

**ARTICLE 12**  
**HISTORIC PRESERVATION**

**Section 1. Historic Preservation Commission; Appointment and Composition**

- A. There shall be a Historic Preservation Commission (the "Commission") consisting of five (5) members and two (2) alternate members. The members of the Commission shall have a demonstrated interest, knowledge, or training in fields closely related to historic preservation and shall be appointed by the Municipal Officers. An effort shall be made to appoint members with expertise and a demonstrated interest in the following disciplines: architecture, history, landscape architecture, and archeology. The Commission shall include at least two residents of the Historic Preservation District in Kennebunk as established under this ordinance, or one from each geographic historic district, whichever is greater.
- B. Each commission member or alternate member shall serve without pay and for a term of not less than three years or such longer term as the Selectmen may from time to time determine. Initially, staggered terms of one, two and three years shall be assigned the five members and alternate members first appointed, so arranged that not more than two terms will expire each year. The municipal officers shall thereafter annually appoint or re-appoint members of the Commission and shall initiate appropriations each year for the activities of the Commission.
- C. The Commission shall elect annually a chairperson and vice-chairperson from among its own membership. In case of absence, inability to act or conflict of interest on the part of a Commission member, one of the alternate members shall act in the member's place. The decisions of the Commission shall be by vote of a majority of the whole number of Commission members. A quorum shall consist of three (3) members.

**Section 2. Powers and Duties**

- A. The Commission shall be responsible for issuing "Certificates of Appropriateness" in accordance with the provisions of this Article using the Kennebunk Historic Preservation Overlay District Design Guidelines (2002 edition).
- B. The Commission for its purposes shall adopt and may from time to time amend rules and regulations not inconsistent with the provisions of this Ordinance.
- C. The Commission may, subject to appropriation or other income, employ clerical and technical assistants or consultants, may accept money gifts or gifts of service, but not gifts of property, and may hold or expend the same for all or any of the purposes of the Commission.
- D. The Commission shall review all proposed nominations within the Town to the National Register of Historic Places. Such review shall be based on the National Register criteria for properties listed on the National Register of Historic Places. Whenever a building or site is proposed to be nominated for inclusion on the National Register, the Commission shall notify the property owner and post a public notice in the Town Office announcing a forty-five (45) day comment period. If the Commission and the Board of Selectmen recommend to the State Historic Preservation Officer that a building or site be included on the National Register, the Commission shall so notify the property owner within ten (10) days following the transmittal of the report of the Commission and recommendation of the Board of Selectmen to the State Historic Preservation Officer.

- E. The Commission shall review all new construction affecting historic and prehistoric properties and/or districts within its jurisdiction to determine if locally listed prehistoric or historic archaeological sites will be adversely impacted.
- F. The Commission shall conduct or cause to be conducted a continuing survey of cultural resources in the community according to guidelines established by the Maine Historic Preservation Commission.
- G. The Commission shall make recommendation for designation of local landmarks and historic districts to the appropriate local governing body. Whenever an area is proposed for inclusion in the Kennebunk Historic Preservation Overlay District pursuant to the procedures for amending the Kennebunk Zoning Ordinance, the Commission shall notify each property owner within the area of the proposed amendment and, if the Board of Selectmen vote to place the proposed amendment on the warrant for Town Meeting, the Commission shall notify each such property owner of the Board's decision within ten (10) days following the decision.
- H. The Commission shall establish and use written guidelines for the conservation of designated local landmarks and historic districts in decisions on requests for permits for new construction, alterations, demolition, relocation, or additions to listed landmarks and buildings within historic districts.
- I. The Commission shall act in an advisory role to other officials and departments of local government regarding the protection of local cultural resources.
- J. The Commission shall act as a liaison on behalf of the local government to individuals and organizations concerned with historic preservation.
- K. The Commission shall work toward the continuing education of citizens within the Town regarding historic preservation issues and concerns.

### **Section 3. Certificate of Appropriateness**

#### **A. Applicability**

This section shall apply to those lands within the Historic Preservation Overlay District and conversions of buildings on or eligible to be on the National Register of Historic Places which are located in the Downtown Business District and the Upper Square District.

#### **B. Certificate of Appropriateness**

No building or structure, including fieldstone walls or other wall structures, fences, steps, landscaping, and paving shall be altered, reconstructed, erected, restored, moved, or demolished, and no sign, light, fence, wall, or there appurtenant fixtures (all hereafter called appurtenant fixtures) shall be erected or displayed on any site or lot or on the exterior of any building or structure, nor shall any building permit or other Kennebunk permits be issued therefore, until a corresponding certificate of appropriateness has first been issued.

#### **C. Application for Certificate of Appropriateness**

- (1) Certificates of Appropriateness shall be applied for in writing to the Historic Preservation

Commission. Applications shall include the location, use, nature, the date of completion, and where pertinent, the materials, color and texture of the matter or item for which such certificate is sought. The applicant shall also make available any site plans, building plans, elevations, samples, photographs, sketches, or other information reasonable required by the Commission to determine the "appropriateness" in question.

- (2) Within ten days after the filing of an application for a certificate of appropriateness or application for demolition, the Commission shall determine the properties deemed to be materially affected by the application and, unless a public hearing has been waived in writing by all persons entitled to notice thereof, shall cause forthwith its secretary to give, by mail, to the applicant, to the owners of all affected properties as they appear on the most recent real estate tax list, and to any person filing written request for notice of such hearings (such requests to be renewed annually in December), not less than ten days notice of a public hearing to be held by the Commission on such an application.
- (3) In reviewing applications for Certificates of Appropriateness, the Commission shall adopt the Secretary of Interior's Guidelines and Standards for Rehabilitation (1983 edition), as the same may be amended from time to time, as its guidelines as well as the Kennebunk Historic Preservation Overlay District Design Guidelines (2002 edition).
- (4) The Commission, in reviewing applications, shall consider the appropriateness of proposed features, buildings, structures, and appurtenant fixtures, the location of the lot, and the removal or demolition of any building, structure, or appurtenant fixture, whenever such features, buildings, structures, and appurtenant fixtures are subject to public view.
- (5) The Commission, in considering the appropriateness of any features, fixtures, and usages included within an application, shall keep in mind the purpose of this Section and shall consider, among other things, the historic and architectural significance and value, the architectural style, the general design, arrangement, texture, material, and color of the building, structure, or appurtenant fixtures in question, the relation of such features to similar features of buildings in the immediate surroundings, and the position of such buildings or structures in relation to the street or public way and to other buildings and structures.
- (6) The Commission shall not make any recommendations or requirements except for purposes of historic preservation and for purposes of preventing developments, construction, or changes incongruous with the historic district, its buildings, sites, and surroundings.
- (7) As soon as possible after a public hearing, but within a period of forty-five (45) consecutive calendar days after the filing of an application, the Commission shall determine whether the action or usage proposed will be appropriate in its opinion in the historic district in accordance with the purposes of this section. If the Commission or the applicant proposes alternatives to the action or usage originally sought by the applicant, such alternatives shall be acted upon within the forty-five (45) day period set forth above. If the applicant agrees at a public hearing to extend such forty-five (45) day period, it may be extended by the Commission for final action to mutually agreed date certain.
- (8) Notwithstanding that the proposed action or usage may be deemed inappropriate owing to conditions specifically affecting the lot, buildings, or structures involved in the

application, but not affecting the historic district generally, the Commission may find that failure to issue a certificate of appropriateness will result in undue hardship, as defined in Article 6, Section 2(B) of this Ordinance, and that such certificate may be issued.

- (9) If the Commission determines that a proposed activity is appropriate, or is not appropriate but finds that a certificate may be issued in accordance with the conditions and findings expressed in paragraph 8 above, or if the Commission fails to make a determination within the time herein before prescribed, the Commission shall forthwith approve such application and shall issue to the applicant a certificate of appropriateness in which the Commission may impose conditions.
- (10) If the Commission determines that a certificate of appropriateness should not be issued, the reasons for such a determination shall be recorded. The Commission may include recommendations regarding the proposal considered.
- (11) Whatever its findings, the Commission shall forthwith notify the applicant of its determination and shall furnish the applicant a copy of the reasons for its finding and any recommendations which appear in the records of the Commission.
- (12) Any person aggrieved by a decision of the Historic Preservation Commission on an application of a certificate of appropriateness may appeal the same within thirty (30) days from the date of the decision is rendered to the Board of Appeals, and the procedure therefore shall be as set forth in Article 6, Section 3, of this Ordinance.

#### **Section 4. Approval Standards and Criteria**

In considering an application for a Certificate of Appropriateness, the Historic Preservation Committee applies the following general review standards as are determined to be relevant to the particular applicant:

- (1) Every reasonable effort shall be made to provide a compatible use for the property which requires minimal alteration to the character-defining features of the structure, object or site and its environment or to use a property for its originally intended purpose.
- (2) The distinguishing original qualities or character of a structure, object or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- (3) All sites, structures and objects shall be recognized as products of their own time, place and use. Alterations that have no historical basis or create a false sense of historic development such as adding conjectural features or elements from other properties shall be discouraged.
- (4) 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.
- (5) Distinctive features and construction techniques or examples of skilled craftsmanship which characterize a structure, object or site shall be treated with sensitivity.

- (6) Deteriorated historic features shall be repaired rather than replaced wherever feasible. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the feature being replaced in composition, design, texture and other visual qualities and, where possible, materials. Repair or replacement of missing historic features should be based on accurate duplications of features, substantiated by documentary, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects.
- (7) 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.
- (8) 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.
- (9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and 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, color, material and character of the property, neighborhood or environment.
- (10) Whenever possible, new additions or alterations to structures and objects shall be undertaken in such a manner that, if additions or alterations were to be removed in the future, the essential form and integrity of the historic property would be unimpaired.