

SENATE No. 590

The Commonwealth of Massachusetts

SENATE, February 12, 1958.

The committee on State Administration, to whom was referred so much of the Governor's Address (Senate, No. 1) as relates to consideration of the desirability of establishing historic districts in areas celebrated for their historic importance (page 14), report the accompanying bill (Senate, No. 590).

For the committee,

PHILIP A. GRAHAM.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Eight.

AN ACT PROVIDING FOR THE ESTABLISHMENT OF HISTORIC DISTRICTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. This chapter shall be designated and may be
2 known as the Historic Districts Act.

1 SECTION 2. The purpose of this act is to promote the edu-
2 cational, cultural, economic and general welfare of the public
3 through the preservation and protection of historic buildings,
4 places and districts of historic interest; through the mainte-
5 nance of such districts as landmarks in the history of architec-
6 ture and as a tangible reminder of the early days of the com-
7 monwealth; through the development of appropriate settings
8 for these buildings, places and districts; and through the bene-
9 fits resulting to the economy of the commonwealth through the
10 promotion of these historic associations.

1 SECTION 3. Any city or town by vote of the city council or
2 town meeting may by ordinance or by-law establish historic
3 districts subject to the following provisions: — All petitions or
4 requests for the initial establishment of each district must be
5 accompanied by a report either by an authority in the field of
6 historic sites (or architecture) or by a special committee ap-
7 pointed by the mayor or selectmen. Prior to the establishment
8 or change in any such district the planning board shall hold a
9 public hearing thereon after due notice given, and file a report
10 on recommendations to city council or town meeting.

1 SECTION 4. In any city or town establishing historic districts,
2 an historic districts commission, consisting of not less than five
3 nor more than seven members, shall be established. Such mem-

4 bers shall be appointed by the mayor subject to the confirmation
5 by the city council or by the selectmen for terms of such length
6 and so arranged that the term of at least one appointee will
7 expire each year; vacancies shall be filled in like manner for the
8 unexpired term of office of the member replaced; and said com-
9 mission shall elect annually a chairman and a secretary from its
10 own number. The historic district commission shall have the
11 powers and authority and perform all the duties as hereinafter
12 enumerated and provided.

1 SECTION 5. (a) It shall be the function and the duty of the
2 historic districts commission to pass upon the appropriateness
3 of exterior architectural features of buildings and structures
4 hereafter to be erected, reconstructed, altered or restored in
5 said districts wherever such exterior features are subject to
6 public view from a public street or way. All plans, elevations
7 and other information deemed necessary by the commission to
8 determine the appropriateness of the exterior features to be
9 passed upon shall be made available to the commission by the
10 applicant. It shall also be the duty of the commission to pass
11 upon the removal of any building within said districts as set
12 forth in section six, and the erection or display of occupational
13 or other signs as set forth under section seven.

14 (b) The historic districts commission, in passing upon appro-
15 priateness of exterior architectural features in any case, shall
16 keep in mind the purposes set forth in section two, and shall
17 consider among other things the historical and architectural
18 value and significance, architectural style, the general design,
19 arrangement, texture, material and color of the building or
20 structure in question and the relation of such factors to similar
21 features of buildings and structures in the immediate surround-
22 ings.

23 (c) The historic districts commission shall not consider de-
24 tailed designs, relative size of buildings in plan, interior arrange-
25 ment or building features not subject to public view. The com-
26 mission shall not make any recommendations or requirements
27 except for the purpose of preventing developments obviously
28 incongruous to the historic aspects of the surroundings and the
29 historic districts.

30 (d) No building or structure within said district shall be
31 razed without first obtaining a permit approved by the historic
32 districts commission, and said commission shall be empowered
33 to refuse such a permit for any building or structure of such
34 architectural or historic interest, the removal of which in the
35 opinion of said commission would be detrimental to the public
36 interest of the city or town.

37 (e) In the event that vacant land exists or should occur
38 through catastrophe, and that such land is an integral part of
39 said district, the commission shall have the right to pass upon
40 all plans for construction and such plans must be submitted to
41 the commission for its approval before a building permit may be
42 issued.

43 (f) In case of disapproval the commission shall state its rea-
44 sons therefor in writing, and it may make recommendations to
45 the applicant with respect to historic significance, appropriate-
46 ness of design, arrangement, texture, material, color and the
47 like, of the building or structure involved.

48 (g) Upon approval of the plans the commission shall cause a
49 certificate of appropriateness, dated and signed by the chair-
50 man, to be issued to the applicant or affixed to the plans.

51 (h) If the commission shall fail to take final action in any
52 case within sixty days after receipt of any application for a cer-
53 tificate of appropriateness or a permit for removal, the case
54 shall be deemed to be approved except where mutual agreement
55 has been reached for an extension of the time limit, and the
56 secretary shall issue a certificate of appropriateness.

1 SECTION 6. In any historic district so established no build-
2 ing or structure shall hereafter be erected, reconstructed, altered,
3 restored or razed within said district unless and until an appli-
4 cation for a certificate of appropriateness shall have been ap-
5 proved by the commission. The building inspector, if an
6 or other permit-issuing agent or agents shall not issue a building
7 permit for work in any historic district until such certificate of
8 appropriateness has been secured.

1 SECTION 7. The erection or display of an occupational or
2 other sign exceeding two feet in length and six inches in width,

3 or the erection or display of more than one such sign, irrespec-
4 tive of size, on any lot, building or structure located within said
5 districts must be approved in advance by the historic districts
6 commission. Evidence of such approval shall be a certificate
7 of appropriateness issued by the said commissioner.

1 SECTION 8. Within ten days after the filing of an application
2 for a certificate of appropriateness or application for demolition,
3 Saturdays, Sundays and legal holidays excluded, the commission
4 shall determine the estates deemed by it to be materially affected
5 by such application, and, unless a public hearing on such appli-
6 cation is waived in writing by all persons entitled to notice
7 thereof, shall forthwith cause its secretary to give, by mail,
8 postage prepaid, to the applicant, to the owners of all such
9 estates as they appear on the then most recent real estate tax
10 list, and to any person filing written request for notice of hear-
11 ings, such request to be renewed yearly in December, reasonable
12 notice of a public hearing before the commission on such ap-
13 plication.

14 As soon as convenient after such public hearing or the waiver
15 thereof, but in all events within thirty days, Saturdays, Sundays
16 and legal holidays excluded, after the filing of the application for
17 the certificate of appropriateness, or within such further time
18 as the applicant may in writing allow, the commission shall
19 determine whether the proposed construction, reconstruction
20 or alteration of the exterior architectural feature involved will
21 be appropriate to the preservation of the historic district for the
22 purposes of this act, and whether, notwithstanding that it may
23 be inappropriate, owing to conditions especially affecting the
24 structure involved, but not affecting the historic district gener-
25 ally, failure to issue a certificate of appropriateness or permit
26 for demolition will involve a substantial hardship to the appli-
27 cant, and such a certificate may be issued without substantial
28 detriment to the public welfare and without substantial deroga-
29 tion from the intent and purposes of this act.

30 If the commission determines that the proposed construction,
31 reconstruction or alteration or demolition involved will be
32 appropriate or, although inappropriate owing to conditions as
33 aforesaid, failure to issue a certificate of appropriateness will

34 involve substantial hardship to the applicant and issuance
35 thereof may be made without substantial detriment or deroga-
36 tion as aforesaid, or if the commission fails to make a determina-
37 tion within the time hereinbefore prescribed, the secretary of
38 the commission shall forthwith issue to the applicant a certificate
39 of appropriateness. If the commission determines that a certi-
40 ficate of appropriateness should not issue, the commission shall
41 forthwith spread upon its records the reasons for such determi-
42 nation, and may include recommendations respecting the
43 proposed construction, reconstruction or alteration. Thereupon
44 the secretary of the commission shall forthwith notify the
45 applicant of such determination, transmitting to him an attested
46 copy of the reasons and recommendations, if any, spread upon
47 the records of the commission.

1 SECTION 9. Nothing in this act shall be construed to prevent
2 the ordinary maintenance or repair of any exterior architectural
3 feature now or hereafter in the historic district; nor shall any-
4 thing in this act be construed to prevent the construction, re-
5 construction, alteration or demolition of any such feature which
6 the building inspector or similar agent shall certify is required
7 by the public safety because of an unsafe or dangerous condition;
8 nor shall anything in this act be construed to prevent the
9 construction, reconstruction, alteration or demolition of any
10 such feature under a permit issued by a building inspector prior
11 to the effective date of establishment of said district.

1 SECTION 10. Appeals may be taken to the board of appeals
2 acting under the local zoning ordinance or by-law by any person
3 aggrieved by a ruling of the historic districts commission. The
4 board of appeals shall hear and act upon such appeals within a
5 reasonable time or within a period of time prescribed by the
6 local zoning ordinance or by-law or rule of the board of appeals
7 under the zoning ordinance or by-law. The concurring vote of
8 all the members of a board of appeals consisting of not more
9 than four members, or the concurring vote of all except one mem-
10 ber of a board or more than four members, shall be necessary to
11 reverse any decision of the historic commission.

1 SECTION 11. Any applicant, or the commission, aggrieved
2 by a determination of the board of appeals may, within twenty
3 days after the making of such decision, appeal to a superior
4 court sitting in equity for the county in which the land concerned
5 is situated. The court shall hear all pertinent evidence, and shall
6 annul the determination of the board if it finds the reasons given
7 by the board to be unwarranted by the evidence, or to be in-
8 sufficient in law to warrant the determination of the board, or
9 make such other decree as justice and equity may require.
10 The remedies provided by this section shall be exclusive; but
11 the parties shall have all rights of appeal and exception as in
12 other equity cases.

13 Costs shall not be allowed against the historic districts com-
14 mission or board of appeals unless it shall appear to the court
15 that the commission or the board in making the decision ap-
16 pealed from acted with gross negligence, in bad faith or with
17 malice.

18 Costs shall not be allowed against the party appealing from
19 the decision of the historic districts commission or the board of
20 appeals unless it shall appear to the court that said appellant or
21 appellants acted in bad faith or with malice in making the
22 appeal to the court.

1 SECTION 12. The superior court shall have jurisdiction in
2 equity to enforce the provisions of this act and the rulings issued
3 thereunder, and may restrain by injunction violations thereof.

1 SECTION 13. In case any section, paragraph or part of this
2 act be for any reason declared invalid or held unconstitutional
3 by any court of last resort, every other section, paragraph or
4 part shall continue in full force and effect.

1 SECTION 14. Any person who violates any of the provisions
2 of this act shall be guilty of a misdemeanor, and upon conviction
3 thereof shall be fined not less than ten dollars nor more than
4 five hundred dollars. Each day that a violation continues to
5 exist shall constitute a separate offence.

