

South Kingstown Historic District Commission Rules of Procedure - 2023

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ARTICLE I. AUTHORITY, PURPOSE & JURISDICTION

Section 1.01 LEGAL AUTHORIZATION

- a. The South Kingstown Historic District Commission (the “Commission”) is lawfully established in accordance with:
 - The R.I. Historical Area Zoning Act, R.I. Gen. Laws § 45-24.1-3.
 - Section 4930 of the South Kingstown Town Charter; and
 - Section 14-36 of the South Kingstown Code of Ordinances.
- b. These Rules of Procedure are adopted and published in accordance with the Commission’s authority under:
 - The R.I. Historical Area Zoning Act, R.I. Gen. Laws § 45-24.1-4(a); and
 - Section 600.8.A. of the South Kingstown Zoning Ordinance.
- c. The Commission is authorized to adopt and publish Preservation Standards & Guidelines to establish criteria for the Commission’s review of applications in accordance with:
 - The R.I. Historical Area Zoning Act, R.I. Gen. Laws § 45-24.1-4(b); and
 - Section 600.8.A. of the South Kingstown Zoning Ordinance.

Section 1.02 PURPOSE

The Commission adopts these Rules to:

- a. Establish procedures for scheduling and conducting meetings in furtherance of its responsibilities under state and local law.
- b. Define the roles of its Officers and Members.
- c. Facilitate the review of the various applications for approval and requests for advisory assistance received by the Commission.
- d. Promote better public understanding of Commission deliberations and decisions; and,
- e. Furnish other information to the public that the Commission considers useful to achieve the purposes of Section 600.

Section 1.03 JURISDICTION

These Rules shall apply to all matters over which the Commission exercises jurisdiction under state and local law, including but not limited to all applications involving exterior alterations within any historic district established by ordinance in the Town of South Kingstown, and any requests for advisory review by the Town Council and Town Boards & Commissions involving matters of historic preservation, or requests by property owners for pre-application consultations regarding historic properties in South Kingstown.

ARTICLE II. OFFICERS & MEMBERS

Section 2.01 MEMBERS

The Commission shall be composed of seven (7) members appointed to three (3) year terms by the South Kingstown Town Council in accordance with R.I. Gen. Laws § 45-24.1-3 and Section 14-37 of the South Kingstown Code of Ordinances. Each year the Commission members shall elect a Chair, Vice-Chair and Secretary.

Section 2.02 CHAIR

The Chair of the Commission shall:

- a. Preside at all meetings and hearings of the Commission, ensuring that the meetings are held in an orderly, efficient fashion, and that all interested parties have the opportunity to be heard.
- b. Decide all points of order and questions of procedure, subject to these Rules, unless a majority of the Commission in session directs otherwise.
- c. Appoint any committees necessary to investigate any matter before the Commission.
- d. Review items proposed for each meeting and determine the agenda for each meeting.
- e. Be responsible for the preparation of the required Certified Local Government (CLG) annual report. This report shall be placed on file in the Planning Department office for public viewing; and,
- f. In the event of the absence of the Secretary, be responsible for all of the Secretary's duties under Article 3, Section 3.

Section 2.03 VICE CHAIR

The Vice-Chair shall serve as acting Chair of the Commission in the absence of the Chair. At such times, the Vice-Chair shall have all the same powers and duties as the Chair.

Section 2.04 SECRETARY

The Secretary of the Commission shall:

- a. Prepare or supervise the preparation of written pre-application opinions, written approvals and disapprovals, and written findings for each application for a pre-application consultation or Certificate of Appropriateness.
- b. Ensure the Building Official of the Town of South Kingstown is notified of the issuance of Certificates of Appropriateness; and ensure that applications receive written notification in advance of meeting dates and written approvals, disapprovals, and findings for applications for Certificates of Appropriateness or pre-application consultations.
- c. Prepare meeting agendas in consultation with the Commission Chairman and/or staff, and ensure that the public notice of each meeting is properly posted.

- d. Supervise the preparation and maintenance of records of Commission meetings, hearings, and reviews; and,
- e. Ensure as far as possible that the Commission's records are readily available for public viewing.

Section 2.05 MEMBER TRAINING

All members of the Commission are required participate in regular, continuing education programs as required by R.I. General Laws ch. 45-70.

ARTICLE III. MEETINGS

Section 3.01 CONVENING OF MEETINGS & QUORUM REQUIREMENTS

- a. At the beginning of each calendar year the Commission shall adopt and post a schedule of its planned, regular meetings for the year in accordance with the Open Meetings Act. Unless otherwise noticed, all regular meetings will be scheduled to occur at the same time of day, day of the week and week of the month.
- a. The Commission shall hold no fewer than four (4) meetings each calendar year but may schedule and hold as many meetings as is necessary to attend to applications and fulfill other functions and duties.
- b. All meetings of the Commission shall be open to the public and conducted in accordance with the R.I. Open Meetings Act, R.I. Gen. Laws, Title 42, Chapter 46. Any person having business before the Commission shall be entitled to be heard on any matter duly scheduled for hearing before the Commission.
- c. No meeting of the Commission may convene to discuss or act on public business in the absence of a quorum.
- d. A “quorum” shall be defined as a simple majority of the total membership of the Commission as constituted by the Historical Area Zoning Act and the South Kingstown Town Charter.
- e. When the Commission has no matters pending, the Chair may cancel a regularly scheduled meeting by notifying all Commission members and posting a notice of cancellation in the Town Hall at least forty-eight hours (48) in advance of the time of the meeting date.

Section 3.02 PUBLIC NOTICE, AGENDAS & ORDER OF BUSINESS

- a. Public notice of all Commission meetings shall be given by publicly posting a meeting agenda not less than forty-eight (48) hours before each meeting (exclusive of weekends and state holidays) in accordance with the Open Meetings Act.
- b. Agendas for each Commission meeting shall be prepared in accordance with the requirements of the Open Meetings Act.
- c. All agendas shall be prepared by Planning Department staff in consultation with the Chair.
- d. Agendas shall be electronically mailed to all Commission members and all applicants having matters appearing on the agenda at least five (5) days prior to the time of such meeting.

- e. Consent Agenda: All agendas may include a “Consent Agenda” allowing the approval of routine matters on a single vote of the Commission. All items included in the Consent Agenda shall be identified in the meeting agenda by placing a “(CA)” at the beginning of the agenda item. Items shall be removed from the Consent Agenda for more detailed discussion at the request of any Commission member. Agenda items involving the review or approval of a Certificate of Appropriateness shall not be included on any Consent Agenda.
- f. Order of Business: Meetings of the Commission shall utilize the following order of business. No new application may be taken for review by the Commission after 10:00 p.m. unless agreed to by four (4) Commission members.
 - i. Call to order.
 - ii. Roll call.
 - iii. Reading (*by request of any Commission member*) and approval of the minutes of the previous meeting(s).
 - iv. Committee reports (other than project review).
 - v. Old business, including continued applications.
 - vi. New business.
 - vii. Pre-application consultations.
 - viii. Consideration of applications for Certificates of Appropriateness (the order to be determined by complexity or on a first filed basis).
 - ix. Comments from members and Planning Department staff.
 - x. Adjournment.
- g. Modifications to Order of Business: The Commission may modify the order of business by a majority vote of those members present.

Section 3.03 VOTING

- a. Only matters appearing on the posted agenda for the meeting and designated for consideration and possible action shall be subject to a vote of the Commission.
- b. All votes of the Commission shall be initiated on the motion of a member supported by a second of another member.
- c. Only Commission members in attendance and voting may present a motion, second the motion or cast a vote on a motion.
- d. Prior to making or accepting any motion for a vote the Commission shall vote to close any presentation by an applicant or open public comment on the matter in question.
- e. Each member of the Commission shall have one vote.
- f. Approval of any motion shall require a majority vote of the members in attendance and voting.

Section 3.04 RECORDS

The Commission shall keep written records of its meetings, deliberations, and decisions in accordance with the Open Meetings Act, R.I. Gen. Laws §42-46-7. The Secretary of the Commission shall have the primary responsibility for keeping the record. The Commission may also require a verbatim, recorded or stenographic record. Minutes shall show the vote of each member on each question including absences and abstentions. The Commission shall maintain written minutes available for public inspection at the Town Hall. At a minimum, Commission minutes shall also contain:

- a. Listing of Commission members present and absent.
- b. Listing of others present, specifically staff, special legal counsel, public agency staff, applicants and/or representatives.
- c. Approval of minutes of the previous meeting.
- d. Summary of applications for Certificate of Appropriateness and the preservation issues presented including a description of the relevant character defining features of the building, structure, or appurtenance that will be affected.
- e. Summary of arguments and materials presented for each application, including supporting documents, objections, and corrections.
- f. Summary of Commission deliberations for each application for a Certificate of Appropriateness including all references to the Commission's standards or review criteria used; and,
- g. Findings of fact made, conclusions reached, and actions or motions taken on each application by the Commission.

ARTICLE IV. APPLICATIONS

Section 4.01 APPLICATION TYPES

The Commission will entertain the following types of applications:

- a. Application for Certificate of Appropriateness: Applications for Certificates of Appropriateness are required for all exterior alterations other than those that qualify for administrative review as Routine Maintenance activities. These applications include all projects that propose to alter regulated architectural or landscape features, including but not limited to: additions; demolitions (*whole or partial*); significant repairs; removal, reconstruction, or replacement of exterior architectural features (*e.g. windows, doors, trim, ornamentation, gutters, downspouts*); and the use of non-original materials.
- b. Application for Routine Maintenance: Routine Maintenance includes those activities that are part of the ordinary and necessary upkeep of an existing structure, property, or landscape. Applications for Routine Maintenance will be considered for administrative review and approval by Planning Department staff acting in consultation with the Chair and Vice Chair. However, any Routine Maintenance Application may, at the discretion of staff in consultation with the Chair and Vice Chair, be directed to the full Commission for review and decision as an Application for Certificate of Appropriateness.

- c. Application for Preliminary Determination: Applications for Preliminary Determination are requests for the Commission to render a determination regarding whether a specific project or property is subject to Commission review under applicable law.
- d. Request for Pre-Application Conference: Pre-application Conferences are informal discussions between an owner/applicant and the Commission to solicit feedback on a proposed project. Pre-Application Conferences are non-binding exchanges of information and do not result in any decision, action or vote of the Commission.

Section 4.02 APPLICATION FORMS

All applications shall be submitted on forms adopted by the Commission in accordance with these regulations and any published instructions. All application instructions, forms and other materials relating to proceedings before the Commission are found in the Appendix to these regulations.

Section 4.03 APPLICATION SUBMISSION PROCESS

- a. All applications shall be submitted on forms and in accordance with instructions adopted by the Commission.
- b. All applications shall include:
 - i. A completed and signed Application Form.
 - ii. A project narrative describing the proposed project.
 - iii. Photos (*printed and digital*) of existing structures/conditions as required by the application instructions and checklists.
 - iv. The appropriate Application Checklist(s) required for the project, completed and signed.
 - v. All supplemental materials required by the checklist(s).
- c. All applications and supporting materials must be submitted to the South Kingstown Planning Department in both hard-copy and electronic (PDF) formats.
- d. The “date of application” initiating the Commission’s statutory review period under R.I. Gen. Laws § 45-24.1-7 is the date on which the hard-copy application is received by the Planning Department.
- e. Upon receipt by the Planning Department, staff will review the application for completeness and notify the applicant in writing whether the application is complete or incomplete. Applicants submitting incomplete applications will receive a Notice of Incompleteness (“NOI”) explaining why the application is not complete and providing the applicant an opportunity to make the necessary corrections. The issuance of a NOI suspends the statutory review period under RIGL § 45-24.1-7. The statutory review period will restart when the corrections or materials are submitted to the Planning Department.
- f. Deadlines for the submission and completeness of applications to be placed on a Commission hearing agenda will be established by Planning Department Staff, in consultation with the Chair and Vice-Chair.

Section 4.04 STANDARDS OF REVIEW

The Commission shall apply the standards of review as set forth in R.I. Gen. Laws §§ 45-24.1-4(d) and (f-i); Section 600.9 of the South Kingstown Zoning Ordinance; and any Historic Preservation Standards & Guidelines adopted by the Commission for the relevant property or historic district.

Section 4.05 CERTIFICATES OF APPROPRIATENESS –REVIEW BY PUBLIC HEARING

The Commission's consideration of applications shall generally follow the following review process:

- a. Introduction by Chair: The Chair, at his/her discretion, may offer a preliminary statement summarizing the key elements of the application, including but not limited to: the project location, the history of the site and the existing conditions of the property(ies) or structure(s), the nature and scope of the project being proposed, and the preservation standards implicated by the application.
- b. Preliminary Reviews & Reports: Presentation of any reviews or reports conducted or prepared by staff or any member or sub-committee assigned by the Commission to review project applications.
- c. Applicant's Presentation: The applicant will present the project, arguments, and material in support of the application to the Commission and the public audience. Materials shall include the verbal and graphic description of the proposed work and the impact of the work on character defining features of the buildings, structures, appurtenances and historic landscape features of the property and the district in which it is located.
- d. Comments by Preservation Professionals & Impacted Parties: Presentation of comments by individuals, organizations or governmental agencies having professional knowledge or expertise in historic preservation, and by parties who are significantly impacted by the project such as property owners/residents abutting the project location, and owners/residents within the relevant historic district.
- e. Comments by Other Interested Parties: Public comment and questions from all other interested parties not previously mentioned.
- f. Closure of Applicant Testimony & Public Comment: Once the Chair is satisfied that all testimony is complete and all public comments have been received, the Chair shall call for final discussion and questions before entertaining a motion to close the public hearing to testimony and public comment.
- g. Deliberation & Summary: Following a vote to close the hearing, the Chair will preside over a discussion of the application by members, which discussion may include questions to and input from staff. Following deliberations and prior to entertaining motions on the application, the Chair may, at his/her discretion, present a summary of the application, arguments, and materials presented including findings of fact, objections, and corrections of any party.
- h. Vote: Following deliberations, the Chair shall entertain motions to approve, approve with conditions, or reject the application. All such motions shall include:
 - i. Findings of fact and conclusions of law that include a specific reference to the relevant criteria delineated in the Commission's Standards of Review found in Article 6 of the Zoning Ordinance and the Historic Preservation Standards & Guidelines adopted by the Commission.
 - ii. Any conditions of approval the Commission deems necessary to ensure full and proper

completion of the approved project in accordance with Article 6 of the Zoning Ordinance and the Historic Preservation Standards & Guidelines adopted by the Commission; and

- iii. A specific time within which all work shall be completed, and after which the Certificate will expire automatically.

Section 4.06 ROUTINE MAINTENANCE - ADMINISTRATIVE REVIEW

- a. All Applications for Routine Maintenance will undergo an initial administrative review by Planning Department staff acting in consultation with the Commission Chair and Vice Chair to determine whether the proposed work qualifies as routine maintenance and is eligible for administrative approval. Where administrative review is deemed to be appropriate, a decision will be made to either:
 - i. Approve the proposed maintenance without further review by the Commission and issue decision and Certificate of Appropriateness.; or
 - ii. Forward the application to the full Commission for further review.
- b. Where an Application for Routine Maintenance is not approved administratively, the application will be referred to the full Commission for review and decision as an Application for Certificate of Appropriateness. Any decision to refer an Application to the full Commission shall be at the sole discretion of Planning Department staff acting in consultation with the Commission Chair and Vice Chair. No application will be denied based on an administrative review; final denials will only be issued by the full Commission following a public hearing.
- c. A decision granting administrative approval of an Application for Routine Maintenance may include conditions of approval. Any applicant aggrieved by a condition attached to an administrative approval may request that the application be forwarded to the full Commission for review.
- d. Examples of Routine Maintenance: Common examples of routine maintenance activities include, without limitation:
 - i. Exterior painting (*including appropriate methods of surface preparation, temporary removal & reinstallation of exterior features to facilitate painting and minor/limited exterior repairs*).
 - ii. Exterior repairs (*including limited, in-kind replacement of damaged siding, trim, and roof boards*).
 - iii. Temporary removal & reinstallation of exterior architectural features for maintenance, repairs, or painting.
 - iv. Roof replacement (*in-kind replacement of roof shingles, underlayment, drip-edge, flashing, and limited replacement of in-kind roof boards*).
 - v. In-kind repair replacement of gutters and downspouts.
 - vi. Removal and/or replacement of specimen trees or other significant features that are part of a historic landscape feature or streetscape.

- e. Activities Not Eligible for Administrative Review: Examples of proposals that are likely to result in a Routine Maintenance Application being excluded from administrative review and referred to the full Commission for review include, without limitation:
 - i. Proposals to replace original architectural features with new rather than repair existing features.
 - ii. Permanent removal of architectural features.
 - iii. Use of modern materials in lieu of historically accurate materials.
 - iv. Extensive repairs or replacement of materials.
 - v. Using replacement materials or architectural features that are not “in-kind” replacements (*e.g. materials that differ in type, dimension or appearance from existing materials*).
 - vi. Applying new materials over existing materials.
 - vii. Removal of specimen trees or other old growth vegetation that constitutes part of the historic landscape fabric of the Historic District.

Section 4.07 PRELIMINARY DETERMINATION

The Commission shall use the same order of business used in reviewing Certificates of Appropriateness.

Section 4.08 PRE-APPLICATION CONFERENCES

The Commission shall use the same order of business used in reviewing Certificates of Appropriateness when considering a Pre-application Consultation Request or Request for Determination of Applicability with the following exceptions:

- a. Motions to grant or deny conceptual approval or provide agencies of the Town with advisory opinions shall identify preliminary preservation issues and may suggest solutions.
- b. The applicant shall be given a clear understanding of the Commission's consideration of the appropriateness of the proposal, whether or not the proposal meets the provisions of Section 600 and any suggestions for modifications.

ARTICLE V. DECISIONS & APPEALS

Section 5.01 PROCEDURES FOR ISSUING DECISIONS

- a. Upon rendering a decision on an application, the Commission shall issue a written decision stating the Commission’s findings of fact, conclusions of law and any conditions of approval. The decision may be recorded in the South Kingstown Land Evidence Records. A copy of the written decision shall be forwarded to the owner and applicant.
- a. Where an application has been approved, the Commission shall Issue a Certificate of Appropriateness. A copy of the Certificate shall be forwarded to the owner and applicant for display at the subject property while the work is underway.

- b. Copies of all decisions and Certificates of Appropriateness shall be forwarded to the Building Official.
- c. Where plans are approved as part of any application, the Commission may require the applicant to submit up to three (3) sets of final plans to be stamped and signed by the Commission: one to be retained by the Commission for its records, one to be forwarded to the Building Official for use in reviewing any related building permits, and one to be returned to the applicant for its records.

Section 5.02 APPEALS

- a. Appeals by any person(s) aggrieved by a decision of the Commission may be filed with the South Kingstown Zoning Board of Review in accordance with R.I. Gen. Laws §§ 45-24.1-7.1, and Section 600.11 of the South Kingstown Zoning Ordinance.
- b. Unless otherwise specified by law, the process for filing an appeal from a decision of the Commission shall follow same process as established for the appeal of decisions of the Planning Board, as set forth in the Subdivision of Land Act, R.I. Gen. Laws §§ 45-23-67, -68, and -69.
- c. When hearing an appeal from a decision of the Commission, the Zoning Board of Review shall apply the standards of review set forth in R.I. Gen. Laws §§ 45-24.1-7.2.
- d. Pursuant to R.I. Gen. Laws §§ 45-24.1-7.1, appeals from decisions of the Zoning Board of Review to the R.I. Superior Court shall follow the process established by R.I. Gen. Laws §§ 45-24-69, -69.1, and -70.
- e. Appeals from decisions of the R.I. Superior Court shall be to the R.I. Supreme court by petition for writ of certiorari.