

By Mr. Cahoon of Chatham, petition of Howard C. Cahoon, Jr., and Paul V. Doane (by vote of the town) for legislation to establish an historic business district commission in the town of Chatham. Local Affairs. Local Approval Received.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty-Five.

AN ACT ESTABLISHING AN HISTORIC BUSINESS DISTRICT COMMISSION FOR THE TOWN OF CHATHAM AND ESTABLISHING CERTAIN AREAS AS AN HISTORIC BUSINESS DISTRICT.

*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. PURPOSE

2 The purpose of this Act is to promote the cultural, economic and  
3 general welfare of the inhabitants of the Town of Chatham  
4 through the appropriate development of commercial and business  
5 districts by 1) protecting and preserving the distinctive characteris-  
6 tics of building and places significant in the history and develop-  
7 ment of Chatham; 2) maintaining and improving the settings of  
8 these buildings and places; and 3) encouraging designs which are  
9 compatible with buildings existing in the area, so as to continue to  
10 maintain the rural, fishing and residential character and other  
11 qualities which distinguish the Town as a desirable community for  
12 permanent and summer residence.

1 SECTION 2. ESTABLISHMENT OF AN HISTORIC BUS-  
2 INESS DISTRICT COMMISSION

3 There is hereby established in the Town of Chatham an Historic  
4 Business District Commission consisting of five unpaid members  
5 who shall be appointed by the Board of Selectmen. The Selectmen,  
6 in making such appointments, shall use reasonable efforts to  
7 include one architect, one realtor and one historian. The original  
8 appointment of the members of the Historic Business District  
9 Commission shall be one for one year, one for two years, one for

10 three years, one for four years and one for five years from the date  
11 of the Annual Town elections following such appointment, and  
12 thereafter there shall be appointed immediately following the  
13 Annual Town elections in each year one member to such Commis-  
14 sion to serve for the term of five years. The Selectmen shall also  
15 appoint two alternate Commissioners annually, each to serve for a  
16 one year term. Vacancies occurring in the Commission, other than  
17 by expiration of term of office, shall be filled by appointment by  
18 the Selectmen, but such appointment shall be only for the unex-  
19 pired portion of the term of the member replaced.

### 1 SECTION 3. DISTRICTS

2 There is hereby established in the Town of Chatham an Historic  
3 Business District, which shall include all the land within the fol-  
4 lowing commercially zoned districts in effect on September 9,  
5 1985: General Business — (GB—1), General Business - 2 (GB-2),  
6 General Business — 3 (GB-3), Limited Business — 1 (LB—1) and  
7 Residential Business (RB).

### 1 SECTION 4. CONSTRUCTION OF BUILDINGS OR 2 STRUCTURES

3 No building or structure shall hereafter be erected, recon-  
4 structed, altered or restored within the Historic Business District  
5 nor shall any building permit be issued by the Building Inspector  
6 unless and until an application for a certificate of appropriateness  
7 has been approved or a certificate of non-applicability issued.  
8 Evidence of such required approval shall be a certificate of appro-  
9 priateness or certificate on non-applicability issued by the Historic  
10 Business District Commission.

### 1 SECTION 5. RAZING OR MOVING OF BUILDING OR 2 STRUCTURES

3 No building or structure within the Historic Business District  
4 shall be razed or moved without first obtaining a permit approved  
5 by the Historic Business District Commission. Said Commission  
6 shall be empowered to refuse such a permit for the removal of  
7 razing of any building or structure of such architectural or historic  
8 interest, which in the opinion of said Commission would be detri-  
9 mental to the public interest. Any building or structure which, in  
10 the opinion of the Building Inspector, is unsafe or dangerous may

11 be razed if so ordered by the Building Inspector without a permit  
12 being issued by the Historic Business District Commission.

#### 1 SECTION 6. SIGNS

2 The erection or display of any sign exceeding two feet in length  
3 and six inches in height or the erection or display of more than  
4 one such sign, irrespective of size, on any lot, building or structure  
5 located within the Historic Business District must be approved by  
6 the Historic Business Commission. Evidence of such approval  
7 shall be a certificate of appropriateness or a certificate of non-  
8 applicability issued by said Commission. Pre-existing signs may  
9 remain for a period of twenty-four months following the effective  
10 date of this Act. Upon expiration of said twenty-four month  
11 period, any pre-existing sign not approved as set forth in this  
12 section shall be removed.

#### 1 SECTION 7. ORGANIZATION

2 The Historic Business District Commission shall elect a chair-  
3 man and secretary. The Commission shall meet within twenty-one  
4 days after notification by the secretary of the receipt of an applica-  
5 tion for a certificate of appropriateness, permit for removal or  
6 certificate of non-applicability and at such other times as the  
7 Commission may determine necessary. The Commission shall  
8 hold public meetings and keep permanent records of its resolu-  
9 tions, transactions and determinations. The Commission may  
10 make such rules and regulations consistent with this Act as may  
11 appear desirable and necessary. The Commission shall have the  
12 power and authority to perform all the duties as herein enumer-  
13 ated and provided. The Commission may incur expenses necessary  
14 to the carrying on of its work within the amount of its annual  
15 appropriation. The Commission is also empowered to charge  
16 reasonable application fees to defray its expenses. The Commis-  
17 sion is empowered to receive and use gifts, bequests and donations  
18 for the purposes set forth herein and defray its expenses.

#### 1 SECTION 8. RULES AND REGULATIONS

2 The Commission shall adopt rules and regulations after a public  
3 hearing on the same. Notice of such public hearing shall be adver-  
4 tised in a local newspaper for two consecutive weeks prior to said  
5 public hearing. The rules and regulations shall become effective  
6 when filed with the Town Clerk.

## 1 SECTION 9. FUNCTION AND DUTY

2 It shall be the function and duty of the Historic Business District  
3 Commission to pass judgment upon the appropriateness of exter-  
4 rior architectural features of buildings and structures hereafter to  
5 be erected, reconstructed, altered or restored in the Historic Busi-  
6 ness District, wherever such exterior features are subject to public  
7 view from a way, public or private. All plans, elevations and other  
8 information deemed necessary by the Commission to determine  
9 the appropriateness of the exterior features shall be made available  
10 to the Commission by the applicant. It shall also be the duty of the  
11 Commission to pass judgment upon the razing or moving of any  
12 building within said District as set forth in Section 5 and the  
13 erection or display or any sign set forth in Section 6.

## 1 SECTION 10. CONSIDERATIONS

2 The Historic Business District Commission, in passing judg-  
3 ment upon the appropriateness of exterior architectural features,  
4 shall keep in mind the purposes set forth in Section 1 and shall  
5 consider, among other things, the general design, scale, color,  
6 location on the lot, arrangement, texture, material of the building  
7 or structure, setting, topography, and land-scaping, and the com-  
8 parison of such features to similar features of buildings and struc-  
9 tures in the surrounding area, and the position of such buildings or  
10 structures in relation to the streets or ways and to other buildings  
11 or structures.

## 1 SECTION 11. EXEMPT FEATURES

2 The Historic Business District Commission shall not consider  
3 interior arrangement or building features, not subject to public  
4 view.

## 1 SECTION 12. DISAPPROVAL

2 In the case of disapproval, the Commission shall state its rea-  
3 sons therefor in writing. The Commission may make recommen-  
4 dations to the applicant with respect to appropriateness of design  
5 scale, location on lot, arrangement, texture and material, of the  
6 building or structure involved, and other features referred to in  
7 Section 10.

## 1 SECTION 13. APPROVAL

2 Upon approval of the plans by a majority of the Commission,  
3 the Commission shall cause a certificate of appropriateness or  
4 permit for removal, dated and signed by the chairman, to be issued  
5 to the applicant.

## 1 SECTION 14. CONSTRUCTIVE APPROVAL

2 If the Commission fails to take a final vote on any application  
3 within sixty days after receipt of an application for a certificate of  
4 appropriateness or a permit for removal, the application shall be  
5 deemed to be approved except where the applicant has assented to  
6 an extension of time.

## 1 SECTION 15. VIOLATIONS

2 Any person who violates any of the provisions of this Act shall  
3 be guilty of a misdemeanor and upon conviction thereof shall be  
4 fined Two Hundred dollars (\$200.00), which shall be forfeited to  
5 the use of the Town. Each day that a violation continues to exist  
6 shall constitute a separate offense.

## 1 SECTION 16. APPEALS TO BOARD OF SELECTMEN

2 Appeals may be taken to the Board of Selectmen within 14  
3 calendar days of the date appearing on the Commission's written  
4 decision on appropriateness, by any person aggrieved by the ruling  
5 of the Historic Business District Commission. The Board of  
6 Selectmen shall hear and act upon such appeals promptly and the  
7 decision of the Board shall be as determined by a majority vote of  
8 the members of the Board.

## 1 SECTION 17. APPEALS TO SUPERIOR COURT

2 Any person or the Historic Business District Commission,  
3 aggrieved by the decision of the Board of Selectmen, may appeal to  
4 the Superior Court sitting in equity for the County of Barnstable;  
5 provided, that such appeal is filed in said Court within twenty days  
6 after such decision has been mailing to all parties concerned. The  
7 Court shall hear all pertinent evidence and determine the facts, and  
8 upon the facts so determined annul such decision of found to  
9 exceed the authority of such Board, or make such other decree as  
10 justice and equity may require. The foregoing remedy shall be

11 exclusive, but the parties shall have all rights of appeal and excep-  
12 tion as in other equity cases.

1 SECTION 18. APPEAL AGAINST COMMISSION

2 Costs shall not be allowed against the Historic Business District  
3 Commission or the Board of Selectmen unless it shall appear to the  
4 Court that the Commission or the Board, in making the appealed  
5 decision, acted in bad faith or with malice.

1 SECTION 19. APPEAL AGAINST APPELLANT

2 Costs shall not be allowed against the party appealing the deci-  
3 sion of the Historic Business District Commission or the Board of  
4 Selectmen unless it shall appear to the Court that said appellant or  
5 appellants acted in bad faith or with malice in making the appeal to  
6 the Court.

1 SECTION 20. SUPERIOR COURT JURISDICTION

2 The Superior Court shall have jurisdiction in equity to enforce  
3 the provisions of this Act and the rulings issued thereunder and  
4 may restrain by injunction violations thereof.

1 SECTION 21. INVALIDITY OF A SECTION

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

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