

**SOUTH KINGSTOWN ZONING ORDINANCE**  
**PROVISIONS PERTAINING TO THE KINGSTON HISTORIC DISTRICT**  
*(Through 10/2021)*

**Sec. 102. - Overlay and special management districts.**

These are districts that are superimposed on existing zoning district(s) or part of a district, and impose specified requirements in addition to, but not less than, those otherwise applicable for the underlying district(s).

- A. *Historic Overlay District.* This overlay district includes an area within the Village of Kingston designated as an Historic District and is on the National Register of Historic Places. It is covered by special zoning restrictions which apply to all structural exterior building changes, street or traffic improvements, landscaping, erection of signs, and removal of trees.

**Article 6 - Overlay Zones, Special Zones & Special Management Districts**

**Sec. 600. - Historic Overlay District.**

600.1. *Purpose.* The intent of this section is to safeguard the heritage of South Kingstown by preserving structures and districts that reflect elements of its cultural, social, economic, political, and architectural history; to stabilize and improve property values in the districts; to foster civic beauty; to strengthen the local economy; to promote the use of historic districts for the education, pleasure, and welfare of the citizens of South Kingstown; and to provide, where feasible, that housing in historic districts be made available to low and moderate income residents.

600.2. *District boundaries.* For the purposes of this article, the boundaries of historic overlay district(s) are shown on the Official Zoning Map.

600.3. *Definitions.* The following terms shall have the following respective meanings unless a different meaning clearly appears from the context:

- A. *Alteration.* An act that changes one or more of the exterior architectural features of a structure or its appurtenances, including but not limited to the erection, construction, reconstruction, or removal of any structure or appurtenance.
- B. *Appurtenances.* Features other than the primary or secondary structures that 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 Historic District Commission indicating approval of plans for alteration, construction, repair, removal, or demolition of a structure or appurtenances of a structure within a historical district. Appropriate, for the purposes of passing upon an application for a certificate of appropriateness, means not incongruous with those aspects of the structure, appurtenances, or district that 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. *Demolition.* An act or process that destroys a structure or its appurtenances in part or whole.
- F. *Historic cemetery.* A cemetery registered by the Town of South Kingstown pursuant to Rhode Island General Laws, Section 23-18-10.1, as amended.
- G. *Historic district.* A specific division of the Town as designated by the Official Zoning Map. A historic district may include one or more structures.
- H. *Removal.* The relocation of a structure on its site or to another site.

- I. *Repair.* A change meant to remedy damage or deterioration of a structure or its appurtenances.
  - J. *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.
- 600.4. *Construction, alteration, and demolition of structures.*
- 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 a historic district, the owner must apply for and receive a certificate of appropriateness from the Historic District Commission.
  - B. In applying for such a certificate, the property owner must comply with the application procedures established by the commission. A certificate of appropriateness must be obtained, when required by this article, whether or not a permit also must be obtained from the Building Official. The Building Official shall not issue a permit until the commission has granted a certificate of appropriateness.
- 600.5. *Routine maintenance.* Nothing in this article shall be construed to prevent ordinary maintenance or repair of any structure within a historic district provided that such maintenance or repair does not in any way change the design, type of material, or appearance of the structure or its appurtenances; nor shall anything in this article be construed to prevent work under a permit issued by the Building Official prior to adoption of this article.
- 600.6. *Historic cemeteries.*
- A. Before a property owner may authorize or commence construction, alteration, repair, removal, or demolition affecting a historic cemetery or its appurtenances, whether or not the cemetery is located within a historic district, the owner must apply for and receive a certificate of appropriateness from the commission.
  - B. In the case of any work requiring the demolition, removal or relocation of all or part of a historic cemetery, the property owner shall comply with all provisions of local and state law and shall make suitable and appropriate provisions for the reinterment of any human remains in an established cemetery. Original or existing headstones and markers shall be preserved and reinstalled at the site of reinterment.
- 600.7. *Historic District Commission.*
- A. There is hereby established a South Kingstown Historic District Commission (HDC) consisting of seven regular members and one auxiliary member appointed by the Town Council President.
  - B. Members shall be residents of South Kingstown. Members shall be appointed to terms of three years, and shall be eligible for reappointment. At the expiration of his or her term, a member shall continue to serve until a successor is appointed. When a vacancy occurs, the Town Council President shall make an interim appointment for the unexpired portion of the term. Appointments in place at the time of adoption of this article shall remain in full force and effect.
  - C. Duly organized and existing historical and preservation groups may present to the Town Council President a list of qualified citizens from which members may be appointed.
  - D. The concurring votes of four members of the commission shall be necessary to grant a certificate of appropriateness or to reject an application. The auxiliary member shall sit, and shall have the powers of a regular member of the commission, only when a regular member is absent.
- 600.8. *Rules and regulations of commission.*
- A. Within 12 months of the adoption of this article, the commission shall adopt and publish rules and regulations for the conduct of its functions under this article, and criteria by which applications for certificates of appropriateness shall be reviewed. The commission shall have the authority to amend its rules and regulations and its review criteria when reasonably necessary, and all such amendments shall be published.

- B. All meetings of the commission shall be open to the public, and any person or his duly constituted representative shall be entitled to be heard on any matter before the commission. The commission shall keep a record of its proceedings, resolutions, findings, decisions, and actions, and such record shall be open to the public. The commission shall comply with all the requirements of the open meetings law, Rhode Island General Laws, Section 42-46-1 et seq., as amended.

600.9. *Standards of review.*

- A. In reviewing an application for a certificate of appropriateness, the commission shall consider:
  - 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; and
  - 3. The appropriateness of the general design, arrangement, texture, materials, and siting proposed by the applicant.

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

- B. In the case of an application involving a structure or its appurtenances that the commission deems so valuable to the Town, State or Nation that its loss would be a great loss to the Town, State or Nation, the following procedure shall apply:
  - 1. The commission shall try to develop with the owner an economically feasible plan for preservation of the structure. If such a plan can be developed that will, in the view of the commission, preserve the structure in a historically and architecturally appropriate manner, the commission shall issue a certificate of appropriateness.
  - 2. The commission shall reject the application unless the commission finds that retention of the structure in its present condition constitutes a hazard to public safety, and the owner does not have the economic means available to eliminate the public safety hazard, and the owner is unable to sell the structure to a buyer willing to preserve it.
  - 3. If the application is rejected, no new application for the same or similar work shall be filed within one year after the rejection, unless there is a change in the structure arising from casualty.
- C. If an application involves a structure that the commission deems to be valuable for the period of architecture it represents and important to the neighborhood in which it is located, but the commission finds that the owner's plan for preservation of the structure does not satisfy the standards contained in subsection 600.9.A. of this section, the commission may nevertheless issue a certificate of appropriateness if:
  - 1. Retention of the structure in its present condition constitutes a hazard to public safety, and the owner does not have the economic means available to eliminate the public safety hazard and is unable to sell the structure to a buyer willing to preserve it; or
  - 2. Preservation of the structure is a deterrent to a major improvement program that will be of substantial benefit to the community; or
  - 3. Preservation of the structure would cause undue or unreasonable hardship to the owner and the owner is unable to sell the structure to a buyer who is willing to preserve it; or
  - 4. Preservation of the structure would not be in the interest of a majority of the community.
- D. 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 alternatives to demolition, including sale of the structure and 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 the structure and whether the owner has made continuing, bona fide and reasonable efforts to sell the structure to any such purchaser.

600.10. *Decisions of commission.*

- A. 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 in the case of a decision not to issue a certificate of appropriateness, the commission shall include the bases for its conclusion that the proposed activity would be incongruous with those aspects of the structure, appurtenances or the district that the commission has determined to be historically or architecturally significant. A copy of the decision shall be sent to the applicant.
- B. The commission shall file with the Building Official its certificate of appropriateness or rejection of plans submitted to it for review. No work shall begin until such certificate is filed. In the case of rejection, such decision shall be binding on the Building Official and no permit shall be issued in such case.
- C. The failure of the commission to act upon each application submitted to it within 45 days from the day the application is filed, unless an extension is mutually agreed upon by the applicant and the commission, shall constitute approval. However, in the event that the commission makes a finding that the circumstances of a particular application require additional study and information than can be obtained within 45 days of submission, the commission shall have a total of up to 90 days within which to act on the application.

600.11. *Appeals from commission decisions.*

- A. 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 of Review, and a further right of appeal from the Zoning Board of Review to the Superior Court in the same manner provided by Rhode Island General Laws, Section 45-24-69, and from the Superior Court to the Supreme Court by petition for issuance of a writ of certiorari.
- B. 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 articulate and explain the reasons and bases for its decisions on the record. The decision of the Zoning Board of Review shall be in writing, and copies shall be sent to the applicant and to the commission.

600.12. *Enforcement.* The Building Official, through duly-appointed legal counsel for the Town, may bring an action in the Washington County Superior Court to enforce the provisions of this article. The Town may seek restraining orders and injunctive relief to restrain and enjoin violations or threatened violations of this article.

600.13. *Avoiding demolition caused by neglect.*

- A. All structures located in historic districts shall be maintained in compliance with the provisions of the Rhode Island State Building Code, Title 23, Chapter 27.3 of the Rhode Island General Laws, as amended, that are applicable to exterior maintenance and structural integrity.
- B. The Historic District Commission shall identify structures and appurtenances of historical or architectural value within historic districts whose preservation is endangered because of their deteriorating condition. When such a structure or appurtenance is identified, the commission may petition the Town Council to require its repair.
- C. Upon receipt of such a petition, the Town Council may establish a reasonable time of not less than 30 days within which the owner must begin repairs. When such repairs are ordered, the owner shall be notified by certified mail.
- D. If the Building Official determines that the owner has not begun repairs within the time established, the Town Council shall conduct a hearing at which the owner may appear and state his or her reasons for not commencing repairs. Upon good cause shown, the Council may extend the period for repairs to begin.

- E. If the owner does not appear at the hearing, or does not comply with the Town Council's orders, the Town Council may direct the Building Official to arrange for the required repairs to be made at the expense of the Town. If such repairs are made, the Building Official shall direct the Town Solicitor to cause a lien to be placed against the real property for repayment, and to institute any action necessary to enforce the lien.