

# Chapter A423. Historic District Commission Rules and Regulations

## Article I. General Provisions

### § A423-1. Authority.

These rules and regulations are adopted by the Gloucester Historic District Commission ("HDC") in fulfillment of the requirements of ~~Section 5C-2a~~ **Chapter 350-71 C** of the Historic District Zoning Ordinance of Gloucester, Rhode Island.

### § A423-2. Purpose.

The purpose of these rules and regulations is to ~~establish procedures for processing applications for certificates of appropriateness or recommendations of compatibility and for the internal management of the HDC.~~ protect Gloucester's historic assets and guide new growth in ways which enrich and maintain its unique sense of place and historic character, for present and future generations.

### § A423-3. General rules.

The HDC shall be governed by the terms of R.I.G.L. § 45-24.1, Historical Area Zoning and by the Historic District Zoning Ordinance of the Town of Gloucester.

### § A423-4. Jurisdiction.

Within any historic district in the Town of Gloucester as designated in accordance with Chapter 350, Zoning, and shown on the Historic District Designation Map the HDC shall have the authority to **review 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.**

- ~~A. Regulate the construction, alteration, repair, removal or demolition of a pre 1900 structure or its appurtenances.~~
- ~~B. Provide recommendations concerning the construction, alteration, repair, removal or replacement of any other structure or its appurtenances.~~

## Article II. Organization

### § A423-5. Membership.

The HDC shall be constituted in accordance with the Gloucester Historic District Zoning Ordinance and R.I.G.L. § 45-24.1-3.

- A. Chairman.

1. A Chairman shall be elected by the HDC from its membership. The Chairman shall preside over all HDC meetings and shall decide all points of order and procedure unless directed otherwise by a majority of the HDC in session at the time. The Chairman shall have the right to vote.
  2. The Chairman shall appoint any committees found necessary to investigate any matter before the HDC.
  3. The Chairman shall review items proposed for each meeting and determine the agenda for each meeting.
- A. Vice-Chairman. The Vice-Chairman shall, in the absence or disability of the Chairman, perform the duties of the Chairman.
- B. Secretary.
1. The Secretary shall ensure that public notice of each HDC meeting is properly posted.
  2. The Secretary shall ensure that applicants receive written notification in advance of pertinent meeting dates and shall provide written notification of findings, approvals, and disapprovals for applications for certificates of appropriateness ~~or recommendations of compatibility.~~
  3. The Secretary shall keep a record of all resolutions, proceedings, findings of fact, decisions and actions.
  4. The Secretary shall ensure that the Building Official and any other appropriate official or agency of the Town is notified of the issuance of a certificate of appropriateness ~~or a recommendation of compatibility.~~

## § A423-6. Records.

The Secretary shall have the responsibility of keeping the HDC's records. The HDC may also require verbatim recorded or stenographic records.

- A. All records of the HDC shall be on file for public view at the office of the Gloucester Town Clerk. A fee may be charged for copies of any records.
- B. Minutes. Minutes of HDC meetings shall show the vote of each member present on each question, including abstentions. Minutes shall also contain:
1. A listing of HDC members present and absent;
  2. A listing of others in attendance whose presence may be significant to the proceedings, including but not limited to the Building Official, Town Solicitor, members of any public body and applicants and/or representatives;
  3. Approval of the minutes of the previous meeting;

4. Summary of applications for certificates of appropriateness, ~~recommendations of compatibility~~ and the preservation issues presented, including a description of the structures or appurtenances which will be affected;
5. Summary of arguments and materials presented in connection with each application, including supporting documents, objections and corrections;
6. Summary of HDC deliberations for applications for a certificate of appropriateness ~~or recommendations of compatibility~~, including references to the HDC standards and guidelines used; and
7. Findings of fact, conclusions reached, and actions taken on applications or other general business before the HDC.

#### § A423-7. Legal counsel.

The Town Solicitor's office shall be requested by the HDC to assist in all legal matters.

### **Article III. Meetings**

#### § A423-8. Regular meetings.

The HDC shall establish a schedule of regular meetings at the beginning of each calendar year and shall post this schedule in the Town Clerk's office and the Harmony Library. Supplemental written public notice of any regular meeting shall be given no less than 48 hours before the date.

#### § A423-9. Emergency meetings.

An emergency meeting may be held upon an affirmative vote of the majority of the members of the HDC. The meeting notice and agenda shall be posted as soon as practicable.

#### § A423-10. Cancellation of meetings.

Regular meetings may be cancelled by the Chairman. ~~with the approval of a majority of HDC members.~~ Notice of cancellations shall be given to all members and all applicants scheduled for the meeting not less than 24 hours prior to the time set for the meeting and posted as soon as practicable.

#### § A423-11. Attendance.

The HDC shall advise the Town Council President of any member of the HDC who is absent without proper excuse more than five consecutive regular meetings. The HDC shall request that the position be declared vacant and that a new member be appointed. Absences due to illness or emergency may be recognized as excused absences. The Chairman shall notify a member when he/she is approaching the maximum number of unexcused absences.

## § A423-12. Conduct of meetings.

All meetings shall be open to the public. The order of business at regular meetings shall include:

- A. Call to order.
- B. Roll call.
- C. **Pledge of Allegiance**
- D. Approval of the minutes of previous meetings.
- E. Committee reports.
- F. Old business.
- G. New business.
- H. Adjournment.

## ~~§ A423-13. Executive session.~~

~~For purposes authorized by the Open Meeting Law, the HDC may, on a motion duly adopted and for reasons stated on the record, adjourn to Executive Session.~~

## **Article IV. Procedures**

### § A423-14. Quorum; vote required for action.

Five members of the HDC 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 HDC for review and for establishing or amending HDC rules and regulations and standards of review.

### § A423-15. Conflicts of interest.

No HDC member shall take part in the consideration or determination of any case for a certificate of appropriateness ~~or recommendation of compatibility~~ in which he/she is a party or has a financial interest except as noted in the Rhode Island Ethics Commission Advisory Number 8, dated November 30, 1989. It shall be the responsibility of the HDC member having a potential conflict of interest to disclose such conflict to the HDC and to recuse himself/herself from participation in the discussion or the vote. Minutes shall state that the member has recused himself/herself from consideration of the matter.

### § A423-16. Conduct of members.

Members of the HDC shall be discouraged from expressing individual opinions concerning any application with any persons prior to the determination of that application, except in accordance with these rules **and the adopted Standards and Guidelines.**

### § A423-17. Site visits.

The HDC shall be available to meet on site with the applicant or his/her representatives at any time in the design process in order to advise them informally concerning the HDC's procedures and guidelines, the nature of the area where the proposed construction is to take place, and other relevant factors. The applicant shall agree, by signing the application, to allow the HDC, as a group or individually, to make site visits from time to time as deemed necessary.

#### § A423-18. Advisory opinions.

Other than at a regular or emergency meeting, the HDC shall refrain from any indication of approval or disapproval of applications but shall not, for that reason, be barred from a reasonable discussion of the applicant's proposals. No advice or opinion given, or reported as having been given, by any member of the HDC at a preapplication conference, at a site visit, or at an informal meeting shall be in any way official or binding upon the HDC. Only the official vote of the HDC shall be binding.

### **Article V. Applications for Certificate of Appropriateness ~~or Recommendation of Compatibility~~**

#### § A423-19. Application for certificate of appropriateness.

~~A. An application for a certificate of appropriateness is required for any change necessitating a building permit which affects the exterior appearance of a pre-1900 structure or its appurtenances located in an historic district, including construction, alteration, repair, removal or demolition. Appurtenances are 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, material, decorative accessories, fences, and historic landscape features.~~

A. An application for 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.**

~~B. certificate of appropriateness is required for any change necessitating a building permit which affects the exterior appearance of any structure, greater than 100 years old or having other historic significance or their appurtenances located in an historic district, including construction, alteration, repair, removal or demolition. Appurtenances are 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, material, decorative accessories, fences, and historic landscape features.~~

- C. An applicant seeking a certificate of appropriateness may request a preapplication conceptual conference with the HDC.

~~§ A423-20. Application for recommendation of compatibility.~~

~~An application for a recommendation of compatibility is required for any change necessitating a building permit which affects the exterior appearance of any other structure or its appurtenances located in an historic district, including construction, alteration, repair, removal or demolition. Appurtenances are features other than primary or secondary structures, including but not limited to paving, doors, windows, signs, materials, decorative accessories, fences, and landscape features.~~

§ A423-~~21~~20. Filing of applications.

Applications for certificates of appropriateness ~~or recommendations of compatibility~~ must be filed in person ~~or by certified mail~~ to the Building Official. Applications must be signed by the property owner and applicant. Applications must be accompanied by all documentation reasonably necessary to evaluate the proposal, including photographs, drawings, plans, or other information as requested by the HDC or Building Official. Three sets of all application documents, including the application form and all plans and other data, must be filed.

§ A423-~~22~~21. Acceptance of applications.

Applications shall be reviewed for completeness by the Building Official. Incomplete applications shall be returned to the applicant by the Building Official within seven working days of receipt. Complete applications, together with all maps, plans and other data, shall be accepted by the Building Official and forwarded to the HDC. Acceptance of an application does not preclude the HDC from requesting additional information which it determines to be necessary.

## **Article VI. Action on Applications**

§ A423-~~23~~22. Review criteria.

In reviewing applications for certificates of appropriateness ~~or recommendations of compatibility~~ the HDC shall use the criteria set forth in R.I.G.L. § 45-24.1 et seq. and Chapter 350, Zoning. In addition, the HDC **will use its adopted Standards and Guidelines.** ~~may apply such other design standards and guidelines as it deems necessary.~~

§ A423-~~24~~23. Consideration of applications.

Complete applications shall be considered by the HDC within 30 days after acceptance. The order of business for consideration of applications for certificates of appropriateness ~~or recommendations of compatibility~~ shall be determined by the Chairman and shall include the following:

- A. A preliminary statement by the HDC concerning the application.
- B. A presentation by the applicant or designated agent, including ~~arguments~~ **opinions** and material in support of the application.
- C. Comments by any official, commission, agency of the Town of Gloucester, state agency, or any historical, preservation or neighborhood organization.
- D. Comments and/or questions from other interested parties.
- E. Comments and/or questions from HDC members.
- F. A summary of the application, including ~~arguments~~ **opinions** and material presented.
- G. After closing the hearing to public comment, HDC shall deliberate regarding a certificate of appropriateness ~~or recommendation of compatibility~~ based upon evidence submitted; and the impact of the project on the structure(s) and appurtenances.
- H. Findings of fact and vote on applications for certificates of appropriateness ~~or recommendations of compatibility~~. Such vote may be tabled for further consideration and subsequent action.

§ A423-25**24**. Determinations.

- A. An application for a certificate of appropriateness may be approved, denied, or approved with conditions. Motions to approve or deny a certificate of appropriateness shall include findings of fact and a specific reference to the criteria under which the proposal has been judged.
- ~~B. An application for a recommendation of compatibility may be approved or not approved as submitted. If the latter, the HDC shall make recommendations specifically stating ways in which the plans may be made more compatible with any surrounding aspects of the district which the HDC has determined to be historically or architecturally significant. Recommendations of compatibility are not binding. Recommendations of compatibility may or may not be binding at the discretion of the commission. Recommendation considered to be binding must be specified at the time made and documented on the certificate of appropriateness and noted in the meeting minutes.~~
- ~~D. Resolutions.~~ All decisions of the HDC regarding issuance of a certificate of appropriateness ~~or a recommendation of compatibility~~ shall be in writing. The HDC shall state the reasons and basis for each decision ~~in the form of a resolution~~. **All decisions shall be recorded with the Gloucester Town Clerk.**

- E. Issuance of a certificate of appropriateness. Upon granting a certificate of appropriateness, the HDC shall:
1. Stamp three sets of all application documents, including the application form and all plans and other data. The stamped documents shall indicate the issue date and be signed by the HDC Chairman.
  2. Return ~~two~~ **one** sets of stamped, dated and signed documents to the applicant with a copy of the **written decision** resolution. ~~It is the responsibility of the applicant to file one set of these documents and a copy of the resolution with the Building Official.~~
  3. Retain one set of stamped and signed documents for the HDC files at the office of the Building Official.
  4. **Provide one set of stamped and signed documents with a copy of the written decision to the Building Official.**

§ A423-26. Failure to act.

- A. Automatic approval. The failure of the HDC to act within 45 days from the date of acceptance of a completed application for a certificate of appropriateness shall be deemed to constitute approval.
- B. Extensions. Within this forty-five-day period the HDC may make written findings of fact stating that the application for a certificate of appropriateness requires further time for study and/or to obtain additional information. In such case the HDC shall have a period of up to 90 days from the date of acceptance of a completed application within which to act on such application.

§ A423-27. Modifications to application.

A pending application for a certificate of appropriateness may be modified by a written request from the applicant to the HDC. Such request shall include a description of the proposed change and additional and/or revised documentation. If an application is modified, it shall be considered a new application for a certificate of appropriateness.

§ A423-28. Modifications to certificate of appropriateness.

Changes to a project after a certificate of appropriateness has been issued shall require a new application for a certificate of appropriateness. The new application shall be submitted before construction of the changes begins, unless the HDC determines at a new preapplication

conference that a full application is not required. Any changes not so approved shall be deemed a violation.

~~§ A423-29. Expiration of certificate of appropriateness.~~

~~Any certificate of appropriateness granted by the HDC shall expire six months after the date of approval, unless the applicant shall have obtained a building permit and proceeded with the approved construction. Prior to the expiration of the initial six-month period upon written request by the applicant, the HDC may extend the certificate of appropriateness for an additional six-month period. An applicant's failure to proceed with approved construction within the six-month extension shall cause the certificate of appropriateness to become null and void. (Moved to Section 350-72 C 5 of the zoning ordinance)~~

~~§ A423-30. Resubmittal of denied application.~~

~~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. (Moved to Section 350-72 C 6 of the zoning ordinance)~~

## Article VII. Enforcement

~~§ A423-31. Enforcement.~~

Provisions and requirements of certificates of appropriateness granted by the HDC shall be enforced by the Building Official.

~~§ A423-32. Violations and penalties.~~

~~Any exterior work to a pre-1900 structure or appurtenance within an historic district which proceeds, is in progress or is completed subsequent to the adoption of these rules and regulations without a certificate of appropriateness from the HDC, or which does not comply with the provisions of a certificate of appropriateness, shall be deemed a violation of Chapter 350, Zoning.~~

~~§ A423-33~~32. Procedures.

- A. Any person may report an alleged violation to the HDC.
- B. If the HDC determines that a violation exists, the Building Official shall be notified and he/she shall issue a stop-work order and instruct that the owner or his/her representative file a certificate of appropriateness within 30 days.

- C. The HDC shall review the newly submitted or resubmitted application. Any reconstruction or modifications required to bring the work into compliance shall be made conditions of approval, and a deadline for correction of the violation shall be set.
- ~~D. If the HDC issued conditions of approval for correction of work done in violation are complied with, the HDC shall inform the Building Official that the violation no longer exists.~~
- E. If the applicant fails to comply with HDC conditions of approval for correction of work done in violation, he/she shall be reported to the Building Official.
- F. Written records of all violations shall be kept in the HDC's files.

## **Article VIII. Amendments and Severability**

### **§ A423-34 33. Amendments.**

These rules may be amended by the HDC subject to approval of the Town Council.

### **§ A423-35 34. Severability.**

The provisions of these rules and regulations are severable; if any such provision or provisions shall be held invalid or unconstitutional by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of these rules and regulations.