

SENATE No. 1428

The Commonwealth of Massachusetts

PRESENTED BY:

Joanne M. Comerford

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to historic districts and commissions.

PETITION OF:

NAME:

Joanne M. Comerford

DISTRICT/ADDRESS:

Hampshire, Franklin and Worcester

SENATE No. 1428

By Ms. Comerford, a petition (accompanied by bill, Senate, No. 1428) of Joanne M. Comerford for legislation to establish and preserve historic districts and commissions. Municipalities and Regional Government.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to historic districts and commissions.

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. Chapter 40, Section 8D of the General Laws as appearing in the 2022
2 Official Edition is hereby amended by striking out the first sentence in its entirety and inserting
3 in place thereof the following paragraph:-

4 “Section 8D. (a) A city or town which accepts this section may establish an historical
5 commission, hereinafter called the commission. The purposes of the commission shall include
6 promoting the educational, cultural, economic and general welfare of the public through the
7 preservation and protection of the distinctive characteristics of buildings, places, or other
8 historical or archeological assets of such city or town or the commonwealth or their architecture,
9 which are significant in the history of such city or town or the commonwealth.”

10 SECTION 2. Chapter 40, Section 8D of the General Laws is hereby amended by inserting
11 after the first sentence the following paragraph:-

12 “The further purpose of this section is to establish a uniform process for reviewing
13 requests to demolish or relocate significant buildings in order to: (i) establish an appropriate
14 waiting period during which the city or town and the applicant can propose and consider
15 alternatives to the demolition or relocation of a building of historical, architectural, cultural or
16 urban design value to the city or town or the commonwealth; and (ii) provide an opportunity for
17 the public to comment on the issues regarding the demolition or relocation of a particular
18 building. This section further seeks to document significant buildings that cannot be preserved,
19 through photographic, video and/or written materials of the entire building, or part thereof as
20 designated by the commission, and to preserve those materials as part of the public record.”

21 SECTION 3. Chapter 40, Section 8D of the General Laws, as so appearing, is hereby
22 amended by forming the existing second through fifth sentences into a separate paragraph to
23 appear after the paragraph inserted per SECTION 2 above.

24 SECTION 4. Chapter 40, Section 8D of the General Laws, as so appearing, is hereby
25 amended by striking out, in line 20, the words “a local” and inserting in place thereof “an”.

26 SECTION 5. Chapter 40, Section 8D of the General Laws, as so appearing, is hereby
27 amended by striking out the sixth through eighth sentences in their entirety and inserting in place
28 thereof the following as a new paragraph:-

29 “The commission may hold public hearings, may enter into contracts with individuals,
30 organizations and institutions for services furthering the commission's purposes; may enter into
31 contracts with local or regional associations for cooperative endeavors furthering the
32 commission's purposes; may accept gifts, contributions and bequests of funds from individuals,
33 foundations and from federal, state or other governmental bodies to further the commission's

34 purposes; may make and sign any agreements and may do and perform any and all acts which
35 may be necessary or desirable to carry out the purposes of this section. It shall keep accurate
36 records of its meetings and actions and shall file an annual report which shall be printed in the
37 case of towns in the annual town report. The commission may appoint such clerks and other
38 employees as it may from time to time require.”

39 SECTION 6. Chapter 40, Section 8D of the General Laws, as so appearing, is hereby
40 amended by forming the existing ninth through twelfth sentences into a separate paragraph to
41 appear after the paragraph inserted per SECTION 5 above.

42 SECTION 7. Chapter 40, Section 8D of the General Laws, as so appearing, is hereby
43 amended by adding, in line 41 and line 46, the words “or select board” after “board of
44 selectmen”.

45 SECTION 8. Chapter 40, Section 8D of the General Laws, as so appearing, is hereby
46 amended by forming the existing thirteenth through sixteenth sentences into a separate paragraph
47 to appear after the paragraph formed per SECTION 6 above.

48 SECTION 9. Chapter 40, Section 8D of the General Laws is hereby amended by inserting
49 at the end of the section the following paragraphs:-

50 “Meetings of a commission shall be held at the call of the chairperson and shall be called
51 at the request of two members of the commission and in such other manner as the commission
52 shall determine in its rules. A majority of the members of a commission shall constitute a
53 quorum. The concurring vote of a majority of the members of the commission shall be necessary
54 to rule on any application requiring a public hearing.

55 Each certificate issued by the commission shall be dated and signed by its chairman,
56 vice-chairman, secretary or such other person designated by the commission to sign such
57 certificates on its behalf.

58 The commission shall keep a permanent record of its resolutions, transactions, and
59 determinations and of the vote of each member participating therein, and may adopt and amend
60 such rules and regulations not inconsistent with the provisions of this act and prescribe such
61 forms as it shall deem desirable and necessary for the regulation of its affairs and the conduct of
62 its business. The commission shall file a copy of any such rules and regulations with the city or
63 town clerk.

64 The commission shall file with the city or town clerk and with any department of the city
65 or town having authority to issue building permits a copy or notice of all determinations issued
66 by it with respect to applications to demolish or relocate a building.

67 The commission shall have, in addition to the powers, authority and duties granted to it
68 by this section, such other powers, authority and duties as may be delegated or assigned to it
69 from time to time by vote of the city council or town meeting.

70 (b) Definitions. As used in this section (1) the word “applicant” means any person or
71 entity that is the record owner of property or properties on which a building that is in whole or in
72 part at least 50 years old sits and who files an application for a demolition permit or for
73 authorization to relocate a building; (2) the word "building" means a combination of materials
74 forming a shelter for persons, animals or property; (3) the word "commission" means the
75 commission acting as the historical commission; (4) the word “demolition” means any act of
76 pulling down, destroying, removing, dismantling or razing a building, in whole or in part, or

77 commencing the work of total or substantial destruction of a building with the intent of
78 completing the same; (5) the words "person aggrieved" mean the applicant, an owner of
79 adjoining property, an owner of property within one hundred feet of the subject parcel's property
80 lines, and any not-for-profit corporation of which one of its purposes is the preservation of
81 historic buildings; (6) the words "preferably preserved" mean a determination by the historical
82 commission, following a public hearing, that a building is significant and requires a preservation
83 period in which to explore options to preserve, rehabilitate or restore the building; (7) the words
84 "preservation period" mean a specified period of time uniformly applied by the city or town of at
85 least 12 months and not to exceed 24 months from the date of the close of the public hearing,
86 following a determination by the historical commission that a significant building should be
87 preferably preserved, during which no demolition permit or authorization to relocate may be
88 issued for the building, unless the historical commission later determines otherwise; (8) the word
89 "relocate" means to move a building, in whole or in part, from its foundation to any other
90 location; (9) the word "significant" in relation to a building means the building is in whole or in
91 part at least 50 years old and has been determined by the commission to be significant based on
92 any of the following criteria: (i) the building is listed on, or is within an area listed on, the
93 National Register of Historic Places, (ii) the building has been found eligible for listing on the
94 National Register of Historic Places, (iii) the building is importantly associated with one or more
95 historic persons or events, or with the broad architectural, cultural, political, economic or social
96 history of the city or town in which it is located or the commonwealth, or (iv) the building is
97 historically or architecturally important (in terms of period, style, method of building
98 construction or association with a recognized architect or builder) either by itself or in the
99 context of a group of buildings; and (10) the words "solar energy system" shall mean a device or

100 structural design feature, a substantial purpose of which is to provide for the collection, storage
101 and distribution of solar energy for space heating or cooling, electricity generation or water
102 heating.

103 (c) Building and Demolition Permits Restricted. No demolition permit or authorization
104 for relocation of a building that is in whole or in part at least 50 years old shall be issued by a
105 city or town where the building is located, or by any department thereof, without following the
106 provisions of this section. If a building is of undetermined age, it shall be assumed that the
107 building is over 50 years old for the purposes of this section. No permit or authorization for such
108 building to be demolished or relocated shall be issued until (1) the applicant files an application
109 for a demolition permit with the inspector of buildings or building commissioner, (2) the
110 applicant also files an application for demolition or relocation with the commission in the form
111 of and containing content specified by the city or town and its commission, (3) the commission
112 holds a public hearing and makes a finding as to whether the building is significant and should
113 be preferably preserved, and (4) if the commission determines that preferable preservation is
114 appropriate, (i) the preservation period has run and expired or (ii) the applicant has satisfied the
115 commission's concerns such that the commission determines to end the preservation period
116 early, subject to any conditions imposed in connection with such preferable preservation.

117 Nothing in this section shall restrict the authority of an inspector of buildings or building
118 commissioner to order a building owner or the city or town to demolish a building if the
119 inspector of buildings or building commissioner determines that the condition of a building or
120 part thereof presents an imminent and substantial danger to the public health or safety. Further,
121 nothing in this section shall restrict the authority of the inspector of buildings or building
122 commissioner to require the applicant to take reasonable action to prevent the need for required

123 demolition of a significant building, which action may include securing the building and making
124 it safe so that it does not present an imminent and substantial danger to the public.

125 (d) Hearing Procedure. Within 30 days of the receipt of an application by the
126 commission for demolition or relocation of a building, the commission shall hold a public
127 hearing. Public notice of the time, place and purpose of the hearing shall be posted in a
128 conspicuous place in the city hall or town hall for a period of not less than 14 days prior to the
129 date of said hearing, and the applicant and the building commissioner shall be notified in writing
130 of the meeting time and place. To the extent a city or town maintains a municipal online meeting
131 calendar, the notice shall also be placed on such online meeting calendar 14 days prior to the
132 hearing. A copy of the notice shall be mailed to the applicant and to all abutters and abutters to
133 abutters, including those across the street of the lot on which the building is located.

134 Within 21 days following the close of the public hearing, the commission shall decide
135 whether the building is a significant building and, if so, whether it should be preferably
136 preserved. If agreed to in writing by the applicant, the determinations of the commission may be
137 postponed to a subsequent meeting.

138 Upon a determination by the commission that the building is not a significant building,
139 the commission shall so notify the inspector of buildings or building commissioner and the
140 applicant in writing within 21 days of the close of the public hearing. The inspector of buildings
141 or building commissioner may then issue the demolition permit in his or her discretion.

142 Upon a determination by the commission that the building is a significant building, the
143 commission shall determine whether the building should be preferably preserved.

144 If the commission determines that the building is not preferably preserved, the
145 commission shall so notify the inspector of buildings or building commissioner and applicant in
146 writing within 21 days of the close of the public hearing. The inspector of buildings or building
147 commissioner may then issue the demolition permit in its discretion.

148 If the commission determines that the building is preferably preserved, the commission
149 shall notify the inspector of buildings or building commissioner and applicant in writing within
150 21 days of the close of the public hearing. Following such notification, no demolition permit or
151 authorization to relocate may then be issued for a period to be determined by the commission,
152 such period to be uniformly applied by the city or town to all buildings determined by the
153 commission to be preferably preserved, of no less than 12 months from the date of the close of
154 the public hearing nor more than 24 months from the date of the close of the public hearing. If
155 the applicant subsequently satisfies the commission's concerns such that the commission
156 determines to end the preservation period early, subject to any conditions imposed in connection
157 with such preferable preservation, the commission will provide notice to the inspector of
158 buildings or building commissioner and applicant of such determination in writing.

159 Upon determination by the commission that any building which is the subject of an
160 application is a preferably preserved building, no building permit for new construction or
161 alterations on the premises shall be issued for a period of the applicable 12 to 24 months from the
162 date of the close of the public hearing unless otherwise agreed to by the commission.

163 (e) Factors to be considered by the commission in ruling on an application for demolition
164 or relocation. When ruling on an application for demolition or relocation of a building, after
165 having determined that the building is significant and as part of determining whether the building

166 should be preferably preserved, the commission must find that, in the public interest, it is
167 preferable that the building be preserved or rehabilitated rather than demolished or relocated. In
168 making such finding, the commission shall consider the building's historic and architectural
169 design significance and its contribution to the character of the city or town.

170 Notwithstanding any general or special law to the contrary, the commission shall give
171 substantial weight to the threat posed by climate change and to the commonwealth's obligation
172 to meet statewide greenhouse gas emission limits and sublimits established under chapter 21N
173 when ruling on applications for demolition or relocation that involve existing solar energy
174 systems.

175 (f) Commission authority to employ outside consultants during review process.
176 Notwithstanding G.L. c. 44, § 53, upon receipt of an application for demolition or relocation or
177 at any point during any hearing process, the commission is authorized to require an applicant to
178 pay a fee for the reasonable costs and expenses borne by the commission for expert engineering
179 and other consultant services deemed necessary by the commission to come to a final decision on
180 the application. The consultant fee is specific to historical commissions. This section provides
181 authority to cities and towns in addition to and consistent with that granted under G.L. c. 44, §
182 53G.

183 The specific consultant services may include, but are not limited to surveying the existing
184 historic resource, reviewing proposed changes for consistency with the commission's rules and
185 regulations, addressing other design or construction-related issues the commission determines
186 are relevant, and advising on historic preservation or land use law and legal issues. The
187 commission may require the payment of the consultant fee at any point in its deliberations prior

188 to a final decision. Failure by the applicant to pay the consultant fee specified by the commission
189 within the timeframe set by the commission shall be cause for the commission to deny issuance
190 of a permit or other requested action. The applicant shall pay the consultant fee to be put into a
191 special account, which may be drawn upon by the commission for specific consultant services
192 approved by the commission at one or more of its public meetings. The consultant shall be
193 chosen by, and report only to, the commission or its designee. The exercise of discretion by the
194 commission in making its determination to require payment of a consultant fee shall be based
195 upon its finding that additional information reasonably acquirable only through outside
196 consultants is necessary for the making of an objective decision.

197 The city or town shall provide rules for an administrative appeal from the selection of the
198 outside consultant to the city council or town board of selectmen or select board. The grounds for
199 such an appeal shall be limited to claims that the consultant selected has a conflict of interest or
200 does not possess the minimum, required qualifications. The minimum qualifications shall consist
201 either of an educational degree in or related to the field at issue or 3 or more years of practice in
202 the field at issue or a related field. The required time limits for action upon an application by a
203 commission shall be extended by the duration of the administrative appeal. In the event that no
204 decision is made by the city council or the town board of selectmen or select board within one
205 month following the filing of the appeal, the selection made by the commission shall stand. Such
206 an administrative appeal shall not preclude further judicial review, if otherwise permitted by law,
207 on the grounds provided for in this section. Any such special account shall be established by the
208 municipal treasurer in the municipal treasury and shall be kept separate and apart from other
209 monies. The special account, including accrued interest, if any, shall be expended at the direction
210 of the commission without further appropriation; provided, however, that such funds are to be

211 expended by it only in connection with carrying out its responsibilities under the law. Any excess
212 amount in the account attributable to a specific project, including accrued interest, if any, at the
213 completion of said project shall be repaid to the applicant or to the applicant's successor-in-
214 interest, and a final report of said account shall be made available to the applicant or to the
215 applicant's successor-in-interest. The municipal accountant shall submit annually a report of said
216 special account to the chief elected body and chief administrative official of the city or town for
217 their review. Said report shall be published in the city or town annual report. The municipal
218 accountant shall submit annually a copy of said report to the director of the bureau of accounts.

219 (g) Mandatory Pre-Demolition or Pre-Relocation Documentation. In instances where the
220 commission, after public hearing, determines that demolition or relocation of a building is
221 appropriate or acceptable, or, in the alternative, the commission determines that a building
222 should be preferably preserved but the preservation period expires, the applicant at its expense
223 and as a condition of obtaining a permit from the commission, shall provide to the commission
224 for its approval a comprehensive historic resource documentation package that fully conveys, in
225 text, maps, architectural plans, photographs and other appropriate and available media, the
226 significant features, context and history of the historic building, or part thereof as designated by
227 the commission, prior to its demolition or relocation.

228 (h) Review procedure provided by local ordinance or by-law. A city or town may provide
229 in its ordinance or by-law or in any amendment thereof, for a review procedure whereby any
230 person aggrieved by a determination of the commission related to demolition or relocation of a
231 building may, within 20 days after the filing of the notice of such determination with the city or
232 town clerk, file a written request with the commission for a review by a person or persons of
233 competence and experience in such matters, designated by the regional planning agency of which

234 the city or town is a member. If the city or town is not a member of a regional planning agency,
235 the Executive Office of Housing and Livable Communities shall select the appropriate regional
236 planning agency.

237 The finding of the person or persons making such review shall be filed with the city or
238 town clerk within 45 days after the request, and shall be binding on the applicant and the
239 commission, unless a further appeal is sought in the superior court as provided in section 8D(i).

240 (i) Appeal to superior court. Any person aggrieved by a determination of the commission,
241 or by the finding of a person or persons making a review, if the provisions of section 8D(h) are
242 included in a local ordinance or by-law, may, within 20 days after the filing of the notice of such
243 determination or such finding with the city or town clerk, appeal to the superior court sitting in
244 equity for the county in which the city or town is situated. The court shall hear all pertinent
245 evidence and shall annul the determination of the commission only if it finds the decision of the
246 commission to be unsupported by the evidence or to exceed the authority of the commission, or
247 may remand the case for further action by the commission or make such other decree as justice
248 and equity may require. The remedy provided by this section shall be exclusive, but the parties
249 shall have all rights of appeal and exception as in other equity cases. Costs shall not be allowed
250 against the commission unless it shall appear to the court that the commission acted with gross
251 negligence, in bad faith or with malice in the matter from which the appeal was taken. Costs
252 shall not be allowed against the party appealing from such determination of the commission
253 unless it shall appear to the court that such party acted in bad faith or with malice in making the
254 appeal to the court.

255 (j) Jurisdiction of superior court; penalty. The superior court sitting in equity for the
256 county in which the city or town is situated shall have jurisdiction to enforce the provisions of
257 this section and any ordinance or by-law enacted hereunder and the determinations, rulings and
258 regulations issued pursuant thereto and may, upon the petition of the mayor or of the board of
259 selectmen or select board or of the commission, restrain by injunction violations thereof; and,
260 without limitation, such court may order the restoration of any building demolished or relocated
261 in violation thereof, and may issue such other orders for relief as may be equitable.

262 Whoever violates any of the provisions of this section, including failing to comply with
263 an enforcement order under section 8D(l) below, shall be punished by a fine of up to \$5,000 per
264 day, and in the case of demolition or relocation of any building in contravention of a commission
265 final decision or without seeking commission approval where required, up to \$25,000 per day.
266 Each day during any portion of which a violation continues to exist shall constitute a separate
267 offense. The foregoing penalty authority is specific to historical commissions and provides
268 authority to cities and towns in addition to and not in derogation of rights already granted to
269 cities and towns under G.L. c. 40, § 21D.

270 (k) Moratorium following illegal demolition or relocation. In addition to monetary
271 penalties assessed and/or an order of the superior court ordering the restoration of any building
272 demolished or relocated under section 8D(j) above, the demolition or relocation of a building in
273 violation of this section, whether by failing to seek and obtain advance required approval from
274 the commission or by demolishing or relocating in contravention of a commission final decision,
275 shall result in an automatic stay in issuance of a building permit for any construction at such
276 property or properties where the building was located for no less than 5 years nor more than 10
277 years from the date the commission receives actual notice of the violative work. The automatic

278 stay period shall be established in advance by the city or town, shall be for a fixed period of time
279 between 5 years and 10 years, and shall be uniformly applied and be applicable to all demolition
280 and relocation conducted in contravention of a commission final decision. The city or town shall
281 be entitled to file a notice of such moratorium against the applicable property at the appropriate
282 registry of deeds.

283 (l) Commission enforcement order authority. When the commission determines that an
284 activity is in violation of this section, a permit issued by the commission, or a municipal law,
285 ordinance, bylaw, rule or regulation enacted by the city or town in furtherance of this section and
286 implemented by the commission, the commission and any officer with police powers may issue
287 an enforcement order, directing the property owner of the building, its agents, permittees and all
288 others to immediately cease and desist the violative activity, comply with such requirement and
289 take other actions deemed necessary to remedy such violations. In the case of unpermitted
290 demolition or relocation of a building that is subject to this section, the commission may further
291 order that the building be restored to its condition prior to the demolition or relocation. An
292 enforcement order issued by the commission shall be signed by a majority of the commission. In
293 a situation requiring immediate action, an enforcement order may be signed by a single member
294 or agent of the commission, if said enforcement order is ratified by a majority of the members at
295 the next scheduled meeting of the commission. The commission, its members and agents, any
296 officer with police powers, and employees of the Massachusetts Historical Commission may
297 enter upon privately owned property for the purpose of performing their duties under this
298 section, subject to constitutional limitations.”

299 SECTION 10. Chapter 40C of the General Laws as appearing in the 2022 Official
300 Edition, Section 2 thereof, is hereby amended by striking out the section title “Purpose” and
301 inserting in place thereof “Purposes”.

302 SECTION 11. Section 2 of said chapter 40C, as so appearing, is hereby amended by
303 adding the following at the end of the section: “This chapter seeks to accomplish the foregoing
304 purpose by establishing a uniform process for establishing historic districts within a city or town
305 and for historic district commissions to review and rule on applications to alter buildings located
306 within any such districts. The further purpose of this chapter is to establish a uniform process for
307 reviewing requests to demolish or relocate significant buildings in order to: (i) establish an
308 appropriate waiting period during which the city or town and the applicant can propose and
309 consider alternatives to the demolition or relocation of a building of historical, architectural, or
310 cultural value or which contributes to the character of the historic district within the city or town;
311 and (ii) provide an opportunity for the public to comment on the issues regarding the demolition
312 or relocation of a particular building. This section further seeks to document significant
313 buildings that cannot be preserved, through photographic, video and/or written materials of the
314 entire building and to preserve those materials as part of the public record.”

315 SECTION 12. Section 4 of said chapter 40C, first paragraph thereof, as so appearing, is
316 hereby amended by striking out, starting in line 9, the words “the Society for the Preservation of
317 New England Antiquities” and inserting in place thereof “Historic New England”.

318 SECTION 13. Section 5 of said chapter 40C, as so appearing, is hereby amended by
319 striking out the section in its entirety and inserting in place thereof the following section:-

320 “Chapter 40C: Section 5. Definitions.

321 Section 5. As used in this chapter (i) the word "altered" includes the words "rebuilt",
322 "reconstructed", "relocated", "restored" and "demolished" and the phrase "changed in exterior
323 color"; (ii) the word "applicant" means any person or entity that files an application for a
324 certificate of appropriateness, a certificate of non-applicability, a certificate of hardship or an
325 application for a demolition permit; (iii) the word "building" means a combination of materials
326 forming a shelter for persons, animals or property; (iv) the word "commission" means the
327 commission acting as the historic district commission; (v) the word "constructed" includes the
328 words "built", "erected", "installed", "enlarged", and "moved"; (vi) the word "demolition" means
329 any act of pulling down, destroying, removing, dismantling or razing a building, in whole or in
330 part, or commencing the work of total or substantial destruction with the intent of completing the
331 same; (vii) the words "exterior architectural feature" means such portion of the exterior of a
332 building or structure as is open to view from a public street, public way, public park or public
333 body of water, including but not limited to the architectural style and general arrangement and
334 setting thereof, the kind, color and texture of exterior building materials, the color of paint or
335 other materials applied to exterior surfaces and the type and style of windows, doors, lights, signs
336 and other appurtenant exterior fixtures; (viii) the words "person aggrieved" mean the applicant,
337 an owner of adjoining property, an owner of property within the same historic district as property
338 within one hundred feet of said property lines and any charitable corporation in which one of its
339 purposes is the preservation of historic structures or districts; (ix) the words "preferably
340 preserved" mean a determination by the historic district commission, following a public hearing,
341 that a building is significant and requires a preservation period in which to explore options to
342 preserve, rehabilitate or restore the building; (x) the words "preservation period" mean a
343 specified period of time uniformly applied by the city or town of at least 12 months and not to

344 exceed 24 months from the date of the close of the public hearing, following a determination by
345 the historic district commission that a significant building should be preferably preserved, during
346 which no demolition permit or authorization to relocate may be issued for the building, unless
347 the historic district commission later determines otherwise; (xi) the word “relocate” means to
348 move a building, in whole or in part, from its foundation to any other location; (xii) the word
349 “significant” in relation to a building means the building is in whole or in part at least 50 years
350 old and has been determined by the commission to be significant based on any of the following
351 criteria: (a) the building is listed on, or is within an area listed on, the National Register of
352 Historic Places, (b) the building has been found eligible for listing on the National Register of
353 Historic Places, (c) the building is importantly associated with one or more historic persons or
354 events, or with the broad architectural, cultural, political, economic or social history of the city or
355 town in which it is located or the commonwealth, or (d) the building is historically or
356 architecturally important (in terms of period, style, method of building construction or
357 association with a recognized architect or builder) either by itself or in the context of a group of
358 buildings; (xiii) the words “solar energy system” shall mean a device or structural design feature,
359 a substantial purpose of which is to provide for the collection, storage and distribution of solar
360 energy for space heating or cooling, electricity generation or water heating; and (xiv) the word
361 "structure" means a combination of materials other than a building, including a sign, fence, wall,
362 terrace, walk or driveway.”

363 SECTION 14. Section 6 of said Chapter 40C, second paragraph thereof, as so appearing,
364 is hereby amended by striking out, in line 14, the words “or removal”.

365 SECTION 15. Section 6 of said Chapter 40C, third paragraph thereof, as so appearing, is
366 hereby amended by striking out the paragraph in its entirety and inserting in place thereof the
367 following paragraph:-

368 “No building permit for construction of a building or structure or for alteration of an
369 exterior architectural feature within an historic district shall be issued by a city or town or any
370 department thereof until the certificate required by this section has been issued by the
371 commission. Further, no permit for demolition or authorization for relocation of a building
372 within an historic district shall be issued by a city or town or any department thereof until (i) the
373 applicant files an application for a demolition permit with the inspector of buildings or building
374 commissioner, (ii) the applicant also files an application for demolition or relocation with the
375 commission in the form of and containing content specified by the city or town, and its
376 commission, (iii) the commission holds a public hearing and makes a finding as to whether the
377 building is significant and should be preferably preserved, and (iv) if the commission determines
378 that preferable preservation is appropriate, (a) the preservation period has run and expired or (b)
379 the applicant satisfies the commission’s concerns such that the commission determines to end the
380 preservation period early, subject to any conditions imposed in connection with such preferable
381 preservation, in which case the commission will provide notice to the inspector of buildings or
382 building commissioner and applicant of such determination in writing.”

383 SECTION 16. Section 6 of said Chapter 40C, as so appearing, is hereby amended by
384 inserting after the third paragraph the following paragraph:-

385 “Nothing in this chapter shall restrict the authority of an inspector of buildings or
386 building commissioner to order a building owner or the city or town to demolish a building if the

387 inspector of buildings or building commissioner determines that the condition of a building or
388 part thereof presents an imminent and substantial danger to the public health or safety. Further,
389 nothing in this chapter shall restrict the authority of the inspector of buildings or building
390 commissioner to require the applicant to take reasonable action to prevent the need for required
391 demolition of a significant building, which action may include securing the building and making
392 it safe so that it does not present an imminent and substantial danger to the public.”

393 SECTION 17. Chapter 40C of the General Laws is hereby amended by inserting after
394 section 6 the following section:-

395 “Chapter 40C: Section 6A. Commission authority to employ outside consultants during
396 review process.

397 Section 6A. Notwithstanding G.L. c. 44, § 53, upon receipt of an application for a
398 certificate of appropriateness, a certificate of non-applicability a certificate of hardship, or an
399 application for demolition or relocation or at any point during a hearing process, the commission
400 is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by
401 the commission for expert engineering and other consultant services deemed necessary by the
402 commission to come to a final decision on the application. The consultant fee is specific to
403 historic district commissions. This section provides authority to cities and towns in addition to
404 and consistent with that granted under G.L. c. 44, § 53G.

405 The specific consultant services may include, but are not limited to surveying the existing
406 historic resource, reviewing proposed changes for consistency with the commission’s rules and
407 regulations, addressing other design or construction-related issues the commission determines
408 are relevant, and advising on historic preservation or land use law and legal issues. The

409 commission may require the payment of the consultant fee at any point in its deliberations prior
410 to a final decision. Failure by the applicant to pay the consultant fee specified by the commission
411 within the timeframe set by the commission shall be cause for the commission to deny issuance
412 of a permit or other requested action. The applicant shall pay the consultant fee to be put into a
413 special account, which may be drawn upon by the commission for specific consultant services
414 approved by the commission at one or more of its public meetings. The consultant shall be
415 chosen by, and report only to, the commission or its designee. The exercise of discretion by the
416 commission in making its determination to require payment of a consultant fee shall be based
417 upon its finding that additional information reasonably acquirable only through outside
418 consultants is necessary for the making of an objective decision.

419 The city or town shall provide rules for an administrative appeal from the selection of the
420 outside consultant to the city council or town board of selectmen or select board. The grounds for
421 such an appeal shall be limited to claims that the consultant selected has a conflict of interest or
422 does not possess the minimum, required qualifications. The minimum qualifications shall consist
423 either of an educational degree in or related to the field at issue or 3 or more years of practice in
424 the field at issue or a related field. The required time limits for action upon an application by a
425 commission shall be extended by the duration of the administrative appeal. In the event that no
426 decision is made by the city council or the town board of selectmen or select board within 1
427 month following the filing of the appeal, the selection made by the commission shall stand. Such
428 an administrative appeal shall not preclude further judicial review, if otherwise permitted by law,
429 on the grounds provided for in this section. Any such special account shall be established by the
430 municipal treasurer in the municipal treasury and shall be kept separate and apart from other
431 monies. The special account, including accrued interest, if any, shall be expended at the direction

432 of the commission without further appropriation; provided, however, that such funds are to be
433 expended by it only in connection with carrying out its responsibilities under the law. Any excess
434 amount in the account attributable to a specific project, including accrued interest, if any, at the
435 completion of said project shall be repaid to the applicant or to the applicant's successor-in-
436 interest, and a final report of said account shall be made available to the applicant or to the
437 applicant's successor-in-interest. The municipal accountant shall submit annually a report of said
438 special account to the chief elected body and chief administrative official of the city or town for
439 their review. Said report shall be published in the city or town annual report. The municipal
440 accountant shall submit annually a copy of said report to the director of the bureau of accounts.”

441 SECTION 18. Section 7 of said Chapter 40C, as so appearing, is hereby amended by
442 inserting after the second paragraph the following paragraph:-

443 “When ruling on an application for demolition or relocation of a building, after having
444 determined that a building is significant and as part of determining whether the building should
445 be preferably preserved, the commission must find that, in the public interest, it is preferable that
446 the building be preserved or rehabilitated rather than demolished or relocated. In making such
447 finding, the commission shall consider at a minimum the building's historic and architectural
448 design significance and its contribution to the character of the historic district.”

449 SECTION 19. Section 11 of said Chapter 40C, second paragraph thereof, as so
450 appearing, is hereby amended by inserting after the first sentence, in line 14, the following
451 sentence: “The foregoing determination requirement and time period shall not apply to
452 applications for demolition or relocation of a building.”

453 SECTION 20. Chapter 40C of the General Laws is hereby amended by inserting after
454 section 11 the following section:-

455 “Chapter 40C: Section 11A. Mandatory Pre-Demolition or Pre-Relocation
456 Documentation.

457 In instances where the commission, after public hearing, determines that partial or total
458 demolition or relocation of a building, structure or site is appropriate or acceptable, or, in the
459 alternative, the commission determines that a building should be preferably preserved but the
460 preservation period expires, the applicant at its expense and as a condition of obtaining a permit
461 from the commission, shall provide to the commission for its approval a comprehensive historic
462 resource documentation package that fully conveys, in text, maps, architectural plans,
463 photographs and other appropriate and available media, the significant features, context and
464 history of the historic building, structure or site, or part thereof as designated by the historic
465 commission, prior to its demolition or relocation.”

466 SECTION 21. Section 12 of said chapter 40C, first paragraph thereof, as so appearing, is
467 hereby amended by striking out, in line 9, the words “department of community affairs” and
468 inserting in place thereof “Executive Office of Housing and Livable Communities”.

469 SECTION 22. Section 12A of said Chapter 40C, second sentence thereof, as so
470 appearing, is hereby amended by adding, in line 8, the word “only” after the words “annul the
471 determination of the commission”.

472 SECTION 23. Section 13 of said Chapter 40C, first paragraph thereof, as so appearing, is
473 hereby amended by adding, in line 6, the words “or select board” after “board of selectmen”.

474 SECTION 24. Section 13 of said Chapter 40C, first paragraph thereof, as so appearing, is
475 hereby amended by striking out, starting in line 7, the word “removal” and inserting in place
476 thereof the word “demolition”.

477 SECTION 25. Section 13 of said Chapter 40C, second paragraph thereof, as so
478 appearing, is hereby amended by striking out the paragraph in its entirety and inserting in place
479 thereof the following paragraph:-

480 “Whoever violates any of the provisions of this chapter, including failing to comply with
481 an enforcement order under section 13B, shall be punished by a fine of up to \$5,000 per day, and
482 in the case of demolition or relocation of any building, structure or exterior architectural feature
483 in contravention of a commission final decision or without seeking commission approval where
484 required, up to \$25,000 per day. Each day during any portion of which a violation continues to
485 exist shall constitute a separate offense. The foregoing penalty authority is specific to historic
486 district commissions and provides authority to cities and towns in addition to and not in
487 derogation of rights already granted to cities and towns under G.L. c. 40, § 21D.”

488 SECTION 26. Chapter 40C of the General Laws is hereby amended by inserting after
489 section 13 the following sections:-

490 “Chapter 40C: Section 13A. Moratorium following illegal demolition or relocation.

491 Section 13A. In addition to monetary penalties assessed and/or an order of the superior
492 court ordering the reconstruction or restoration of a building, structure or site under section
493 thirteen above, the demolition or relocation of a building, structure or site in violation of this
494 chapter, whether by failing to seek and obtain advance required approval from the commission or
495 by demolishing or relocating in contravention of a commission final decision, shall result in an

496 automatic stay in issuance of a building permit for any construction at such property or
497 properties where the building was located for no less than 5 years nor more than 10 years from
498 the date the commission receives actual notice of the violative work. The automatic stay period
499 shall be established in advance by the city or town, shall be for a fixed period of time between 5
500 years and 10 years, and shall be uniformly applied and be applicable to all demolition and
501 relocation conducted in contravention of a commission final decision. The city or town shall be
502 entitled to file a notice of such moratorium against the applicable property at the appropriate
503 registry of deeds.”

504 “Chapter 40C: Section 13B. Commission enforcement order authority.

505 Section 13B. When the commission determines that an activity is in violation of this
506 chapter, a permit issued by the commission, or a municipal law, bylaw, rule or regulation enacted
507 by the city or town in furtherance of this chapter and implemented by the commission, the
508 commission and any officer with police powers may issue an enforcement order, directing the
509 property owner of the building, structure or site, its agents, permittees and all others to
510 immediately cease and desist the violative activity, comply with such requirement and take other
511 actions deemed necessary to remedy such violations. In the case of unpermitted demolition or
512 relocation of a building, structure or site that is subject to this chapter, the commission may
513 further order that the building, structure or site be restored to its condition prior to the demolition
514 or relocation. An enforcement order issued by the commission shall be signed by a majority of
515 the commission. In a situation requiring immediate action, an enforcement order may be signed
516 by a single member or agent of the commission, if said enforcement order is ratified by a
517 majority of the members at the next scheduled meeting of the commission. The commission, its
518 members and agents, any officer with police powers, and employees of the Massachusetts

519 Historical Commission may enter upon privately owned property for the purpose of performing
520 their duties under this chapter, subject to constitutional limitations.”