

# HISTORIC SPECIAL DISTRICT REVIEW ORDINANCE

## Article 1: General

### A. Purpose and intent.

1. Protect Newcastle's historic, architectural, and cultural heritage.
2. Assist property owners with maintaining the architectural integrity of the district.
3. Protect, preserve, and enhance the outward appearance and architectural features of identified historic structures.
4. Prevent the demolition or removal of buildings or structures within designated historic districts.
5. Preserve, protect, and enhance the essential character of designated districts by protecting relationships of groups of buildings and structures.
6. Accept new buildings and structures which are designed and built in a manner which is compatible with the character of the district.

### B. Applicability.

1. Unless otherwise specified, this Ordinance shall apply to all property within the Historic Special District as shown on the Official District Map in Article 1 of the Core Zoning Code.
2. In addition, certain standards shall apply to designated Local Landmarks as described in this subsection.
  - a. Reserved.

### C. Exempt Activities.

1. Activities exempt from review under the standards of Article 2, as may be applicable, are the following:
  - a. Alteration to or addition of removable decorative features including but not limited to: mailboxes, flowerboxes, flags.
  - b. Change in paint color, except when the painting of brick, stone or other masonry is proposed.
  - c. The installation of security devices, including but not limited to: control panels, touch key plates, mirrors, cameras, and peepholes.
  - d. Exterior placement of utility meters, vents, cable or telephone boxes, wiring, antennas, satellite dishes, and components of HVAC systems, when the placement is not on the Primary Facade;
  - e. General maintenance and repair of structures, including but not limited to the following: scraping and repainting, caulking and weather-stripping, and the replacement of materials when the materials will look the same when viewed from the Public Realm;
  - f. Alteration or replacement of existing gutters, downspouts, storm windows, conduit, venting or other features which already exist and are required for the existing operation and physical health of the building and do not significantly

alter the building or compromise character-defining elements on the structure (subject to the determination of the Planning Department).

**D. Meaning & Purpose.**

1. Words, phrases and terms used within this Ordinance are defined in the Definitions section or within the Articles that contain standards associated with the term.
2. Words, phrases and terms not defined in this Ordinance must be accorded their commonly accepted meanings as defined in the most recent edition of the Webster's Unabridged Dictionary.
3. The terms "standards," "regulations," and "requirements" are used to mandate a specific course of action or built outcome.
4. The words "must," "will", and "shall" are mandatory and when used require compliance with standards, regulations, and requirements of the Ordinance.
5. The words "may" and "should" are permissive.

**E. Authority & Compliance.**

**1. Authority.**

- a. This Ordinance is adopted under the authority granted by Title 30-A, §2101.

**2. Relationship to Other Standards.**

- a. This Ordinance does not abrogate, annul, or otherwise interfere with any easement, covenant, and/or other private agreements.
- b. Where the standards of this Ordinance impose a greater restriction than required by other ordinances, regulations, resolutions, rules, easements, covenants, or agreements, the provision of this Ordinance must apply.
- c. Where standards conflict, the standards of this Ordinance must take precedence over those of other codes, ordinances, regulations, and standards that may be in conflict with this Ordinance. Additions or Alterations for the purpose of complying with other codes, ordinances, regulations, and standards are still subject to review by this Ordinance. This Ordinance does not abrogate or annul any other codes, ordinances, regulations or standards.
- d. All development activity must comply with relevant Federal and State laws and regulations. Where there is a direct conflict between this Ordinance and the standards of a Federal or State Law, Federal or State Law supersedes the standards of this Ordinance.

- 3. Hazard Buildings.** No provision in this Ordinance shall be construed to prevent the Alteration, Demolition, or Relocation of a building when the Code Enforcement Officer certifies that such action is required for the public safety.

- 4. Appeals.** An appeal from the final decision of the Historic Special District Review Board may be taken by any party or person aggrieved to the Zoning Board of Appeals within 30 days from the date of the decision. Appeals from final decisions from the Planning Department may be taken by any party or person aggrieved but

must be taken to the Historic Special District Review Board within 30 days from the date of the decision.

DRAFT FOR PUBLIC HEARING

## Article 2: Standards

### 1. Alterations and Additions

- A. **Purpose.** The purpose of this subsection is to further the purposes of this Ordinance by preserving the essential character of buildings which are important to the education, culture, history, traditions, and the economic value of the Town.
- B. **Applicability.** The following standards shall be used by the Permitting Authority in reviewing applications for Certificate of Appropriateness when an Alteration or Addition to an existing Primary or Accessory Building is proposed in the Historic Special District, or when an Alteration or Addition to a designated Local Landmark is proposed, except for the installation of Renewable Energy Systems which shall be governed by Article 2, Section 4 below.
- C. **Standards.**
  1. The character-defining qualities of a structure and its site (including but not limited to: architectural features, finishes, and construction techniques or examples of skilled craftsmanship) shall not be destroyed. The removal or alteration of any historic material (for the purposes of this Ordinance, pre-1930) or character-defining architectural features should be avoided when possible. If removal of historic material or a distinctive feature is proposed, an analysis shall be submitted which identifies: (1) what considerations were taken before ultimately deciding on removal and why the other considerations were not feasible; (2) if an alternative material is proposed, how the alternative material is considered a similar substitute in durability, longevity, and appearance.
  2. All Primary and Accessory Buildings shall be recognized as products of their own time period, place and use. Alterations that have no historical basis or create a false sense of historical development such as adding conjectural features or architectural elements from other time periods shall not be undertaken.
  3. Changes which may have taken place in the course of time are evidence of the history and development of a structure, object or site and its environment. Changes that have acquired significance in their own right shall not be destroyed.
  4. Damaged historic features shall be repaired rather than replaced wherever economically or technologically feasible, as demonstrated by the applicant. Where the severity of damage requires replacement of a distinctive feature, the new feature shall match the feature being replaced in composition, design, texture and other visual qualities and, where possible, materials. Repair or replacement of damaged historic features shall be based on accurate duplications of features, substantiated by documentary, physical or photographic evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects.
  5. The surface cleaning of structures and objects, if appropriate, shall be undertaken with the gentlest means possible. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be undertaken.

6. Every reasonable effort shall be made to protect and preserve significant archeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken by the applicant.
7. Contemporary design for Additions to existing properties shall not be discouraged when such Additions do not destroy significant cultural, historical, architectural or archeological materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the size, scale, color, material and character of the property, neighborhood or site.
8. New Additions or Alterations to structures shall be undertaken in such a manner that, if such additions or alterations were to be removed in the future, the essential form and structural integrity of the historic property would be unimpaired.
  - a. Additions should be made on a side or rear elevation, not on the Primary Façade, unless in the determination of the Permitting Authority an addition to the side or rear elevation is not economically possible due to unique constraints of the project.

## 2. Demolitions and Relocations

- A. **Purpose.** The purpose of this subsection is to further the purposes of this Ordinance by preserving historic buildings which are important to the education, culture, traditions, and the economic value of the Town. Furthermore, the purpose of this section is to afford the Town, historic societies, other preservation organizations, and others interested in preservation the opportunity to acquire or arrange for the preservation of historic buildings and structures, or important portions and features thereof, or proper removal of historic artifacts, or the proper recordation of the building, structure and/or site.
- B. **Applicability.** The following standards shall be used by the Review Board in reviewing applications for Certificate of Appropriateness when Demolition or Relocation of an existing Primary Building is proposed within the Historic Special District, or when the Demolition or Relocation of a designated Local Landmark is proposed.
- C. **Stay.**
  1. At the hearing on the application for Demolition or Relocation, the Review Board may, in the interest of exploring reasonable alternatives, delay issuance of the Certificate of Appropriateness for a delay period of up to 90 days from the date of the hearing. If, 10 days prior to the expiration of the original delay period, the Maine Historic Preservation Commission or State Historic Preservation Office recommends that there are still reasonable alternatives to explore, the Review Board may continue the delay for an extension of 30 days from the end of the original period. The purpose of the delay is to assist the applicant in finding alternatives to Demolition or Relocation, such as:
    - a. Assisting in securing funding to preserve in place the structure or important features thereof; or
    - b. Finding other ways to preserve the structure, such as outright purchase if possible, or relocation; or
    - c. At minimum, to provide the opportunity for the proper recordation of buildings, structures, and sites, including photography and narrative report.

- d. If, after the initial 90 day extension and the 30 day delay period, the application for Certificate of Appropriateness for Demolition or Relocation has not been withdrawn by the applicant or acted upon by the Review Board, the Review Board shall act on the application at their next regularly scheduled meeting, provided that enough time for noticing is available in accordance with Article 3, Section 2.H.
- D. **Standards.** In order to approve an application to relocate or demolish a building within the Historic Special District, or the Demolition or Relocation of a designated Local Landmark, the Review Board must find that the proposal meets at least one of the following standards for approval:
1. The Review Board determines that the structure is not of historic significance based on findings from the Maine Historic Preservation Commission or an architectural historian meeting the Secretary of the Interior's Professional Qualifications Standards (36 CFR Part 61).
    - a. In order to make this determination, the Review Board shall require the applicant to obtain a letter from the Maine Historic Preservation Commission or escrow funds with the Town to hire a qualified architectural historian (as defined above) to make a determination as to the eligibility of the structure to be listed on the National Register of Historic Places, either on its own or as a contributing structure to an eligible Historic District. If the structure is considered eligible for listing by the Maine Historic Preservation Commission and the applicant formally applies to the National Register and is declined, this Ordinance will not prevent the applicant from reapplying for a reconsideration of a previously issued Certificate of Appropriateness specific to Demolition of Relocation of the building.
  2. The structure, or predominant portions thereof, has been determined to represent an immediate hazard to the public health or safety because of severe structural deficiencies, which hazard cannot be abated by reasonable measures.
    - a. In order to make this determination, the applicant must escrow funds with the Town sufficient to hire a third-party structural engineer to provide a written report as to the integrity of the building.
  3. No prudent and feasible alternative exists.
    - a. In order to assist the Review Board in making this determination, the applicant must submit an analysis indicating the alternatives to demolition considered and the reasons that they are not feasible. Economic hardship may be a consideration, but the applicant must demonstrate through quotes from experienced professionals that the economic hardship would be too great. In this case, Relocation will be encouraged rather than Demolition.
- E. **Conditions of Approval for Demolition.** In approving an application to demolish a building within the Historic Special District, or the Demolition of a designated Local Landmark, the Review Board may impose either or both of the following conditions, or others that would further the stated purpose of this section:

1. The applicant shall allow the Review Board, Historical Society, or another historic preservation entity of the Board's choosing to document the structure inside and out prior to the structure's destruction at no cost to the applicant.
2. The applicant shall advertise to the general public the structure as available for free with removal at the sole of a recipient, offering the structure to be moved or scrapped for salvage materials. The advertisement shall appear in a newspaper of local circulation a minimum of two times and the cost of the advertisement will be borne by the applicant.

### 3. New Construction and Additions

- A. **Purpose.** The purpose of this subsection is to further the purposes of this Ordinance by allowing new construction within the Historic Special District that preserves, protects, and enhances the essential character of the District. This subsection provides standards to ensure that new buildings are designed and built in a manner which is compatible with the essential character of the district.
- B. **Applicability.** The following standards shall be used in reviewing applications for Certificate of Appropriateness when New Construction of a Primary or Accessory Building, or an Addition to a Primary or Accessory Building, is proposed within the Historic Special District.
- C. **Standards.**
  1. **Scale and form.**
    - a. **Height.** The proposed height of the building shall be visibly compatible with immediately adjacent structures and the neighborhood as a whole when viewed from the public realm.
    - b. **Width.** The width of a building shall be visually compatible with immediately adjacent structures and the neighborhood as a whole when viewed from the public realm.
    - c. **Proportions of principal facades.** New construction shall be compatible in proportion with existing buildings in the neighborhood.
    - d. **Roofs.**
      1. **Roof shapes.** The proposed roof shape shall fit in with the established context of the neighborhood and of immediately adjacent structures.
      2. **Rooftop decks.** Rooftop decks shall be designed so that they cannot be seen from the public realm.
      3. **Rooftop utilities.** When rooftop utilities, including but not limited to communication antennae, satellite dishes, mechanical units, elevator towers, and vents are proposed, the utility shall be placed in such a way that they are not visible from the public realm, such as on the side or rear of the building. Alternatively, rooftop utilities shall be visually screened from view from the public realm by the placement of decorative elements that are in keeping with the established context of the neighborhood and of immediately adjacent structures.
  2. **Composition.**
    - a. The characteristic sizes and proportions of window and door openings, and the rhythm of entrances, porches and other projections to public ways shall be

consistent with the proportions of openings found either within the specific Historic SD District

- b. **Relationship of materials.** Building materials shall be reflective of and complementary to existing buildings within the historic district. Materials shall be durable and of high-quality.
3. **Relationship to street.**
  - a. **Walls of continuity.** Facades and site structures, such as masonry walls, fences and landscape masses, should, when it is a characteristic of the area, form cohesive walls of enclosure along a street to ensure visual continuity with the structures, public ways and places to which such elements are visually related.
  - b. **Unifying development pattern.** The new construction shall maintain any unifying development pattern such as orientation of buildings, setbacks, and building coverage.
4. Other standards.
  - a. **Uses.** Non-residential uses shall not alter the character-defining features of the structure such that it would not be recognizable as its original residential use.
  - b. **Distinguishing original character.** The distinguishing original qualities or character of a site and its environment shall not be destroyed. If a distinguishing original feature is proposed to be altered or removed, an analysis must be submitted which indicates the reasons for alteration or removal.
  - c. **Archeological resources.** Every reasonable effort shall be made to protect and preserve significant archeological resources affected by or adjacent to any project. If, on the basis of an archeological site survey or other information, the Permitting Authority determines that there is an archeological resource on or immediately adjacent to the parcel, it may limit excavation or building to preserve or protect the site or may approve a plan or conditions to provide for appropriate evaluation, excavation or protection of the resource. If resources must be disturbed because no feasible alternative exists, documentation of the resource shall be undertaken and provided to the Town and to the Maine Historic Preservation Commission.

#### 4. Renewable Energy Systems

- A. **Purpose.** Recognizing that historic properties may need to adapt to changing technologies, this section is intended to provide clear standards for the review of the installation of renewable energy systems, including but not limited to solar panels or windmills, on historic properties. The intent is not to discourage the installation of Renewable Energy Systems, but to ensure that historic resources and the overall character of historic districts is protected to the extent practical.
- B. **Applicability.** The following standards shall be used by the Review Board in reviewing applications for Certificate of Appropriateness when the installation of Renewable Energy Systems are proposed on any property within the Historic Special District or on a designated Local Landmark building.
- C. **Standards.**



1. All Renewable Energy Systems shall be placed in such a way that they are unable to be seen from the public realm. When this is not economically or technologically feasible, one of the following alternatives may be approved:
  - a. Renewable Energy Systems located on Accessory Buildings, in accordance with subsection C.2 below.
  - b. Renewable Energy Systems located on rear roof slopes, behind existing architectural features or parapets, where such visibility does not detract from the overall historic character of the property.
  - c. Ground-mounted Renewable Energy Systems located in the rear yard.
  - d. Only in instances when the Review Board determines, based on information provided by the applicant, that none of the above are technologically or economically feasible, the Renewable Energy System may be placed in such a way where it will be seen from the public realm. The standards in subsection C.2 below must be met.
2. The following standards shall be met when the installation of Renewable Energy Systems is proposed on the roof of a structure:
  - a. Removal of historic roofing materials as part of the installation of solar panels on portions of a roof visible from the public realm shall not be undertaken.
  - b. Permanent removal or otherwise altering a historic roof element and configuration (dormers, chimneys, or other features) on portions of a roof visible from the Public Realm shall not be undertaken.
  - c. Any installation procedure that will cause irreversible changes to historic features or materials on portions of a roof visible from the public realm shall not be undertaken.
  - d. The placement of solar panels on top of visible slate or clay tile roofing shall not be undertaken in any instance.
  - e. The color of conduit and all attachment mechanisms for Renewable Energy Systems shall match the existing building materials to which it is attached or directly adjacent, including roof, siding, or similar.
  - f. The placement of panels in an array shape that does not echo that of the visible roof plane shall not be undertaken in any instance. The slope of solar panels must match the existing slope of the roof to which they are attached or located on.

## Article 3: Administration

### 1. Historic Special District Review Board.

- A. **Membership.** The Historic Special District Review Board's membership shall be comprised of five regular members appointed by the Selectboard. The Selectboard shall make every effort to appoint at least one member from each of the Town's three Historic Special Districts (Damariscotta Mills, Sheepscot Village, and Glidden Street).
- B. **Appointment.** Members of the Historic Special District Review Board (the Review Board) shall be appointed by a majority vote of the Selectboard to serve staggered terms of 3 years.
1. **Initial Appointment.** The five appointments made by the Select Board in establishing the initial Historic Special District Review Board shall be as follows: one appointment for a term of one year, two appointments for a term of two years, and two appointments for a term of three years. Thereafter, with the exception of filling a vacant position resulting from a resignation before the conclusion of a complete term, all appointments to the Historic Special District Review Board shall be for three-year terms.
  2. In the case of a vacant Historic Special District Review Board position before the conclusion of a complete term, the Select Board's appointment to fill the vacant Historic Special District Review Board position shall be for only the remainder of the unserved term.
  3. Historic Special District Review Board members may serve multiple terms and may be reappointed for consecutive or nonconsecutive terms.
- C. **Qualifications.** Appointments to the Review Board shall be made on the basis of demonstrated interest in promoting historic preservation in Newcastle. It is preferred that members have architectural design skills or other experience related to historic preservation, such as history, architectural history, landscape architecture, planning, engineering, law, archaeology and building construction or trades, but not required.
- D. **Board Rules.** The Review Board may adopt rules of procedure and policy as it may deem necessary to conduct its affairs, following a public hearing thereon. Board rules shall include application forms and checklists of required submittals that will sufficiently allow applicants to demonstrate compliance with the relevant standards of review.  
Meetings. The Review Board should hold at least one meeting per month, or more as it deems necessary. A quorum of at least three members will be required for voting purposes.
- E. **Meetings.** The Review Board should hold one meeting per month, or more as it deems necessary. A quorum of at least three members are required for voting purposes. An affirmative vote requires a majority of voting members present.

1. A regular meeting schedule, including meeting location, shall be established by the Historic Special District Review Board on an annual basis and shall be posted in the Town office and in a newspaper of local circulation upon adoption by the Board.
2. **Special Meetings.** Meetings of the Historic Special District Review Board not included on the established regular meeting schedule must be posted at least once in a newspaper of local circulation, as well as posted in the Town Office, no less than seven days before the meeting. Such notice must include the date, time, location, and proposed agenda of the meeting.

**F. Responsibilities.**

1. The Historic Special District Review Board shall review applications for Certificate of Appropriateness which are determined to be either Tier 2 or Tier 3 Projects under Article 3, Section 2.F and 2.G below. The review of such applications is limited to the applicable review standards under this Ordinance. The Historic Special District Review Board's authority is limited to the standards of this Ordinance, as may be amended.
2. The Historic Special District Review Board shall provide a report to the Planning Board and Selectboard following a petition to establish or expand the Historic Special District or a petition to designate a property as a Local Landmark as described in Article 3, Section 3 below.
3. The Historic Special District Review Board may provide advice to the Planning Board, Selectboard, or any other Town body regarding historic preservation and issues or opportunities related to historic preservation in Newcastle.
4. The Historic Special District Review Board shall review and make recommendations to the Maine Historic Preservation Commission regarding all National Register proposals for properties and districts within the Town.
5. The Historic Special District Review Board maintains the Town's Historic Resources Inventory. To assist in the maintenance of the Historic Resources Inventory, the Historic Special District Review Board shall conduct or cause to be conducted a continuing survey of historic, architectural and cultural resources in the community.
6. The Historic Special District Review Board acts to advance the Purpose and Intent of this Ordinance as described in Article 1, Section A.

**2. Procedure for Certificate of Appropriateness.**

- A. **Application & Fees.** A Certificate of Appropriateness application must be submitted, including payment of the applicable fee, with the Planning Department on forms created by the Town for that purpose.
- B. **Independent Consulting and Peer Review Fees.**
1. Where a Permitting Authority determines that the scale or complexity of a project necessitates third party professional or technical services to assist with project review and determination of compliance with the relevant standards of this Ordinance, the applicant may be required to escrow funds with the Town prior to the commencement of project review sufficient to pay the costs incurred by the Town in review of the application.
  2. Funds will be held by the Town Treasurer in a non-interest bearing escrow account. The escrow may be used by the Planning Department only to pay reasonable costs incurred which relate directly to the review of the Certificate of Appropriateness application pursuant to the review criteria. The results of the consultation or peer review for which such fees are assessed shall be available for public review, but such results shall be deemed to have been made solely for the benefit of the Town and shall remain its property. Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation or peer review results or the outcome of the application.
  3. The escrow fund amount shall be set by the Selectboard and will be available on the Town's adopted Fee Schedule. When the escrow account is 75% depleted, the applicant shall submit funds sufficient to bring the amount of the account back to the original escrow fund amount.
- C. **Determination of Completeness.** Upon receipt of an application, the Planning Department shall determine whether the application is complete and shall determine whether the proposed project requires review by the Historic Special District Review Board according to the standards set forth in Article 3, Section 2.E, 2.F, and 2.G of this Ordinance, as may be applicable.
- D. **Other Permits.** No Permit, including Demolition Permits, Use Permits, or otherwise, may be issued for any construction, reconstruction, alteration, or demolition until a Certificate of Appropriateness has been issued by the relevant Permitting Authority in accordance with this Ordinance.
- E. **Tier 1 Projects.**
1. **Permitting Authority.** Tier 1 Projects shall be reviewed administratively by the Planning Department.
  2. **Applicability.** Tier 1 Projects include but are not limited to, the following:

- a. The removal of architectural features that are not in compliance with Section 3.C below;
  - b. The replacement of materials and features not in compliance with Section 3.C below with materials and features that are in keeping with Section 3.C;
  - c. The installation of missing historical materials and features, supported by photographic or physical documentation;
  - d. Repointing and other masonry repairs;
  - e. Construction or replacement of patios or decks where the majority of the patio or deck cannot be seen from the public realm;
  - f. Placement of meters, vents, cable or telephone boxes, wiring, antennas, satellite dishes, and components of HVAC systems, when the placement is not on the primary facade;
  - g. Addition, removal or replacement of cloth, canvas, or acrylic awnings that otherwise comply with the relevant review standards;
  - h. Removal of deteriorated accessory buildings which are not original to the site or otherwise historically significant;
  - i. Installation of a temporary structure designed to promote safe access for individuals with disabilities, so long as the temporary structure can be removed and does not impact the essential form of the property;
  - j. The installation of fences or low walls of wood, stone, or brick (unless proposed in the Frontage Zone of the lot);
  - k. The replacement of exterior light fixtures and the installation of new light fixtures, including fixtures to illuminate signage.
3. **Exemption.** Tier 1 Projects proposed on structures which were built after the year 1930 per the Town's Assessor's Records (property cards) are exempt from Tier 1 Project review.
4. **Process.** Where the Planning Department determines that an application meets the relevant review standards, the Certificate of Appropriateness shall be issued within ten (10) business days, without presentation to the Historic Special District Review Board for approval. If the Planning Department has not acted within ten (10) business days, the applicant may seek approval from the Review Board, rather than staff. Inaction by the Planning Department does not constitute approval of the application.
- a. Applicants proposing Tier 1 Projects may elect for their application to be reviewed by the Review Board rather than the Planning Department. The

Planning Department can, for any reason, forward an application to the Review Board for review.

- b. The Planning Department shall provide its written findings and decision on any applications to the Review Board with written notice of any action taken on applications as an informational item at the next meeting.

#### F. Tier 2 Projects.

1. **Permitting Authority.** Tier 2 Projects are reviewed by the Historic Special District Review Board at a duly-noticed public hearing.
2. **Applicability.** Tier 2 Projects include, but are not limited to, the following:
  - a. Replacement of architectural details when there will be a change in design from the existing details;
  - b. The installation of fences or low walls of wood, stone, brick, when proposed to be within the Frontage Zone;
  - c. The installation or modification of Renewable Energy Systems;
  - d. Changes to roof lines, including rooftop additions, rooftop decks, or dormers.
3. **Process.** Upon receipt of a complete Tier 2 application the application shall be placed on the agenda for the next available Historic Special District Review Board meeting, provided that applicable noticing requirements can be met. Within forty-five (45) days of receipt of a complete application by the Historic Special District Review Board, the Review Board shall make a decision to approve, approve with conditions, or deny the application.
  - a. Upon mutual agreement by the Board and the Applicant, the review of an application may be continued to subsequent meetings.
  - b. Inaction by the Historic Special District Review Board within the above time frame shall constitute an approval of the application.

#### G. Tier 3 Projects.

1. **Permitting Authority.** Tier 3 Projects are reviewed by the Historic Special District Review Board at a duly-noticed public hearing, and require the assistance of a qualified historic preservation consultant.
2. **Applicability.** Tier 3 Projects include, but are not limited to, the following:
  - a. New Construction or Additions to buildings;
  - b. Demolition of any part of a structure;
  - c. Discovery of any archaeological resource on the site;

- d. Moving of buildings;
  - e. New Additional Structures.
3. **Process.** Upon receipt of a complete Tier 3 application, the application shall be placed on the agenda for the next available Historic Special District Review Board meeting, provided that applicable noticing requirements can be met. Within sixty (60) days of receipt of a complete application by the Historic Special District Review Board, the Board shall make a decision to approve, approve with conditions, or deny the application.
- a. Upon mutual agreement by the Board and the Applicant, the review of an application may be continued to subsequent meetings
  - b. Inaction by the Historic Special District Review Board within the above time frame shall constitute an approval of the application.
- 4.

#### H. **Public Hearings.**

- 1. The Historic Special District Review Board shall hold a public hearing on each Tier 2 or Tier 3 application for Certificate of Appropriateness prior to a decision being rendered. A notice of the hearing shall be mailed by the Town to direct abutters via USPS first class mail, postmarked at least 7 days in advance of the hearing. A notice shall also be posted by the Planning Department at the Town Office and on the Town's website. In the case of an application for a new Primary Building or an addition to an existing Primary Building, the noticing area shall be extended to abutting property owners within 250' of the subject property. Notice shall be made by the applicants, with receipt of mailing required to be submitted to the Town.
  - 2. Public Hearings and notifications are not required for Tier 1 Projects.
- I. **Approval.** If the Permitting Authority determines that the proposed Addition, Alteration, Relocation, New Construction or Demolition meets the standards of this Ordinance, it shall approve a Certificate of Appropriateness, and shall notify the applicant and Code Enforcement Officer, in writing, of the determination along with any conditions of approval within ten (10) business days.
- J. **Denial.** If the Permitting Authority determines that the proposed Addition, Alteration, Relocation, New Construction or Demolition does not meet the standards of this Ordinance, a Certificate of Appropriateness shall not be issued. A record of findings, describing how the application does not meet the standards of this Ordinance, shall be created, made available to the applicant, and maintained in the Town's records. The Permitting Authority shall notify the applicant and the Code Enforcement Officer within ten (10) business days of the final determination.

**K. Time Limits on Certificates of Appropriateness.**

1. Substantial construction shall commence within one (1) year of the issuance of a Certificate of Appropriateness. Approval may be extended for one (1) additional year from the conclusion of the original one (1) year time limit by the Planning Department upon written request of the applicant. Requests for a time extension must be submitted in writing within one (1) year of the initial approval. After the approval has expired or an extension has been denied, the applicant may reapply without prejudice. The extension shall be approved by the Planning Department, as outlined above, unless there is:
  - a. Additional information that indicates that the plan does not meet the standards of this Ordinance;
  - b. A failure to meet a condition of approval;
  - c. An amendment to this Ordinance that prohibits or otherwise alters the proposed project.

**3. Establishment of Historic Special Districts or Local Landmarks**

- A. Purpose.** To provide a clear amendment process for the establishment or expansion of Historic Special Districts or Local Landmarks, in accordance with Title 30-A, M.R.S.A § 4352 (Zoning Ordinances), as may be amended from time to time.
- B. Applicability.** This section shall apply to all petitions to establish a new Historic Special District or expand an existing Historic Special District. In addition, this section shall apply to all petitions to establish a Local Landmark.
- C. Procedure.**
  1. **Application.** Any person or group seeking to add or expand historic districts shall request the amendment in writing to the Historic Special District Review Board. Any proposal by the Selectboard or Planning Board shall be referred to the Historic Special District Review Board for comment before any further action. Any applications shall be in writing.
    - a. Applications for the establishment of Local Landmarks may only be made by a property owner or their assigns.
  2. **Studies and recommendations.** Before making its recommendation concerning the proposed establishment or expansion of an historic district or Local Landmark, the Historic Special District Review Board may conduct studies and research on the proposal. The Historic Special District Review Board shall make a report on every request received within six months. The final report shall also be mailed to the Maine Historic Preservation Commission for review.



- 3. Public hearing.** Prior to making a recommendation concerning the proposed establishment or expansion of an historic district or Local Landmark, the Historic Special District Review Board shall hold a public hearing on the request, after due notice is provided twice in a newspaper of general circulation. The date of the first publication must be at least 12 days before the hearing and the date of the 2nd publication must be at least 7 days before the hearing. The notice must be written in plain English, understandable by the average citizen. Mailed notice of the proposal shall also be sent to the applicant, owners of all property to be included within the proposed designation, and property within a 250-foot radius of the property under consideration.
  - 4. Final report.** Not later than 30 days after the public hearing, the Review Board shall submit a final report to the Planning Board with the Review Board's recommendation.
  - 5. Further action.** After the Planning Board's receipt of the Review Board's recommendations, as provided above, the petition will make its way through the Zoning Amendment process as described in Article 7, Section 21 of the Core Zoning Code.
- D. Eligibility for Historic Designation.** The properties designated in accordance with this section shall have one or more of the following characteristics:
- 1. History of Newcastle.** Structures, buildings or sites at which events have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, or social history of Newcastle, the State of Maine, or the nation, including but not limited to sites or buildings at which visitors may gain insight or see examples of particular items or of larger patterns in the North American heritage.
  - 2. Persons.** Structures, buildings or sites associated with important historic persons.
  - 3. Ideas.** Structures, buildings or sites associated with important examples of a great idea or ideal.
  - 4. Architecture.** Structures or structural remains and sites embodying examples of architectural types or specimens valuable for the study of a period, style or method of building construction; for the study of community organization and living; landscaping; a single notable structure; or a site representing the work of a master builder, master designer, architect or landscape architect.
  - 5. Visual continuity.** Structures or buildings contributing to the overall visual continuity of the historic district.
  - 6. National Register.** Those sites or areas listed on or eligible for listing on the National Register of Historic Places.

#### 4. Interim Protection for Nominations

- A. **Nominated Local Landmarks and Historic Districts.** From the time of nomination of a Local Landmark or Historic Special District, including expansion of Historic Special Districts, until the Historic Special District Review Board acts upon such nomination, a site, structure, or area shall be subject to all of the provisions of Article 2, Section 2 governing demolition, to the same extent as if designated.
- B. Upon final action of the Historic Special District Review Board recommending the designation of a Local Landmark or Historic Special District, including expansion of Historic Special Districts, the site, structure, or area nominated shall be subject to all of the protections of Article 2, Section 2 of this Ordinance until such time as a final decision on designation by the legislative body of the Town of Newcastle becomes effective.
- C. Upon final action of the Historic Special District Preservation Review Board not recommending the designation of a Local Landmark, Historic Special District, or expansion of a Historic Special District, that site, structure, or area, the protections of Article 2, Section 2 of this Ordinance shall expire after 30 days from the date of the Board's action.
- D. Upon a vote by the legislative body of the Town of Newcastle to designate a Local Landmark, Historic Special District, or to expand a Historic Special District which fails to pass, that site, structure, or area shall no longer be subject to the provisions of Article 2, Section 2 of this Ordinance.

#### 5. Enforcement

- A. Where the applicant has done work or caused work to be done on a structure or a property for which a Certificate of Appropriateness is sought and such work is either not done in compliance with an approval received under this Ordinance, or any other Ordinance of the Town of Newcastle, or was performed without the approvals required under this Ordinance or any other Ordinance of the Town of Newcastle, no application for such structure or property shall be considered by the Planning Department or by the Historic Special District Review Board until the work done without approval is brought into compliance with the requirements of the relevant Ordinance.
- B. Review of any application by the Planning Department or by the Historic Special District Review Board in accordance with this Ordinance shall not constitute waiver of any future claims by the Town concerning violations and shall not stop the Town from prosecuting any violation.
- C. Failure to perform any act required by this Ordinance or of any conditions of approval on any Certificate of Appropriateness issued hereunder, or performance of any act prohibited by this Ordinance, shall constitute a violation and be subject to a fine as provided in 30-A M.R.S. §4452, as may be amended. Each day on which there is failure to perform a required act or on which a violation exists shall constitute a separate violation for purposes of this section.

## Article 4: Definitions

**Accessory Building:** Same as the definition found in Article 8 of the Core Zoning Code.

**Addition:** An improvement that increases the square footage of a structure or the addition of decks or patios. These include lateral additions added to the side or rear of a structure or vertical additions added on top of a structure.

**Additional Structure:** Same as the definition found in Article 8 of the Core Zoning Code.

**Alteration:** For the purposes of this Ordinance, this includes any change in foundations, gutters, door and window sash and character-defining decorative elements, such as, but not limited to, cornices, brackets, window architraves, doorway pediments, railing, balusters, columns, cupolas and cresting and roof decorations. This definition also includes the addition of skylights, utilities, and similar when seen from the Public Realm.

**Applicant:** Same as the definition found in Article 8 of the Core Zoning Code.

**Architectural Feature:** The architectural elements embodying style, design, general arrangement, and components of the exterior of any building or structure, including, but not limited to: decorative elements, the kind or texture of the building materials, and the style and type of all windows, doors, lights, and porches.

**Certificate of Appropriateness:** The approval documentation indicating compliance with the relevant standards of this Ordinance.

**Character or Character-Defining:** The visual aspects and physical features that comprise the appearance of a building, which may include the overall shape of the building and its materials, craftsmanship, decorative details, and unique aspects of its site or environment.

**Conjectural Features:** Features added based only on availability or added without research into what would be the historically accurate feature for a type of architectural style.

**Demolition:** The razing of a building or a structure or the removal of any exterior architectural feature or structure or object.

**Frontage Zone:** Same as the definition found in Article 8 of the Core Zoning Code.

**Hazard Building(s):** Any building which, because of inadequate maintenance, dilapidation, physical damage (including damage from a fire, flood, or similar), unsanitary condition, or abandonment, constitutes a fire hazard or a danger to public health.

**Historic Preservation:** Broadly, this is a conversation about the past for the purposes of planning for the future. For the purposes of this Ordinance, this means identifying and regulating buildings, structures, sites or districts with cultural, social, architectural or historic value in order to communicate with future generations those places (including individual buildings or sites and whole neighborhoods) which have been important or significant to the broader story of the Town of Newcastle and its inhabitants.

**Historic Resource Inventory:** An inventory, maintained by the Town, of sites, buildings and resources within the Historic Special Districts, and, if applicable, their Character-Defining features.

**Historic Special Districts:** Those shown on the Official District Map of the Town of Newcastle, Maine as may be amended from time to time. The Official District Map is included in Article 1 of the Core Zoning Code.

**Legislative Body:** Voters of the Town of Newcastle at a duly-noticed Town Meeting.

**Local Landmarks:** Those properties, which may be located outside of the Historic Special Districts but which have significant architectural, social, cultural or historical value in their own right, and which have been designated as Local Landmarks through the process outlined in Article 3, Section 3 of this Ordinance. Only property owners or their agents/assigns may initiate a petition to designate their property as a Local Landmark.

**Minor Alteration:** Incidental changes or additions to a building which will neither result in substantial changes to any significant historic features nor obscure such features. In no event shall any change be deemed minor when, in the determination of the Planning Department, such change shall alter the historic character of the building.

**New Construction:** New construction includes the placement of a new Primary or Accessory Building on a site, whether the new building is post-and-beam construction or factory-built/manufactured.

**Permitting Authority:** The Planning Department or the Historic Special District Review Board, as may be applicable.

**Planning Department:** The Town Planner or their designee.

**Primary Building:** Same as the definition found in Article 8 of the Core Zoning Code.

**Principal Facade or Principal Elevation:** The front of a building facing the street.

**Proportions:** The relationship of the size, shape, and location of one building element to all of the other elements; each architectural style typically has its own rules of proportion.

**Projections:** A part or feature of a building which extends out beyond the enclosing walls (for example, steps, porches, or enclosed entries, or bay windows, balconies, and cornices).

**Public Realm:** All public or civic lands including publicly-owned parks and open spaces, roads, sidewalks, rights-of-way, frontage zones, and water bodies.

**Reconstruction:** The act or process of depicting, through new construction, the form, features, and details of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time (usually using documentary or photographic evidence).

**Renewable Energy Systems:** Systems that harness energy from solar, geothermal and/or wind sources.

**Repointing:** To repair the joints of brickwork or masonry with mortar or cement.

**Review Board:** The Newcastle Historic Special District Review Board, as established by Article 3 of this Ordinance.

**Rhythm:** An ordered, alternating, recurring pattern of solids (walls) to voids (windows and doors) in building facades along the street. The recurrent alternation of walls to windows and doors (solids to

voids) along the front facade of a building establishes a pattern which can be perceived when observing the building from a distance.

**Temporary:** For the purposes of this Ordinance, the term Temporary shall have the same meaning as Temporary Structure, as outlined in Article 4, Section 9 of the Core Zoning Code.

DRAFT FOR PUBLIC HEARING