state law requires that he, she or it also obtain a permit from the local building  
5 official. The building official shall not issue a permit until the commission has granted a  
6 certificate of appropriateness. In evaluating whether to issue a certificate of appropriateness  
7 where the project calls for a structure to be demolished or relocated, the commission shall  
8 consider whether there are definite plans for reuse of the property if the proposed demolition or  
9 relocation is carried out, and what effect such plans will have on the architectural, cultural,  
10 historical, archaeological, social, aesthetic, or environmental character of the surrounding area.  
11 All applications to demolish or remove a structure in a historic district shall contain, at a  
12 minimum, replacement construction plans for the property in questions the amounts expended  
13 upon such plans, and the dates of such expenditures, financial proof of the applicant's ability to  
14 complete the replacement project, which may include, but not be limited to, a performance bond,  
15 a letter of credit, a trust for complete of improvements, or a letter of commitment from a financial  
16 institution.

17 (c) In the case of a historic cemetery, the owner must comply with all provisions of law  
18 and make suitable and appropriate provisions for the reinterment of any human remains in an  
19 established cemetery. Original or existing headstones and markers shall be preserved and  
20 installed at the site of the reinterment.

21 (d) In reviewing plans, the commission shall give consideration to:

22 (1) The historic and architectural significance of the structure and its appurtenances;

23 (2) The way in which the structure and its appurtenances contribute to the historical and  
24 architectural significance of the district; and

25 (3) The appropriateness of the general design, arrangement, texture, materials, and siting  
26 proposed in the plans.

27 The commission shall pass only on exterior features of a structure and its appurtenances  
28 and shall not consider interior arrangements.

29 (e) All decisions of the commission shall be in writing. The commission shall articulate  
30 and explain the reasons and bases of each decision on a record, and, in the case of a decision not  
31 to issue a certificate of appropriateness, the commission shall include in the bases for its  
32 conclusion that the proposed activity would be incongruous with those aspects of the structure,  
33 appurtenances, or the district which the commission has determined to be historically or  
34 architecturally significant. The commission shall send a copy of the decision to the applicant.

1 (f) In the case of an application for construction, repair, alteration, removal, or  
2 demolition affecting the exterior appearance of a structure, or its appurtenances, which the  
3 commission deems so valuable to the city, town, state, or nation, that the loss of that structure will  
4 be a great loss to the city, town, state, or nation, the commission shall endeavor to work out with  
5 the owner an economically feasible plan for the preservation of that structure. Unless the  
6 commission is satisfied that the retention of the structure constitutes a hazard to public safety,  
7 which hazard cannot be eliminated by economic means available to the owner, including the sale  
8 of the structure to any purchaser willing to preserve the structure, or unless the commission votes  
9 to issue a certificate of appropriateness for the proposed construction, alteration, repair, removal,  
10 or demolition, the commission shall file with the building official or duly delegated authority its  
11 rejection of the application. In the absence of a change in the structure arising from casualty, no  
12 new application for the same or similar work shall be filed within one year after the rejection.

13 (g) In the case of any structure deemed to be valuable for the period of architecture it  
14 represents and important to the neighborhood within which it exists, the commission may file  
15 with the building official, or other duly delegated authority its certificate of appropriateness for an  
16 application if any of the circumstances under which a certificate of appropriateness might have  
17 been given under subsection (6) are in existence or if:

18 (1) Preservation of the structure is a deterrent to a major improvement program which  
19 will be of substantial benefit to the community;

20 (2) Preservation of the structure would cause undue or unreasonable financial hardship to  
21 the owner, taking into account the financial resources available to the owner, including the sale of  
22 the structure to any purchaser willing to preserve the structure; or

23 (3) The preservation of the structure would not be in the interest of the majority of the  
24 community.

25 (h) When considering an application to demolish or remove a structure of historic or  
26 architectural value, the commission shall assist the owner in identifying and evaluating  
27 alternatives to demolition, including the sale of the structure and its present site. In addition to  
28 any other criteria, the commission also shall consider whether there is a reasonable likelihood that  
29 some person or group other than the current owner is willing to purchase, move, and preserve the  
30 structure, and whether the owner has made continuing, bona fide, and reasonable efforts to sell  
31 the structure to any purchaser willing to move and preserve the structure.

32 (i) No less than fifteen (15) days after receiving an application to demolish or to remove  
33 an historic cemetery, the commission shall forward the application to the commission to study  
34 historic cemeteries. The commission shall also immediately forward to the commission to study

1 historic cemeteries its finding of fact, if any, together with its action on the application.

2 SECTION 2. Chapter 45-24.1 of the General Laws entitled "Historical Area Zoning" is  
3 hereby amended by adding thereto the following section:

4 **45-24.1-22. Preservation of historical structures in Providence.** – In addition to all  
5 other powers granted by the provisions of this chapter, the city of Providence is authorized to  
6 establish by ordinance an “old downtown historic district” for the area bordered by the  
7 Providence River, the Woonasquatucket River, Interstate Route 95 and Interstate Route 195 (as  
8 relocated), and to designate an agency, existing or new, to regulate the construction, alteration,  
9 repair, moving, and demolition of buildings and structures in said district.

10 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TOWNS AND CITIES

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1           This act would expand the scope of an historic district's review powers, and would create  
2 a new downtown district in the city of Providence.

3           This act would take effect upon passage.

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