

HISTORIC DISTRICT ORDINANCE
As adopted at Town Meeting
April 2, 2016

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Article I
General Provisions

1. Purpose.

This ordinance is adopted in accordance with the Comprehensive Plan of the Town of Durham adopted at Town meeting March 2002 and pursuant to the legislative authority vested in the Town by virtue of 30-A M.R.S.A. Sections 3001 through 3007, 4301, and 4351 through 4359, and the acts amendatory thereto, for the purpose of preserving, protecting, and enhancing buildings and places or areas within the Town which possess particular historical or cultural attributes and for the economic welfare of the residents and visitors to the town. To achieve these purposes, it is intended that Historic Districts and related regulations shall be used:

- A. To prevent inappropriate alterations of buildings of historic or architectural value.
- B. To prevent the demolition or removal of designated sites or landmarks and significant historic structures within designated districts whenever a reasonable alternative exists or can be identified.
- C. To preserve the essential character of designated districts by protecting relationships of groups of buildings and structures.
- D. To assure that new Construction in Historic Districts is compatible with the historic character of the district so as to protect property and tax valuations.

2. Definitions.

All words not defined herein shall carry their customary and usual dictionary meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural. The word "shall" is used to indicate the mandatory and the word "may" is used to indicate the permissive. ***Obvious typographical errors may be disregarded in interpretation of this ordinance.***

As used in this ordinance, the following words and terms shall have the following meanings:

ABUTTING PROPERTY: Any lot which is physically contiguous with the lot in question even if only at a point, and any lot which is located directly across a public or private street or way from the lot in question. "Directly across" shall mean at least touched by a straight extension of the side property lines across said street or way.

ALTERED - Includes the words "rebuilt", "reconstructed", "rehabilitated", "restored", and "demolished" or any other change to the exterior facade of a structure.

BUILDING - A combination of materials forming a shelter that may be used for persons, animals, or property. Each portion of a structure, separated from other portions by a fire wall, shall be considered a separate building.

CODE ENFORCEMENT OFFICER A person appointed by the Town Selectman to administer and enforce this ordinance and to carry out other duties set forth herein, by State statute and other ordinances.

CONTRIBUTING RESOURCE- a building, site, structure or object adding to the historic significance of a property

COMMISSION - The Commission acting as the Historic District Commission established in Section -3.

CONFLICT OF INTEREST - Direct or indirect pecuniary benefit to any person or member of the person's immediate family (i.e., grandfather, grandmother, father, mother, husband, wife, son, daughter, grandson, granddaughter, or person in the same relationships by marriage-i.e. mother-in law or father in law) or to his employer or the employer of any member of the person's immediate family, or interest sufficient to tempt the member to serve his own personal interest to the prejudice of the interests of those for whom the law authorizes and requires him to act. "Conflict of interest" shall also be defined in accordance to 30-A M.R.S.A. Section 2605, as amended

CONSTRUCTED or CONSTRUCTION - Includes the words "built", "erected", "enlarged", "installed", "moved", "reconstructed", "rehabilitated", "restored", and "altered".

DEMOLITION - The razing of any structure or building or any exterior architectural feature thereof.

DISTRICT - See "Historic District"

ERECTED - Sec "constructed".

EXTERIOR ARCHITECTURAL FEATURE - The architectural style and general arrangement of the exterior of a building or structure, including but not limited to the kind, color and texture of the building materials; the type and style of all roofs, windows, doors, lights, dormers, gable cornices, porches, decorative trim, etc.; and the location and treatment of any vehicular access or parking space.

HISTORIC (adjective) - Important in or contributes to history.

HISTORIC DISTRICT - A geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objectives united by past events or aesthetically by plan or physical development and designated in the Town Land Use Ordinance. The Southwest Bend Historical Overlay District as established in the Town Land Use Ordinance is a Historic District.

HISTORY (noun) - A record of events, as of the life or development of a people, country, institution, etc.

IMPROVEMENT - Any place, structure, building, fixture, object, landscape, or topographical feature, which in whole or part constitutes an exterior betterment, adornment or enhancement or any real property.

MATERIAL - A substance or substances out of which a building or structure is constructed.

NON-CONTRIBUTING RESOURCE- a building, site, structure or object that does not add to the historic significance of a property

PERSON - Includes an individual, a corporate or unincorporated organization or association,

partnership, limited liability company or any other artificial person recognized by state law, and the Town.

STRUCTURE - A combination of materials other than a building, including but not limited to walls, fences, walks, parking lots or driveways.

TOWN- The Town of Durham, Maine.

Article II Historic District Commission

3. Establishment; membership; terms; bylaws; expenditures.

- A. An Historic District Commission, whose members shall be appointed by the Town Selectmen, is hereby established.
- B. The Commission shall consist of five (5) members and two (2) alternate members, who shall be residents of the Town. Appointments shall be made on the basis of demonstrated interest, ability, experience and desire to promote historic preservation in the Town, State or Nation, within the meaning of Section -1 of this ordinance. As far as possible, the membership should include professionals in the disciplines of architecture, history, architectural history, planning ,archaeology, urban design or other related fields; a builder and at least two (2) owners of property within the Historic District.
- C. Three (3) members of the Commission shall be initially appointed to serve terms of three (3) years; two (2) shall initially be appointed to serve two (2) years; All appointments thereafter made shall be for terms of three (3) years, except in those instances in which the appointment is made to fill a vacancy in an unexpired term, in which case the appointment shall be for the remainder of the unexpired term.
- D. Advisory members. The Town Selectmen may appoint persons to serve in an advisory or consulting capacity on a temporary basis at the Board of Selectmen's pleasure.
- E. The Commission shall elect a Chairman, Vice Chairman, and Secretary annually from among it's membership.
- F. The Commission shall adopt bylaws or additional operating procedures consistent with the intent of this ordinance and of the state enabling legislation and the Ordinances of the Town . Said bylaws shall be submitted to the Town Selectmen for review and comment but do not require their approval. In the case of any conflict between such by laws and this Ordinance this Ordinance shall prevail.
- G. The Commission may expend funds for the purposes of historic preservation in the Town , in accordance with the annual town budget. Such expenditures may include salaries or other compensation for clerical and technical assistance or consultants if approved in the town budget. The Commission may, with the approval of the Town Selectmen, accept grants, donations or gifts of services and may hold or expend the same as approved by the Selectmen.

4. Duties.

The Commission shall have the following duties which shall be exercised in accordance with this Ordinance and applicable provisions of the Maine Revised Statutes Annotated.

- A. Make recommendations to the Selectmen for establishing Historic Districts according to procedures listed in Sections -6 and -7 of this ordinance. All such Districts must be approved by the annual Town meeting.
- B. Review all proposed additions, reconstruction, alteration, construction or demolition of any Contributing Resource located within a designated Historic District and issue a certificate of appropriateness in accordance with the procedures outlined in Sections -8 and -9.
- C. Review all proposed National Register nominations for properties within the town's borders.
- D. Serve in an advisory role to Town government officials regarding local historical and cultural resources and act as a liaison between local government and those persons and organizations concerned with historic preservation.
- E. Conduct or initiate a continuing survey of local historic and cultural resources, in accordance with Maine Historic Preservation Commission guidelines.
- F. Work to provide continuing education on historic preservation issues to local citizens.
- G. Accept, administer and enforce any easements or restrictive covenants granted to the Town to protect Historic interests in the Town.

Article III

Establishment of Districts

5 Qualifications

To be eligible for designation as an Historic District an area shall possess one (1) or more of the following characteristics:

- A. Buildings, structures, or sites importantly associated with significant historic personages and/or historic events.
- B. Buildings, structures, structural remains and sites which illustrate examples of historical architectural styles valuable for study of a period or method of construction or a single notable structure representing the work of a master builder, designer or architect.
- C. Structures, buildings and sites which contribute to the visual continuity of the Historic District.
- D. Those sites, buildings, structures or areas on or eligible for inclusion on the National Register of Historic Places.

6. Effect on other regulations; applicability.

A. Uses permitted; no changes required. This ordinance does not alter the existing land use regulations in the Town Land Use or Subdivision or other applicable Ordinances, which continue to apply to the land and buildings located within any Historic District. However, exterior alterations to the buildings and structures, including walls, fences, steps of any Contributing Resource within the district shall require a certificate of appropriateness as described in Section -9.

B. Passage of this ordinance shall not require any existing or future owner or renter of property to make any exterior changes to his building(s). The provisions of this ordinance shall apply only to new exterior alterations proposed by the owner or renter of property with the exception for basic maintenance. The basic maintenance requirement as stated in Section -12 of this ordinance shall apply to owners of structures within any Historic District.

7 Designation of districts; expansion of districts.

Designation of Historic Districts may be accomplished by amending the designation of Districts section of the Land Use Ordinance.

A. The following are designated as Historic Districts

- (1) Southwest Bend Historical Overlay District. The location and boundaries of the Southwest Bend Historical Overlay District are shown on an Official Zoning Map of the Town, dated ____, attached to this ordinance as Appendix A and further identified as follows: beginning at the southeast corner of lot 21 as shown on Town of Durham Tax Map 6 and on the westerly right-of-way line of said Route 9. Said point of beginning also being the northeasterly corner of lot 20 on said Map. Thence northerly and northeasterly along said right-of-way line to the most easterly corner of lot 47 on said Map. Thence northwesterly along the northeasterly property line of said lot 47 to the southeasterly line of lot 42 on said Map. Thence northwesterly across said lot 42 on an extension of said northeasterly property line of said lot 47 to the Androscoggin River. Thence southwesterly and westerly along said river and along lots 42, 41, 40, 34, and 31 all of the above referenced Tax Map to a line represented by the northeasterly extension of the northwesterly property line of lot 27 on said map. Thence southwesterly across said lot 31 and state Route 136 on said extension of the northwesterly property line of lot 27 to the most northerly corner of said lot 27. Thence southwesterly along the northwesterly property line of lot 27 to the most westerly corner of said lot 27. Thence southeasterly along the southwesterly property line of lot 27 to the northwesterly property line of lot 26 on said Map. Thence southeasterly across said lot 26 on an extension of the southwesterly property line of lot 27 to the northwesterly property line of lot 25 on said Map. Thence easterly across said lot 25 to the most westerly corner of lot 24 on said Map. Thence southeasterly along the southwesterly property line of lot 24 to the northwesterly property line of said lot 21. Thence southeasterly across said lot 21 on an extension of the southwesterly property line of lot 24 to the southeasterly property line of lot 21. Thence northeasterly, southeasterly, and northeasterly along lot 20 on said Map back to the point of beginning. Meaning and intending to describe an area in the Town of Durham that includes lots 22, 23, 24, 27, 32, 33, 34, 35, 36, 38, 39, 40, 41, 43, 44, 45, 46, 47, and portions of lots 21, 25, 26, 31, and 42 on said Tax Map 6.

B. Designation of additional Historic Districts may be initiated as follows: By certification of the Commission to the Selectmen that the proposed Historic District qualifies for such nomination, and by vote of a majority of at least 10% of the registered voters in the town at the annual (but not special) town meeting.

C. Consent. A new or expanded Historic District may be designated only with written consent of the majority of the property owners within the proposed district or expansion as the case may be.

D. Recommendation. The Historic District Commission will formulate recommendations after researching proposed historic districts to determine if the district meets the criteria in this ordinance and if consent has been obtained in accordance with Subsection C. The Commission shall make written recommendations regarding designation to the Selectmen. The Selectmen shall also seek written recommendations from the Planning Board.

E. Application. To initiate the designation of an Historic District a written application containing the information required by these following Subsections shall be completed and directed to the chair of the Commission. A copy shall also be filed with the Town Clerk.

(1) Designation of districts. Applications for the designation of Historic Districts shall include the following:

- (a) A concise statement of the remaining physical elements which make this area qualify as an Historic District and a description of building types and architectural styles;
- (b) A concise statement of how the district meets the review criteria of Section -5;
- (c) A justification of the boundaries of the proposed district;
- (d) A definition of the types of structures that do not contribute to the significance of the district and an estimate of the percentage of noncontributing structures; and,
- (e) A map showing all structures in the district with the identification of contributing structures.

(2) Expansion of an existing district. Applications for the expansion of existing Historic Districts shall include the following:

- (a) A concise statement of the physical elements that justify expansion of an existing district, an explanation detailing how the expansion is consistent with the character of the district and a description of building types and architectural styles and periods represented;
- (b) A concise statement of how the expansion of an existing district meets the review criteria of Section -5;
- (c) A justification of the expanded boundaries of the district;

- (d) A definition of the types of structures, buildings, and sites that do not contribute to the significance of the district and an estimate of the percentage of noncontributing ones in the Historic District's. proposed expansion area, and
- (e) A map showing all structures in the proposed expansion area with the identification of contributing structures.

Article IV
Certificates of Appropriateness

8. When required; majority vote; building permit.

A. A certificate of appropriateness issued by the Commission shall be required for any of the following:

- (1) Any change in exterior appearance of any building or structure in the Historic District by construction, addition, reconstruction, alteration or demolition. This shall include any change, except maintenance as addressed in Section 12 hereof, in siding materials, roofing materials, door and window sash and integral decorative elements, such as, but not limited to, cornices, brackets, window architraves, doorway pediments, railing, balusters, columns, cupolas and cresting and roof decorations.

- (2) Removal of any building in the Historic District.

B. An affirmative vote of at least three (3) regular members of the Commission shall be required to issue a certificate of appropriateness.

C. In the Historic District, the Code Enforcement Officer shall not issue a building permit for any Contributing Resource for the purpose of construction, alteration or demolition until a certificate of appropriateness has been issued by the Commission.

D. Any property which meets the definition of Non-Contributing Resource may be exempt from a Certificate of Appropriateness if:

- 1. They are not associated with events that have made a significant contribution to the broad pattern of our history; or
- 2. They are not associated with the lives of significant persons in our past; or
- 3. They do not embody the distinctive characteristics of a type, period, or method of construction, or that do not represent the work of a master or that does not possess high artistic values or that does not represent a significant and distinguished entity whose components may lack individual distinction; or
- 4. They have not yielded or may not be likely to yield information important in history or pre-history,

It shall be the duty of the Code Enforcement Officer to determine if an applicant has satisfied the four criteria in article IV section 8D and meets the definition of Non-Contributing Resource.

9. Application procedure.

A. Applications for a certificate of appropriateness may be obtained from the Code Enforcement Officer. Completed applications shall be submitted to the Code Enforcement Officer, who shall promptly transmit them to the Commission for consideration. When the Commission acts on the application, it shall be returned to the Code Enforcement Officer.

B. The application shall state the location, use and the nature of the matter for which such certificate is sought and shall contain at least the following information or documentation unless any items are waived by the Commission..

- (1) The applicant's name, address and interest in the property, such as owner or lessor. The application and all exhibits shall be dated at the time of submission to the Code Enforcement Office
- (2) The owner's name and address, if different from the applicant's
- (3) The address or location of the property.
- (4) The present use and zoning classification of the property.
- (5) A brief description of the construction, reconstruction, remodeling, alteration, maintenance, demolition or moving, requiring the issuance of a certificate of appropriateness.
- (6) A drawing or drawings indicating the design, texture, color (example: shingles) and the location of any proposed alteration or new construction for which the certificate is required. As used herein, "drawings" shall mean plans and exterior elevations drawn to scale, with sufficient detail to show, as far as they relate to exterior appearances, the architectural design of the buildings, including materials and textures, including samples of any brick, shingles or siding proposed to be used. Drawings shall be clear and drawn to scale.
- (7) Photographs (snapshots) of the buildings involved and of immediately adjacent buildings.
- (8) A site plan indicating any proposed changes involving walls, walks, access to buildings, signs and outdoor light fixtures, including all exterior equipment and appurtenances located on the roof, in the walls and on the ground.
- (9) A description of the project which shall include a statement as to why the structure or building to be demolished does not contribute to the district, site or landmark.

10. Administrative procedure.

A. Notice to owner. Within fifteen (15) days after the filing of an application for a certificate of appropriateness, the Commission shall inform the following persons by mail of the application and meeting date: the applicant, owners of abutting property, the Durham Historical Society and the Commission's consultants and professional advisors, if any. For purposes of this notice, the owners of property shall be considered to be those against whom taxes were assessed on the prior April 1. Failure of any person to receive notices shall not necessitate another bearing or invalidate any action by the Commission.

B. The Code Enforcement Officer will promptly advise the Historic District Commission of all activities which he/she is or becomes aware of that come within the areas of responsibility assigned to the Commission by the ordinance.

C. Hearing. At the request of the applicant or any other person receiving notice under Section 10A above or where the Commission deems it necessary, a public hearing or hearings on the application shall be conducted by the Commission. Written comments from interested persons shall be accepted in the event that a hearing is not held

D. Action. The Commission shall determine whether the proposed construction, reconstruction, alteration, moving or demolition is appropriate or inappropriate within thirty (30) days of the public hearing or within forty-five (45) days of the receipt of the completed application, whichever comes first. If the Commission determines the proposal is appropriate, it shall immediately approve a certificate of appropriateness and return it to the Code Enforcement Officer for issuing of the necessary permits. If the Commission determines that a certificate of appropriateness should not be issued, it shall advise the applicant, in writing, through the Code Enforcement Officer, of any changes which would secure the approval of the Commission and withhold denial for thirty (30) days, in order that the applicant may adopt such proposed changes. The Code Enforcement officer shall notify the applicant of the decision and furnish him a copy of the reasons and the recommendations, if any, as appearing in the records of the Commission.

E. Appeals jurisdiction. The Zoning Board of Appeals established in accordance with Title 30-A M.R.S.A., Sections 2691 and 4353 may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Historic District Commission or from the Code Enforcement Officer in the administration of this ordinance.

F. Amendment. An amendment to this ordinance may be adopted by:

(1) An annual town meeting in the manner normally required for changes in ordinances.

(2) the Town Selectmen shall hold a public hearing on the proposed amendment as required for any proposed ordinance to be placed on the Town Meeting Warrant. The Planning Board and the Historic District Commission shall report it's recommendation regarding the proposed amendment at the public hearing.

11. Standards of evaluation.

The standards and requirements contained in this section, and the Secretary of the Interior's Standards for Rehabilitation (1990 Edition) shall be used in review of applications for certificates of appropriateness. Exterior design considerations and structural factors related to maintaining historic structures in good condition shall be the Commission's primary areas of focus.

A. Construction, Reconstruction, alterations and maintenance. The exterior of a ~~building or structure~~ Contributing Resource located in an Historic District, or any part thereof, or any appurtenance related to such structures, including but not limited to walls, fences, light fixtures, steps, paving and signs, shall not be reconstructed, altered or maintained, and no certificate of appropriateness shall be issued for such actions, unless they will preserve or enhance its historical and architectural character_

B. Construction of new buildings and structures in Historic District. The construction of a new building

or structure within an Historic District shall be generally of such design, form, proportion, mass, configuration, building material, texture, color and location on a lot as will be compatible with other buildings in the Historic District and with streets and open spaces to which it is visually related and in keeping with the area.

C. Visual compatibility factors for any Contributing Resource including but not limited to new construction, repair, rehabilitation and additions within Historic Districts. All construction shall be visually related generally in terms of the following factors:

- (1) Height. The height of proposed buildings shall be compatible with adjacent buildings.
- (2) Proportion of building's front facade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings, structures and open spaces where it is visually related.
- (3) Proportion of openings within the facade. The relationship of the width of the windows to the height of windows and doors in a building shall be visually compatible with that of windows and doors of buildings to which the building is visually related. The window proportions (height versus width) shall be visually compatible with those of other windows in the same building and in other adjacent historic buildings of the same period. In the case of large plate glass display windows on a ground floor, the large surface of glass can be divided into a number of smaller panes consistent with shop front windows of the historical period which the building represents or, in the case of new buildings, compatible with the window size of adjacent historic buildings, where appropriate. Also, the ratio of window area to solid wall shall be similar to those on surrounding facades. Rhythms which carry throughout the block should be incorporated into new facades. Window pane sizes and proportions should be contemporary with the building
- (4) Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with that of the buildings to which it is visually related.
- (5) Rhythm of spacing of buildings on streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with that prevailing in the area to which it is visually related.
- (6) Rhythm of entrance and/or porch projection. The relationship of entrances and porch projections to sidewalks of a building shall be visually compatible with that of buildings to which it is visually related.
- (7) Relationship of materials and textures. The relationship of the materials and textures of the facade of a building shall be visually compatible with that of the predominant materials used in the buildings to which it is visually related. New construction shall utilize materials and textures which are visually compatible with adjacent facades. If there is a predominant material in the immediate area, it shall be used. Many different materials on a single structure or closely related group of structures can lead to visual confusion and a chaotic appearance. Alterations and new buildings should not stand out against the others, if the harmony of a traditional New England village streetscape is to be maintained. Alterations to an existing building shall simulate as closely as possible the color and texture of that building. This is especially important in brickwork. Mortar color and thickness of joint shall match those of the original building.
- (8) Roof shapes. The roof shape of a building shall be visually compatible with that of the buildings to which it is visually related. The roof pitch employed on new buildings shall be similar to those found on adjacent buildings. If a gable-type roof, it's orientation to the street shall be the same as in neighboring buildings. Roofing materials shall be consistent with that of adjacent structures in color, type,

material or a compatible substitute which is historically accurate.

(9) Scale of building. The size of the building, the building mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with those characteristics of buildings and spaces to which it is visually related.

(10) Directional expression of front elevation. A building shall be visually compatible with the building, squares and places to which it is visually related in its directional character, whether this shall be vertical character, horizontal character or non-directional character.

(11) Details. All existing architectural details shall be maintained to the fullest extent practicable. When removal is unavoidable, replacement with similar features shall be encouraged. Although exact replication is often not possible or economically feasible, a simpler feature made of traditional materials can be appropriate. Poor or cheap imitations made of synthetic material shall be avoided, especially when not in scale or in the same architectural tradition. Details may include cornices; frames and moldings around windows, doors and building corners; lintels; arches; wrought iron work; chimneys, etc.

(12) Signs. All new or replacement signs located within the Historic District shall be made from wood or metal, and all new sign illumination shall be from shielded external sources directed onto the sign to avoid glare. Signs which are attached to or parallel with the facade shall be located only between the top of the ground floor windows and the bottom of the second floor windows to maintain an orderly appearance, adding strength to the appearance of the district as a whole.

D. Standards for construction, renovations, alterations and repairs of Contributing Resource appurtenances thereof.

In addition to the criteria set forth in Section C above, the Commission shall also use the standards listed below in the evaluation of an application for a certificate of appropriateness for all construction, renovations, alterations and repairs of Contributing Resource appurtenances thereof:

- (a) Every reasonable effort shall be made to provide a compatible use which will require minimum alteration to the structure and its environment.
- (b) Rehabilitation work shall not destroy the distinguishing qualities nor character of the structure and its environment. The removal or alteration of any historic material or architectural features should be held to a minimum.
- (c) Deteriorated architectural features which are deemed to be historically appropriate should be repaired rather than replaced, wherever possible. In the event that replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities. Repair or replacement of missing architectural features should be based on physical or pictorial evidence rather than on conjectural designs or the availability of different architectural features from other buildings.
- (d) Distinctive stylistic features or examples of skilled craftsmanship which characterize historic structures and often predate the mass production of building materials shall be treated with sensitivity.

- (e) Changes which may have taken place in the course of time are evidence of the history and development of the structure and its environment, and these changes shall be recognized and respected.
- (f) All structures shall be recognized as products of their own time. Alterations to create an earlier appearance shall be discouraged.
- (g) Contemporary design for additions to existing structures shall be encouraged if such design is compatible with the size, scale, material and character of the neighborhood, structures or its environment.
- (h) Wherever possible, new additions or alterations to structures shall be done in such a manner that if they were to be removed in the future the essential form and integrity of the original structure would be unimpaired.

E. Exceptional circumstances.

- (1) The Commission may issue a certificate of appropriateness where the standards otherwise set forth in this section are not met but where the Commission determines that failure to issue the certificate would result in undue hardship to the owner of the property. Before the Commission may issue a certificate under this subsection, the records must show the following,
 - (a) The property cannot yield a reasonable economic return or the owner cannot make any reasonable use of the property;
 - (b) The plight of the owner is due to exceptional or unique circumstances and not to the general applicability of this chapter; and
 - (c) The conditions or circumstances which constitute the hardship were not caused or created by the enactment of any Historic District by which the property became subject to this ordinance.
- (2) For purposes of Subsection E(1), "reasonable economic return" shall not be construed to mean a maximum reasonable use" shall not be construed to mean the highest and best use

F. Demolition approval criteria. Any property owner wishing to demolish or move any building within the Historic District shall first apply to the Commission for a determination of whether the building is historic or contributes in some way to the integrity of the Historic District. If the Commission determines the building is not Historic or does not so contribute no certificate of appropriateness will be required for such action.

- (1) Any building or structure in an Historic District, or any appurtenance thereto, shall not be demolished or moved and a certificate of appropriateness shall not be approved until either:
 - (a) such building or structure has been identified by the Commission as incompatible with the Historic District in which it is located; or
 - (b) The property owner can demonstrate that it is incapable of earning an economic return on its value in its present location as appraised by a qualified real estate appraiser.
- (2) If such a demonstration can be made, issuance of a certificate for movement or demolition shall be delayed for a period of 60 days. Such time period shall commence when an application for certificate and the statement of sale, as outlined below, have been filed with the Commission.

- (3) Prominent Notices, with the words “To be Demolished or Moved” legible from a passing automobile, shall be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street indicating that the building is proposed to be demolished or moved and referring to this ordinance. In addition, notice shall be published in a newspaper of general local circulation at least three times prior to demolition, the final notice of which shall be not less than 15 days prior to the date of the permit, and the first notice of which shall be published no more than 15 days after the application for a permit to demolish or move is filed. Prior to the issuance of such certificate for removal, the owners shall stipulate that the proper notices as required have been posted, that the property was properly offered for sale as provided in (4) below, that there have been no bona fide offers made and that no contract for sale has been executed with interested parties.
- (4) The owner shall, for the period of time set forth and at a price reasonably related to its fair market value, make a bona fide offer to sell such building or structure and the land pertaining thereto to any person, firm, corporation, government or agency thereof or political subdivision or agency thereof which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto. Prior to making such offer to sell, an owner shall first file a statement with the Commission identifying the property, the offering price and the date the offer to sell shall begin. The time period set forth in this Subsection shall not commence until such statement has been filed.
- (5) The purpose of this Subsection is to further the purposes of this chapter by preserving historic buildings which are important to the education, culture, traditions and the economic value of the Town and to afford the Town, interested persons, historical societies or organizations the opportunity to acquire or to arrange for the preservation of such buildings.

During the sixty day period set forth in (2) above the Commission shall hold a public hearing to determine if there are alternatives to demolition such as moving the building within or without the Historic District or buying out the owner.

The Commission shall make a photographic survey of the building(s) to be demolished or removed and to examine alternative ways to meet the owner's needs, (such as by replacing interior walls and floors or demolishing everything except the street-front façade). The owner or applicant for a demolition proposal shall be required to meet with the Commission to discuss any such alterations.

12 Maintenance.

A. Ordinary maintenance permitted.

- (1) Nothing in this ordinance shall be interpreted to prevent the ordinary maintenance or repair of any exterior feature of any building or structure in the Historic District which does not involve a change in the design, material or appearance.
- (2) Safety. Nothing in this chapter shall prevent the construction, reconstruction, alteration, restoration or demolition of any feature which the Code Enforcement Officer shall certify is required by the public safety because of an unsafe or dangerous condition, but any such action shall be taken to the maximum extent possible with the requirements of this Ordinance.

B. Essential maintenance required. Owners of buildings within the Historic District considered a Contributing resource shall not permit their properties to fall into a state of disrepair which may result in deterioration of any exterior architectural feature so as to produce, in the judgment of the Commission, a detrimental effect upon the character of the Historic District or the structure in question or which could lead to a claim that demolition is necessary for public safety. This basic maintenance requirement applies to

exterior walls and other vertical supports, roof and other horizontal members, exterior chimneys and waterproofing of exterior walls, roofs and foundations, including broken windows and doors. The Commission shall work with public and private parties to assist any owner in finding the resources necessary to prevent such state of disrepair.

ARTICLE V Administration

13 Conflict with other provisions; interpretation; severability

Interpretation of what may not be clear in this Ordinance shall be according to the intent of the Ordinance and the Comprehensive Plan.

This ordinance shall not repeal, annul or in any way impair or remove the necessity of compliance with any other ordinance, law, regulation or bylaw. Where this ordinance imposes a higher and/or stricter standard, the provisions of this ordinance shall prevail.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

14. Violations and penalties; enforcement.

A. Violations. Penalties for violations of this chapter shall be imposed in accordance with 30-A M.R.S.A. § 4452. A person violating any provision of this ordinance shall be guilty of a civil violation and shall be punished by a fine of not less than one hundred dollars (\$100) but not to exceed the statutory maximum for such violation. Each day that a violation continues shall be deemed a separate offense. All penalties collected hereto shall inure to the Town and shall be used for the purposes of this Ordinance after paying any costs of enforcement.

B. Additional remedies. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this ordinance. If the Code Enforcement Officer finds that any provision of this ordinance is being violated, he shall notify, in writing, the person responsible for such violations, and shall send a copy of such notice to the Chairman of the Commission, indicating the nature of the violation and ordering the action necessary to correct it. He shall take any action authorized by this ordinance or statute to ensure compliance with or to prevent violation of its provisions.

