

Senate Bill No. 82–Committee on
Human Resources and Education

CHAPTER.....

AN ACT relating to the Comstock Historic District Commission; authorizing staff of the Commission to issue certificates of appropriateness in certain situations; revising provisions governing notice of hearings of the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Comstock Historic District Commission to establish a historic district in portions of Storey and Lyon counties. (NRS 384.100) Existing law prohibits a structure located in the historic district from being erected, demolished, moved or changed in any manner unless an application for a certificate of appropriateness as to the architectural style, general design and general arrangement of the exterior of the structure has been submitted to and approved by the Commission. (NRS 384.030, 384.110)

This bill authorizes the staff of the Commission to approve and issue certificates of appropriateness for specific categories and types of applications if those applications comply substantially with statutory requirements. If an application does not fall within one of the categories or types of applications that the staff is authorized to approve or if the staff of the Commission determines that a particular project is inappropriate, the staff must forward the application to the Commission for a hearing and determination.

Existing law requires the Commission to mail notices of public hearings at least 10 days before the date of the hearing. (NRS 384.120) The Open Meeting Law, which provides general requirements for meetings of public bodies, requires that notice of a meeting be given at least 3 working days before the meeting, except in an emergency. (NRS 241.020)

This bill requires that notice of a public hearing of the Commission be given in accordance with the notice requirements of the Open Meeting Law, thereby shortening the period by which the Commission must provide notice of a hearing.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 384 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commission may authorize its staff to issue certificates of appropriateness on behalf of the Commission for specific categories and types of applications if those applications comply substantially with the requirements and public policy set forth in NRS 384.010 to 384.210, inclusive.

2. If an application for a certificate of appropriateness submitted to the Commission:

(a) Does not fall within a category or type for which the Commission has authorized its staff to issue certificates of appropriateness pursuant to subsection 1; or

(b) Is determined by the staff of the Commission as not being in substantial compliance with the requirements and public policy set forth in NRS 384.010 to 384.210, inclusive,

↪ the staff shall forward the application to the Commission for a hearing and determination by the Commission pursuant to NRS 384.120 and 384.130.

3. If the staff forwards an application to the Commission pursuant to subsection 2 because the application does not comply substantially with the requirements and public policy set forth in NRS 384.010 to 384.210, inclusive, the staff shall include a statement of the reasons for its determination.

Sec. 2. NRS 384.030 is hereby amended to read as follows:

384.030 As used in NRS 384.010 to 384.210, inclusive ~~H~~ , *and section 1 of this act:*

1. "Commission" means the Comstock Historic District Commission.

2. "Exterior architectural features" means the architectural style, general design and general arrangement of the exterior of a structure, including the kind and texture of the building material, the type and style of all windows, doors, light fixtures and signs, color, and other appurtenant fixtures.

3. "Historic district" means an area within which structures and places of historical interest are under the protection of the Commission.

4. "Structure" means any building for whatever purpose constructed or used, house trailer as defined in NRS 484.069, mobile home as defined in NRS 484.0795, stone wall, fence, light fixture, step, paving, advertising sign, bill poster and any fixture appurtenant thereto, but does not include structures or signs of a temporary nature such as those erected for celebrations or parades.

Sec. 3. NRS 384.110 is hereby amended to read as follows:

384.110 1. No structure may be erected, reconstructed, altered, restored, moved or demolished within the historic district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by the Commission ~~H~~ , *or by its staff pursuant to section 1 of this act.* The application for a certificate of appropriateness ~~shall~~ *must* be in such form and accompanied by such plans, specifications and other material as the Commission may from time to time prescribe.

2. In its deliberations under the provisions of NRS 384.010 to 384.210, inclusive, *and section 1 of this act*, the Commission *and its staff* shall not consider interior arrangement or use ~~H~~ and shall take no action under NRS 384.010 to 384.210, inclusive, *and section 1 of this act*, except for the purpose of preventing the erection, reconstruction, restoration, alteration, moving or razing of

buildings in the district obviously incongruous with the historic aspects of the district.

3. The provisions of NRS 384.010 to 384.210, inclusive, **and section 1 of this act** do not prevent:

(a) The ordinary maintenance or repair of any exterior architectural feature in the historic district which does not involve a change of design or material or the outward appearance thereof;

(b) The construction, reconstruction, alteration or demolition of any such feature which the building inspector or similar authority certifies is required by the public safety because of an unsafe or dangerous condition; or

(c) The construction, reconstruction, alteration or demolition of any such feature under a permit issued by a building inspector or similar authority prior to the effective date of the establishment of such district.

Sec. 4. NRS 384.120 is hereby amended to read as follows:

384.120 1. The Commission shall hold a public hearing upon each application for a certificate of appropriateness **within 30 days after the application has been filed with the Commission, excluding Saturdays, Sundays and legal holidays,** unless ~~{waived}~~ ;

(a) The application is approved by the staff of the Commission pursuant to section 1 of this act; and

(b) The holding of a hearing is waived in writing by ~~{all persons entitled to notice thereof as provided in this section.~~

~~—2. Within 30 days after the filing of an application for a certificate of appropriateness, Saturdays, Sundays and legal holidays excluded, the Commission shall determine the estates and property deemed by it to be materially affected by such application and, unless a public hearing on such application is waived by all persons entitled to notice, shall forthwith cause notice of such application and of the applicant or his designated representative.~~

2. The Commission shall cause notice of a hearing to be held {thereon} on an application pursuant to subsection 1 to be given ~~{by regular mail, postage prepaid, to the applicant, to the}~~ **in accordance with NRS 241.020 to:**

(a) The applicant;

(b) The owners of all {such estates or property} properties deemed by the Commission to be materially affected by the application as they appear on the most recent tax list ~~{, and to any} ; and~~

(c) Any person who has filed a written request for notice of hearings during the preceding calendar year. ~~{The notices shall be mailed at least 10 days prior to the date set for the hearing.}~~

3. The Commission may, if it determines the matter to be of sufficient public interest, give an additional notice of the time and

place of the hearing by publication in the form of a legal advertisement in a newspaper having a substantial circulation in the district at least 7 days before such hearing.

Sec. 5. NRS 384.130 is hereby amended to read as follows:

384.130 As soon as practicable after ~~{such}~~ a public hearing ~~or the waiver thereof,~~ **held pursuant to NRS 384.120**, but not more than 60 days, Saturdays, Sundays and legal holidays excluded, after the filing of the application for the certificate of appropriateness, or within such further time as the applicant may in writing allow, the Commission shall determine:

1. That the proposed erection, construction, reconstruction, restoration, alteration, moving or razing of the exterior architectural feature involved will be appropriate to the preservation of the historic district for the purposes of NRS 384.010 to 384.210, inclusive ~~{}~~, **and section 1 of this act;**

2. That, even though the proposed project may be inappropriate, failure to issue a certificate would involve a substantial hardship to the applicant because of conditions especially affecting the structure involved, but not affecting the historic district generally, and that a certificate could be issued without substantial detriment to the public welfare or the purposes of NRS 384.010 to 384.210, inclusive ~~{}~~, **and section 1 of this act;** or

3. That the proposed project is inappropriate.

Sec. 6. NRS 384.140 is hereby amended to read as follows:

384.140 1. In passing upon **the** appropriateness ~~{}~~ **of an application pursuant to NRS 384.130 or section 1 of this act**, the Commission **, and its staff** shall consider, in addition to any other pertinent factors:

- (a) Historic and architectural value and significance;
- (b) Architectural style;
- (c) Location on the lot;
- (d) Position of the structure in relation to the street or public way and whether it is subject to public view from a public place;
- (e) General design, arrangement, texture, material, color and size of the exterior architectural features involved and the relationship thereof to the exterior architectural features of other structures in the immediate neighborhood; and
- (f) The relationship of the exterior architectural features to well recognized styles of early western architecture of the late 19th and early 20th centuries.

2. A certificate of appropriateness may be refused for any structure **,** the erection, reconstruction, restoration, alteration, moving or razing of which, in the opinion of the Commission, would be detrimental to the interest of the historic district or

incongruous with the historic aspects of the surroundings and the historic environment of the district.

Sec. 7. NRS 384.150 is hereby amended to read as follows:

384.150 1. If , *after a hearing held pursuant to NRS 384.120*, the Commission determines that the proposed construction, reconstruction, restoration, alteration, moving or razing of the exterior architectural feature involved will be appropriate, or, although inappropriate, that failure to issue a certificate would result in hardship as provided in subsection 2 of NRS 384.130, or if the Commission fails to make a determination within the time prescribed in NRS 384.130, the Commission shall immediately issue to the applicant a certificate of appropriateness.

2. The Commission may charge and collect a reasonable fee for ~~issuing the certificate.~~ *the issuance of a certificate of appropriateness by the Commission pursuant to this section or by its staff pursuant to section 1 of this act.* If a fee is charged, 50 percent of the proceeds must be deposited in the State General Fund for credit to the appropriate account for the Comstock Historic District and 50 percent must be deposited in a nonreverting Account for the Restoration of the Fourth Ward School in Virginia City, which is hereby created. Money in the Account for the Restoration of the Fourth Ward School may be expended only upon approval by the Commission.

~~[2.]~~ 3. In exercising the power to vary or modify strict adherence to the provisions of NRS 384.010 to 384.210, inclusive, *and section 1 of this act* or to interpret the meaning of NRS 384.010 to 384.210, inclusive, *and section 1 of this act* so as to relieve hardship under the provisions of subsection 2 of NRS 384.130, the Commission shall require any variance, modification or interpretation to be in harmony with the general purpose and intent of NRS 384.010 to 384.210, inclusive, *and section 1 of this act* so that the general historical character of the District is conserved and substantial justice done. In allowing variations, the Commission may impose such reasonable and additional conditions as will, in its judgment, better fulfill the purposes of NRS 384.010 to 384.210, inclusive ~~†~~

~~—3.—~~ *1, and section 1 of this act.*

4. If the Commission determines that a certificate of appropriateness should not issue, it shall immediately set forth in its records the reasons for the determination, and may include recommendations respecting the proposed erection, construction, restoration, alteration, moving or razing, and shall immediately notify the applicant of the determination by transmitting to him an attested copy of the reasons and recommendations, if any, as set forth in the records of the Commission.

~~[4.]~~ 5. The applicant may appeal a refusal of the Commission to issue a certificate of appropriateness to the Board of Museums and History within 30 days after its determination and the Board, after a hearing on the matter, may:

(a) Approve the application with or without conditions by a unanimous vote; or

(b) Deny the application.

➔ If the Board approves the application, the Commission shall immediately issue a certificate of appropriateness to the applicant.

Sec. 8. NRS 384.210 is hereby amended to read as follows:

384.210 1. Any person aggrieved by a determination of the Commission, or of the Board of Museums and History made pursuant to subsection ~~[4.]~~ 5 of NRS 384.150, may, within 30 days after the making of the determination, appeal to the district court of the county where the property in question is located.

2. The court may reverse the determination of the Commission if it finds that the reasons given for the determination are unsupported by the evidence or contrary to law. The proceeding in the district court is limited to the record made before the Commission.

Sec. 9. This act becomes effective on July 1, 2005.

