

# CASTINE HISTORIC PRESERVATION ORDINANCE



ENACTED BY THE TOWN IN MEETING ASSEMBLED THE 27<sup>TH</sup> DAY OF MARCH 2006  
AND AS THEREAFTER AMENDED.

ATTEST: THIS IS A TRUE DOCUMENT. THE *CASTINE HISTORIC PRESERVATION ORDINANCE*, HAS BEEN IN EFFECT WITHOUT CHANGE FROM 27 MARCH 2006 TO THE DATE HEREOF, EXCEPT AS AMENDED THROUGH 27 MARCH 2010, AS SHOWN.

DATED: 27 MARCH 2010

SIGNATURE: \_\_\_\_\_

AFFIX SEAL

SUSAN M. MACOMBER  
CASTINE TOWN CLERK

# CASTINE HISTORIC PRESERVATION ORDINANCE

## Table of Contents

|   |    |
|---|----|
| Article 1 General Provisions .....  | 1  |
| Article 2 Definitions.....  | 2  |
| Article 3 Castine Historic Preservation Commission .....  | 5  |
| Article 4 Criteria for Establishment of Historic Districts, Historic Sites, Individual Historic Properties, and Historic Landmarks..... | 8  |
| Article 5 Establishment of Historic Districts, Individual Historic Structures, Historic Sites and Historic Landmarks.....               | 8  |
| Article 6 Historic Districts, Historic Sites and Historic Landmarks Defined.....  | 11 |
| Article 7 Activities Requiring an Historic Preservation Certificate.....  | 12 |
| Article 8 Activities Requiring an Historic Preservation Certificate and Other Municipal Permits   | 13 |
| Article 9 Activities Not Requiring an Historic Preservation Certificate .....   | 13 |
| Article 10 Application Procedures.....  | 14 |
| Article 11 Administrative Procedures.....   | 15 |
| Article 12 Standards of Evaluation.....   | 16 |
| Article 13 Maintenance and Repair.....  | 18 |
| Article 14 Appeals .....  | 19 |
| Article 15 Validity and Severability.....   | 19 |
| Article 16 Conflict with Other Ordinances .....   | 19 |
| Article 17 Administration and Enforcement.....  | 19 |
| Article 18 Amendments .....   | 20 |
| Appendix A Town Sidewalk and Street Guidelines.....   | 21 |

## **ARTICLE 1. GENERAL PROVISIONS**

### **1.1 TITLE**

This Ordinance shall be known as the *Castine Historic Preservation Ordinance*. It shall be referred to herein as the "Ordinance."

### **1.2 REPEAL OF OTHER ORDINANCES**

The *Castine Historic Preservation Ordinance* in existence at the time of the adoption of this Ordinance is hereby repealed. That repeal does not affect or prevent any pending or future prosecution for violations or abatement of violations of that repealed ordinance.

### **1.3 AUTHORITY**

This Ordinance is adopted in accordance the legislative authority granted to the Town by Maine State Law, Title 30-A M.R.S.A., § 3001.

### **1.4 INTENT [Am 1]**

The intent of this Ordinance is to provide a legal framework within which the residents of the Town of Castine can protect the historic, architectural and cultural heritage of significant areas, landmarks and sites in Castine, while accepting as appropriate new construction that is compatible. The intent of the ordinance is to safeguard, in the face of intensified growth pressures, the structures and areas that give beauty and pleasure to residents, attract visitors and new residents, give the Town its distinctive character, and educate the community about its past. Once destroyed, historic architecture, areas, sites, and scenic resources cannot be replaced. To prevent such losses this ordinance endeavors to:

**1.4.1** protect the outward appearance and architectural features of designated sites or landmarks and structures within designated districts and individual historic properties;

**1.4.2** prevent the demolition or removal of designated historic properties, sites, landmarks and significant historic structures within designated districts;

**1.4.3** preserve the essential character of designated districts and historic properties by protecting design and spatial relationships of groups of buildings and structures;

**1.4.4** accept new buildings and structures in designated districts that are designed and built in a manner, which is compatible with the character of the district.

### **1.5 PURPOSE [Am 1]**

It shall be the purpose of this Ordinance to permit the designation of lands, buildings and structures within the Town, as historic sites, historic districts, or individual historic properties, or historic landmarks.

### **1.6 USES PERMITTED**

The uses permitted in historic districts and individual historic properties and at historic sites or historic landmarks shall be those set forth in the *Zoning Ordinance of the Town of Castine, Maine* for the zone in which such district, site, property or landmark is located.

## 1.7 STANDARDS INCORPORATED BY REFERENCE [\[Am 1\]](#)

The following are adopted by this reference and made a part of this ordinance with the same force and effect as though set out in full herein.

- 1.7.1 *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (36 CFR Part 68 in the July 12, 1995 Federal Register), 1995 or most recent edition.*
- 1.7.2 *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (36 CFR Part 67), 1990 or most recent edition.*
- 1.7.3 *The Castine Historic Preservation Design Manual, 2007 or most recent edition.*
- 1.7.4 All architectural and archaeological surveys conducted by architectural historians and archaeologists recognized by the State Historic Preservation Commission and on file in the Town Office.
- 1.7.5 Pursuant to Title 30-A M.R.S.A., § 3003, a copy of each publication adopted by reference above has been and shall be on file in the office of the Town Clerk for public inspection and use.

## ARTICLE 2. DEFINITIONS

- 2.1 **ARCHAEOLOGICAL SITE:** A geographic location of the remains of prehistoric life or of historic human beings. These include but are not limited to, structures, artifacts, terrain features, graphics (paintings or drawings, etc.) and the evidence of plants or animals.
- 2.2 **ARCHITECTURAL FEATURE:** Any feature that helps give a structure its distinctive architectural character. Such character defining features include but are not limited to columns, pilasters, cornice boards, brackets, balustrades, quoins, fanlights, corner boards, window and door frames, and transoms. [\[Am 1\]](#)
- 2.3 **CASTINE HISTORIC PRESERVATION DESIGN MANUAL:** A set of criteria for evaluating proposed changes in historic properties, based on *The Secretary of the Interior's Standards for Rehabilitation*, for the use of the Historic Preservation Commission or other appointed body that has the responsibility of overseeing a specific local historic structure, area, site, or district. [\[Am 1\]](#)
- 2.4 **COMPATIBILITY:** The relationship between buildings of scale, height, proportion and mass and their relationship to the viewscape. See § 2.25 for definition of viewscape. [\[Am 1\]](#)
- 2.5 **CONTRIBUTING PROPERTY:** A contributing property means and includes any building, other structure or site that by age, location, design, setting, materials, workmanship or association adds to the district's sense of time and place and historical development or is capable of yielding important information about an historically significant period. Ordinarily buildings that have been built within the 75 years prior to the year of application shall not be considered to contribute to the significance of a district unless a justification concerning their historical or architectural merit is given by the referenced

surveys, § 1.7.4, or the historical attributes of the district are considered to be less than 75 years old. See § 2.19 for the definition of non-contributing properties. [Am 1]

- 2.6 DETERIORATION FROM NEGLECT:** Deterioration of any structural or exterior architectural feature of a property from inadequate maintenance to the extent that it creates an irretrievably detrimental effect on the life and character of that historic structure or landmark and/or creates health and safety violations.
- 2.7 HISTORIC DISTRICT:** A geographically definable area possessing a significant concentration or linkage of sites, structures or objects united by past events or aesthetically by plan or physical development and designated in accordance with the requirements of this Ordinance as appropriate for historic preservation. Such historic districts may also comprise individual elements separated geographically, but linked by historical association. [Am 1]
- 2.8 HISTORIC INTEGRITY:** The authenticity of a property's historic identity as evidenced by the survival of physical characteristics (location, design, setting, materials, workmanship and association) that existed during the property's prehistoric or historic period.
- 2.9 HISTORIC LANDMARK:** Any site feature or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which is associated with historic personages or important events in local, state or national history which has been designated in accordance with this Ordinance. [Am 1]
- 2.10 HISTORIC PRESERVATION CERTIFICATE:** A document issued by the Historic Preservation Commission that assures compliance with the provisions of this Ordinance.
- 2.11 HISTORIC SITE:** A parcel of land of special significance in the history or prehistory of the Town and its inhabitants, or upon which an historic event has occurred, or an historic site by virtue of usage and which has been designated as such in accordance with this Ordinance. The term "historic site" shall also include any improved parcel or part of it on which is situated an historic landmark, and any abutting parcel or part of it used as and constituting part of the premises on which the historic landmark is situated as may be designated in accordance with this Ordinance.
- 2.12 INDIVIDUAL HISTORIC PROPERTY:** A property that is worthy of preservation because it possesses historic integrity and local, regional, state, or national significance. Important properties may include structures, sites, and objects significant in American history, archaeology, architecture, engineering, or culture, which have been designated as such in accordance with this Ordinance. [Am 1]
- 2.13 MAINTENANCE:** The keeping of a resource in good repair, e.g., painting, protection from weather and decay and replacement of deteriorating elements, to preserve its integrity.
- 2.14 MAJOR CHANGE:** Major changes are additions or alterations to a structure or site, or a large-scale change that affects the character of the structure or the related viewscape.
- 2.15 MINOR CHANGE:** Minor changes are small-scale alterations to a structure or site that do not significantly affect its appearance and are easily reversible. Minor changes may

include improvement projects such as lighting, sidewalks, paving and curbing. [Am 1]

- 2.16 NATIONAL REGISTER OF HISTORIC PLACES:** A register assigned by The National Historic Preservation Act of 1966 as amended that recognizes buildings, sites, districts, structures, and objects significant in American history, archaeology, architecture, engineering, or culture, and identifies them as worthy of preservation.
- 2.17 NATIONAL REGISTER-ELIGIBLE PROPERTY:** An historic property that is eligible for inclusion in the Register because it meets the National Register criteria, which are specified in the Department of the Interior regulations at 36 CFR 60.4.
- 2.18 NATIONAL REGISTER-LISTED PROPERTY:** An historic property that has been formally listed in the National Register of Historic Places and accepted by the Secretary of the Interior, who is represented for purposes of the decision by the Keeper of the National Register.
- 2.19 NON-CONTRIBUTING PROPERTY:** A non-contributing property means and includes any building, other structure or site that does not add to the district's sense of time and place and historical development; or one where the location, design, setting, materials, workmanship or association have been so altered or have so deteriorated that the overall integrity of the building, structure, or site has been irretrievably lost. Although changes to a non-contributing property may not have historical significance, they may affect the historic integrity of the viewscape and the district as a whole. [Am 1]
- Ordinarily buildings that have been built within the 75 years prior to the year of application shall not be considered to contribute to the significance of a district unless a strong justification concerning their historical or architectural merit is given by the referenced surveys, § 1.7.4, or the historical attributes of the viewscape are considered to be less than 75 years old. Age shall be determined based on the architectural surveys on file in the Town Office. In the case of a disagreement, an architectural historian recognized by the Maine State Historic Preservation Commission shall be consulted. [Am 1]
- 2.20 OBJECT:** A construction that is primarily artistic or utilitarian in nature or is relatively small in scale and simply constructed. Although it may be, by nature and design, moveable, an object is associated with a specific setting or environment.
- 2.21 SECRETARY OF THE INTERIOR'S STANDARDS:** *The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings* (36 CFR Part 68 in the July 12, 1995 Federal Register), 1995 or most recent edition, are the national standards to guide work undertaken on historic properties. The intent of the *Standards* is to assist in the long-term preservation of historic structures and features. *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (36 CFR Part 67), 1990 or most recent edition, are used to evaluate rehabilitation projects on certified historic structures for federal tax credits. [Am 1]
- 2.22 SIDING:** The covering of exterior vertical or nearly vertical wall surfaces, excluding architectural features.

- 2.23 SITE:** The location of a significant object, structure, or event.
- 2.24 STRUCTURE:** A building, or anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground. The term includes structures temporarily or permanently located, such as decks, fences, and walls. [Am 1]
- 2.25 VIEWSCAPE:** The public setting in which a structure, site, or landmark is located. It is the immediate visible neighborhood of the street or public land associated with such a structure, including such things as fences, sidewalks and lights. A viewscape is not synonymous with scenic views, for example water views possessed by individual property owners, but encompasses the public view of a street, neighborhood or public land. Every kind of structure is considered in the context of its viewscape. A district may include many viewscales. [Am 1]
- 2.26 VISIBLE FROM THE STREET:** Any site or structure that can be seen from any public street or way abutting the subject property. [Am 1]

### **ARTICLE 3. CASTINE HISTORIC PRESERVATION COMMISSION**

#### **3.1 GENERAL**

This Ordinance establishes the Castine Historic Preservation Commission as a municipal body. The members of the Commission shall be appointed by the Board of Selectmen, shall be residents of the Town of Castine and shall have the interest, knowledge, experience, capability and demonstrated desire to promote historic preservation in the Town consistent with the meaning of Article 1 of this Ordinance. The members of the Commission (hereinafter, Commissioners) shall serve without compensation.

#### **3.2 MEMBERSHIP [Am 1]**

The Castine Historic Preservation Commission (hereinafter, the Commission) shall consist of five (5) regular Commissioners and two (2) associate Commissioners.

#### **3.3 TERMS OF OFFICE**

All Commissioners serving at the adoption of this ordinance shall continue until the expiration of their current term. Thereafter, all regular Commissioners shall be appointed to serve for staggered terms of three (3) years. All associate Commissioners shall be appointed to serve a one (1) year term. They may participate fully in the deliberations of the Commission but without vote unless standing in for an absent Commissioner. Commissioners may serve no more than two (2) consecutive full terms.

#### **3.4 TRAINING**

All Commissioners are encouraged to maintain and develop their knowledge of historic preservation and are expected to attend a yearly training seminar in architectural history and preservation standards offered in conjunction with the Maine Historic Preservation Commission.

#### **3.5 VACANCIES**

Should a vacancy occur, the Board of Selectmen may appoint a replacement to serve

for the unexpired term of that Commissioner, whether regular or associate. In the event of an absence of a regular Commissioner from a meeting, the chairperson shall designate an associate Commissioner, who shall have full authority to sit in the place of the absent member.

**3.6 CONFLICTS OF INTEREST**

In the event of a direct or indirect personal or financial interest in the subject of review, the Commission member will refrain from all deliberations and voting on the subject. The remaining members of the Commission shall decide by vote when a conflict is present.

**3.7 OFFICERS**

Annually and normally at its June meeting, the Commission shall elect a chairperson, vice-chairperson and secretary by majority vote of its members. The secretary shall keep the minutes of the proceedings of the Commission and shall record the vote of each Commissioner on each question decided by the Commission. All records maintained and/or prepared by the secretary are public records and may be inspected at during normal business hours at the municipal office.

**3.8 REMOVAL FROM OFFICE**

The Board of Selectmen may dismiss, prior to the expiration of his/her term, a regular or associate member for just cause, after notice and hearing.

**3.9 QUORUM**

To conduct the business of the Commission, at least three (3) Commissioners (regular or associate) must be present. Regardless of the number of Commissioners present and voting, a majority of at least three (3) affirmative votes is required to decide every question.

**3.10 RULES OF PROCEDURE**

The Commission shall be governed by the most recent revision of *Robert's Rules of Order*.

**3.11 MEETINGS AND PUBLIC NOTICE**

All proceedings of the Commission shall be conducted in accordance with the provisions of the Freedom of Access Law, Title 1 M.R.S.A., § 401-410. Public notice and the agenda shall be posted at the municipal office seven (7) days prior to the meeting date with the exception of work sessions for which there shall be two (2) days notice. Written notice to applicant and abutters shall be made pursuant to § 11.1 of the Ordinance.

**3.12 DUTIES AND POWERS**

**3.12.1** Assist, advise and educate residents, property owners, and officials of the various departments of the Town of Castine concerning the physical and financial aspects of preservation, renovation rehabilitation and re-use of historic and/or archaeological sites, structures, buildings or landmarks.

**3.12.2** Assist, advise and educate residents, property owners, and officials of the various departments of the Town of Castine on the requirements of this Ordinance.

- 3.12.3** Provide continuing education to the community on historic preservation issues.
- 3.12.4** Process applications for Historic Preservation Certificates and Historic Preservation Certificates for Demolition.
- 3.12.5** Serve as an advisor to the Town regarding historical and cultural resources.
- 3.12.6** Recommend to the Board of Selectmen the establishment and/or revision of historic and archaeological sites, historic landmarks, historic buildings, and historic districts, in accordance with the procedures detailed in Article 5 of this Ordinance.
- 3.12.7** Review all proposed National Register nominations for properties within the Town of Castine.
- 3.12.8** Conduct a continuing survey of local historic and cultural resources in accordance with the guidelines of the Maine Historic Preservation Commission.
- 3.12.9** Recommend to the Board of Selectmen a schedule of fees based on the costs of notification, review and construction. Any fee may be adjusted as circumstances require by vote of the Board of Selectmen, after notice and hearing. Fees shall at all times not exceed the reasonable cost of processing, review, regulation and supervision of the application by the Town and its consultants. Fee adjustments shall take effect immediately upon approval and shall be inserted into this Ordinance and incorporated herein as though originally enacted as part hereof. Fee adjustments by the Board of Selectmen shall be identified as such and include the date of adjustment.
- 3.12.10** Solicit grants, fees, appropriations and gifts of money and service dedicated to its functions, to hire clerical and technical assistance, publish educational materials, conduct surveys of properties or otherwise carry out its duties.
- 3.12.11** Request reports and recommendations from the Town departments and other organizations and sources that may have information or advice with respect to an application.
- 3.12.12** Appoint special committees to assist the Commission in the performance of its duties as necessary. Special committees shall meet pursuant to § 3.10 of the Ordinance.
- 3.12.13** Adopt bylaws and/or additional procedures consistent with the intent of the Ordinance and any applicable local, state and federal legislation.
- 3.12.14** Waive any procedural rule adopted by the Commission, upon good cause shown and with the approval of a majority of the Commissioners present and voting.

### **3.13 EXPERTS AND CONSULTANTS**

On the recommendation of the Commission, the Board of Selectmen may appoint expert persons to serve in an advisory or on a consultant basis to assist the Commissioners in

the performance of their functions. Such other persons need not be residents of the Town and may, by authorized prearrangement with the Commission and Selectmen, receive compensation. Any fee required for processing an Historic Preservation Certificate shall be borne by the applicant.

#### **ARTICLE 4. CRITERIA FOR ESTABLISHMENT OF HISTORIC DISTRICTS, HISTORIC SITES, INDIVIDUAL HISTORIC PROPERTIES AND HISTORIC LANDMARKS**

##### **4.1 GENERAL**

One (1) or more of the following characteristics, without limitation as to cultural or chronological period, shall serve to qualify an historic district, historic site, individual historic property, historic landmark or archaeological site, as defined in Article 2 of this Ordinance, to be established in accordance with this Ordinance:

- 4.1.1** Structures or sites at which events occur or have occurred that contribute to and are identified with or significantly represent or exemplify the broad cultural, political, economic, military, social or sociological history of Castine and the nation, including sites and buildings at which the public may gain insight or see examples either of particular items or of larger patterns in the North American heritage.
- 4.1.2** Structures or sites importantly associated with historic personages.
- 4.1.3** Structures or sites importantly associated with historic examples of a great idea or ideal.
- 4.1.4** Structures or structural remains and sites embodying examples of architectural types of specimens valuable for study or representation of a period, style, or method of building construction, of community organization and living or of landscaping; or a single notable structure or a single site representing the work of a master builder, designer, architect or landscape architect.
- 4.1.5** Structures contributing to the visual continuity of an historic district.
- 4.1.6** Structures or sites listed on or eligible for listing on the National Register of Historic Places and structures or sites listed as or eligible for listing as a National Historic Landmark.

#### **ARTICLE 5. ESTABLISHMENT OF HISTORIC DISTRICTS, INDIVIDUAL HISTORIC STRUCTURES, HISTORIC SITES AND HISTORIC LANDMARKS**

##### **5.1 GENERAL [Am 1]**

- 5.1.1** Historic districts, individual historic properties, sites and landmarks shall be established by amendment to this Ordinance. Amendments may be proposed by the Board of Selectmen, the Planning Board, petition signed by fifty (50) voters registered in the Town, or the property owner in the case of an individual historic property.

- 5.1.2 Recommendations for Historic Landmark status for individual structures or landmarks outside a designated Historic District shall be considered at the request of the property owner only.
- 5.1.3 An application for designation of sites, landmarks, districts and individual properties for historic preservation shall be in writing and shall include the information required by Sections 5.2 - 5.5 that is appropriate. The chairperson will call a meeting of the Commission within thirty (30) days from the date of receipt of the application for the purpose of formulating the Commission's recommendation concerning the proposed amendment.
- 5.1.4 Upon acceptance of the proposal to designate an historic site, landmark, district or individual historic property, the Commission shall prepare a proposed amendment to Article 6 of this Ordinance. The proposed amendment shall include a description of the historic district, site, landmark or individual historic property with the date it was adopted.

## **5.2 HISTORIC SITES OR LANDMARKS**

- 5.2.1 A concise description of the physical elements, qualities, architectural style, period and historical significance represented by the structure or site, including a consideration of scale, materials, workmanship and spatial qualities, as relevant.
- 5.2.2 A concise statement of how the structure or site meets the review criteria of Article 4 above.
- 5.2.3 A series of photographs of the structure, and/or a site map, illustrating significant details described in § 4.1.1 above.

## **5.3 HISTORIC DISTRICTS**

- 5.3.1 A concise statement of the remaining physical elements that make this area an historic district and a description of building types and architectural styles and periods represented.
- 5.3.2 A concise statement of how the district meets the review criteria of Article 4 above.
- 5.3.3 A justification of the boundaries of the district.
- 5.3.4 A description of the types of structure that do not contribute to the significance of the district and an estimate of the percentage of non-contributing structures.
- 5.3.5 A map showing all district structures with the identification of contributing structures.

## **5.4 EXPANSION OF EXISTING DISTRICTS**

- 5.4.1 A concise statement of the physical elements that justify an expansion of an

existing district, an explanation detailing how the expansion is consistent with the character of the district, and description of building types and architectural styles and periods represented.

**5.4.2** A concise statement of how the expansion of an existing district meets the review criteria of Article 4 above.

**5.4.3** A justification of the expanded boundaries of the district.

**5.4.4** A description of the types of structures that do not contribute to the significance of the district and an estimate of the percentage of non-contributing structures in the historic district's proposed expansion area.

**5.4.5** A map showing all district structures in the proposed expansion area with an identification of contributing structures.

**5.5 INDIVIDUAL HISTORIC PROPERTIES [Am 1]**

An amendment to establish an individual historic property may only be proposed by the property owner.

**5.5.1** A concise statement of the physical elements that make this an historic property and a description of the building type, architectural style, and period represented.

**5.5.2** A concise statement of how the property meets the review criteria of Article 4 above.

**5.5.3** A map showing the location of the structure.

**5.6 REVIEW, STUDIES AND RECOMMENDATIONS**

Before making its recommendation concerning the proposed establishment of an historic district, individual historic property, historic site or historic landmark, the Commission shall conduct research on the proposal. The Commission shall forward a draft of the proposal/application to the Maine Historic Preservation Commission for review and comment. The Commission will make a report to the Selectmen on every request received.

**5.7 PUBLIC HEARING AND FINAL REPORT**

Before a final report is made to the Selectmen, the Castine Historic Preservation Commission shall hold a public hearing on the request, after due notice is published twice in a newspaper of general circulation in the Town at least twelve (12) days and seven (7) days prior to the hearing. Written notice of the proposal shall also be given at least ten (10) days prior to the hearing to the applicants, owners of all property abutting or to be included within the proposed designation, and all other persons found by the Commission to have a special interest in the proposal. Failure of any such person to receive notice of the public hearing shall not necessitate another hearing or invalidate any action of the Commission. A copy of the proposal shall be sent, at the same time, to the chairperson of the Planning Board for review and recommendation at the next regular meeting of that Board. Not later than sixty (60) days after the public hearing, the Commission shall submit a final report with its recommendations to the Board of Selectmen.

## **5.8 PROPOSED AMENDMENT**

Upon acceptance of the proposal to designate an historic site, landmark, district or individual historic property, the Commission shall prepare a proposed amendment to Article 6 of this Ordinance. The proposed amendment shall include a description of the historic district, site, landmark or individual historic property with the date it was adopted.

## **5.9 ACTION BY THE BOARD OF SELECTMEN**

Upon receipt of the Commission's recommendation to amend the Ordinance, as provided above, the Board of Selectmen at its next regular meeting shall place the proposed amendment on the warrant for the next town meeting.

## **ARTICLE 6. HISTORIC DISTRICTS, HISTORIC SITES AND HISTORIC LANDMARKS DEFINED**

For the purpose of creating the metes and bounds description of an historic district, north is defined as the direction along Main Street toward Battle Avenue, south is defined as the direction along Main Street toward Water Street, east is defined as direction along Court Street toward Spring Street and west is defined as the direction along Court Street toward Tarratine Street. Streets and lot lines approximately parallel to Main Street are north-south and streets and lot lines approximately parallel to Court Street are east-west.

### **6.1 HISTORIC DISTRICT 1**

Historic District 1 was established June 7, 1995 and includes a portion of the Town bounded and described as follows:

Beginning at a point being the southeast corner of the intersection of Court Street and Pleasant Street (also being the northwest corner of Lot 90, Map 21); thence south along the east line of Pleasant Street to the northeast corner of the intersection of Pleasant Street and Perkins Street; thence east along the north line of Perkins Street to a point opposite the northwest corner of Lot 97, Map 21; thence south, perpendicular across Perkins Street to the northwest corner of Lot 97, Map 21; thence south along the side lot line of Lot 97, Map 21 to the southwest corner of Lot 97, Map 21; thence east along the rear lot line of Lot 97, Map 21 to the southeast corner of Lot 97, Map 21; thence diagonally across Main Street to the southwest corner of Lot 80, Map 21; thence east along the side lot of Lot 80, Map 21 line to the southeast corner of Lot 80, Map 21; thence north along the rear lot line of Lot 80, Map 21 northeast corner of Lot 80, map 21; thence east along the side lot line of Lot 79, Map 21 to the southwest corner of Lot 71 Map 21; thence east along the irregular side lot line of Lot 71, Map 21 to the southeast corner of Lot 71, Map 21; thence diagonally across Green Street to the southwest corner of Lot 39, Map 21; thence east along the side lot line of Lot 39, Map 21 to the southeast corner of Lot 39, Lot 21; thence east along the irregular rear lot line of Lot 37, Map 21 to the southeast corner of Lot 37, Map 21; thence east along the rear lot line of Lot 36, Map 21; thence east along the rear lot line of Lot 35, Map 21 to the southeast corner of Lot 35, Map 21; thence north along the side lot line of Lot 35, Map 21 to the southwest corner of Lot 40A, Map 24; thence east along the rear lot line of Lot 40A, Map 24; thence east along the rear lot line of Lot 39, Map 24 to the southeast corner of Lot 39, Map 24; thence north along the side lot line of Map 39, Lot 24 to the

south line of Court Street; thence west along the south line of Court Street to a point opposite the southeast corner of Lot 8, Map 24; thence north, perpendicular across Court Street to the southeast corner of Lot 8, Map 24; thence north along the side lot line of Lot 8, Map 24 to the northeast corner of Lot 8, Map 24; thence east along the side lot line of Map 6, Lot 24 to the southeast corner of Map 6, Lot 24; thence east along the lot line of Lot 4, Map 24 to the southeast corner of Lot 4, Map 24; thence north along the irregular side lot line of Lot 4, Map 24 to the northeast corner of Lot 4, Map 24; thence west along the rear lot line of map 4, Lot 24; thence west along the rear lot Line of Map 3, Lot 24 to southeast corner of Lot 25, Map 21; thence north along rear lot line of Lot 25, Map 21; thence north along the rear lot line of Lot 1, Map 24 to the northeast corner of Lot 1, Map 24; thence west along the side lot line of Lot 1, Map 24 to the rear lot line of Lot 17, Map 20; thence north along the rear lot line of Lot 17 Map 20 to the south line of Battle Avenue; thence west along the south line of Battle Avenue to a point one hundred ninety (190) feet west of the north east corner of Lot 23, Map 30; thence south, parallel to the west line of Main Street to a point on the north line of Stevens Street; thence diagonally across Stevens Street to the northeast corner of Lot 25, Map20; thence south along the rear lot line of Lot 25, Map 20; thence south along the rear lot line of Lot 26, Map 20 to the southeast corner of Lot 26, Map 20; thence west along the side lot line of Lot 26, Map 20 to the east line of Pleasant Street; thence south along the east line of Pleasant Street to the to the northwest corner of Lot 22A, map 21; thence east along the side lot line of Lot 22A, Map 21 to the northeast corner of Lot 22A, map 21; thence south along the rear lot line of Lot 22A, Map 21; thence south along the rear lot line of Lot 18, Map21 to the southwest corner of Map 18, Lot 21; thence west along the side lot line of Map 18, Lot 21 to the east line of Pleasant Street, thence south along the east line of Pleasant Street to the northeast corner of the intersection of Court Street and Pleasant Street; thence south, across Court Street to the point of beginning.

## **ARTICLE 7. ACTIVITIES REQUIRING AN HISTORIC PRESERVATION CERTIFICATE**

A property owner shall obtain an Historic Preservation Certificate for any of the following activities within any historic district or activities at any historic site, landmark, or individual historic property.

- 7.1** Activities that do not require building permits as specified in the *Zoning Ordinance of the Town of Castine*, but are covered by the provisions of this Ordinance. [\[Am 1\]](#)
- 7.2** Reconstruction, restoration, renovation and alteration: [\[Am 1\]](#)
  - 7.2.1** Contributing properties: Any change in the exterior appearance, as visible from the street or associated public land, of an historic landmark, site, individual historic property, or any structure, as defined in § 2.24, in an historic district by addition, reconstruction or alteration, except for exterior painting.
  - 7.2.2** Non-contributing properties: Major changes, as defined in § 2.14, except alterations that do not change the size or footprint of the structure.
- 7.3** New construction of a principal or accessory structure visible from the street or visible from public land associated with the structure where such structure will be located in an historic district. [\[Am 1\]](#)

- 7.4 Demolition of an historic landmark, individual historic property or any contributing structure in an historic district. [Am 1]
- 7.5 Moving an historic landmark, individual historic property or any contributing structure in an historic district. [Am 1]
- 7.6 Improvement projects and objects on contributing properties, such as lighting, sidewalks, raised walkways, handicapped access ramps, paving, curbing, signs, and satellite dishes larger than thirty-nine (39) inches in diameter located beyond the right-of-way of any public street or way, but visible from the street, and located within an historic district or affecting any historic site or landmark. [Am 1]

## **ARTICLE 8. ACTIVITIES REQUIRING AN HISTORIC PRESERVATION CERTIFICATE AND OTHER MUNICIPAL PERMITS**

### **8.1 ACTIVITIES REQUIRING A BUILDING AND USE PERMIT**

When an activity requiring an Historic Preservation Certificate also requires a Building and Use Permit from the Code Enforcement Officer, the applicant shall obtain the Historic Preservation Certificate before the Code Enforcement Officer issues a Building and Use Permit.

### **8.2 ACTIVITIES REQUIRING APPROVAL OF THE PLANNING BOARD**

When an activity requiring an Historic Preservation Certificate also requires Site Plan Review and Approval by the Castine Planning Board, a condition of such approval by the Planning Board shall be that the applicant obtains an Historic Preservation Certificate before the Code Enforcement Officer issues any permit.

## **ARTICLE 9. ACTIVITIES NOT REQUIRING AN HISTORIC PRESERVATION CERTIFICATE**

The following activities do not require a Historic Preservation Certificate:

- 9.1 The ordinary maintenance or repair of any exterior architectural feature of any structure or other improvement project when that repair does not involve a change in design or appearance. [Am 1]
- 9.2 Impermanent or reversible alterations such as storm windows, storm doors, window air conditioners, shutters, or paint color. [Am 1]
- 9.3 Lawn and garden objects and landscaping, including plantings, sculptures, walkways and walls of two feet or less in height. [Am 1]
- 9.4 Minor changes, as defined in § 2.15, to non-contributing properties. [Am 1]
- 9.5 Alterations to structures on non-contributing properties, which do not change the size or footprint of the structure. [Am 1]
- 9.6 The construction or alteration of any structure not visible from the street, as defined in §

2.26. [Am 1]

- 9.7 The construction, reconstruction, alteration or demolition of any structure where construction is in accordance with a valid building permit issued before establishing new districts, sites or landmarks designated by adoption of or amendment to this Ordinance.
- 9.8 Any public works project located within the right-of-way of any town road, street or way.
- 9.9 The construction, reconstruction, alteration, restoration or demolition of any feature which the Code Enforcement Officer shall certify is required because of an unsafe or dangerous condition to ensure public safety or when efforts to save such a feature have been declared impractical or uneconomic in response to concerns for public safety.

## **ARTICLE 10. APPLICATION PROCEDURES**

### **10.1 GENERAL [Am 1]**

An application for an Historic Preservation Certificate shall be submitted to the Code Enforcement Officer for any activity requiring a Certificate pursuant to Article 7. The application shall contain all information required by Section 10. The CEO shall forward the application to the Historic Preservation Commission and place the application on the agenda of the next regular meeting of the Commission. The CEO shall inform the Commission of applications proposing only minor changes, as defined in § 2.15. The meeting agenda shall be posted seven (7) days before the meeting. Work sessions shall be posted at least two (2) days in advance.

The Commission shall consider the application at a regular meeting and, within fifteen (15) days of the date of the meeting, approve, approve with conditions or deny the application pursuant to § 11.4 and § 11.5. By mutual agreement of the Commission and the applicant, either written or orally, on the record at a public meeting, the review period may be extended for a designated period.

### **10.2 APPLICATION CONTENTS [Am 1]**

On the application form supplied by the Commission, the applicant shall state the location, use and nature of the matter for which a Certificate is requested. The application shall contain the following information or documentation unless the Commission expressly waives an item.

**10.2.1** The property owner's name and mailing address.

**10.2.2** The applicant's name, mailing address, and interest in the property, if the applicant is not the owner.

**10.2.3** The 911 address and Tax Map and Lot number of the property.

**10.2.4** The present use and zoning classification of the property.

**10.2.5** A description of the activity requiring an Historic Preservation Certificate.

**10.2.6** A drawing or drawings showing design and location of any proposed alteration or

new construction that the Commission may require. As it is used here, drawings shall mean plans and exterior elevations drawn to scale, with sufficient detail to show the architectural design, materials and visual textures of the exterior of the building(s), and including samples of materials. Drawing(s) are not required to be professionally prepared, but shall be clear, complete and specific.

**10.2.7** Photographs of the building(s) involved and of adjacent buildings.

**10.2.8** A site plan indicating improvements affecting appearance, such as fences and walls, walks, terraces, accessory buildings, lights, signs and other elements.

### **10.3 REPRESENTATION**

Property owners are strongly urged to be present when their application is being considered. They may, however, be represented by an agent or attorney at any meeting of the Commission. If the property owner is not present, any person acting as the property owner's agent or attorney shall provide evidence of such authority.

## **ARTICLE 11. ADMINISTRATIVE PROCEDURES**

### **11.1 NOTICE TO OWNERS** [\[Am 1\]](#)

Before meeting to review an application for an Historic Preservation Certificate, the Commission shall notify by U.S. Mail the applicant, abutting property owners, and the owners of property within one hundred (100) feet of the property that is the subject of the application. The notice shall be sent to the person who receives the property tax bills at the address shown in the municipal tax records. Failure of any person to receive notice shall not necessitate another public meeting or hearing nor invalidate any action by the Commission.

### **11.2 HEARING**

At the request of the applicant or any other person receiving notice under § 11.1 above or when the Commission deems it necessary, a public hearing on the application shall be conducted by the Commission.

### **11.3 PROCEDURE OF THE COMMISSION** [\[Am 1\]](#)

The Commission shall consider the application at a meeting. A minor change, as defined in § 2.15, shall ordinarily be approved and without conditions. The judgment of at least one professional consultant may be obtained in reviewing any major change involving issues of design. (See § 3.13) Within fifteen (15) days of the date of the meeting, the Commission shall approve, approve with conditions, or deny the application pursuant to § 11.4 and § 11.5. The review period may be extended by mutual agreement of the Commission and the applicant, either written or oral, on the record at a public meeting.

### **11.4 APPROVAL**

If the Commission finds the application meets the standards of evaluation as detailed in Article 12, it shall issue a decision to grant an Historic Preservation Certificate. Within seven (7) days of its decision, the Commission shall furnish the applicant a copy of the application, a written decision including written findings of fact supporting the decision and any written recommendations. The Commission shall also furnish copies of these

documents to the Code Enforcement Officer for filing in the Town Map & Lot files.

#### **11.5 CONDITIONAL APPROVAL AND DISAPPROVAL**

If the Commission does not find that the application meets the standards of evaluation herein, it shall either issue a decision to grant a Historic Preservation Certificate with conditions or issue a decision to deny an Historic Preservation Certificate. Within seven (7) days of its decision, the Commission shall furnish the applicant a copy of the application, a written decision including any conditions of approval and written findings of fact supporting the decision. The Commission shall also furnish copies of these documents to the Code Enforcement Officer for filing in the Town Map & Lot files.

### **ARTICLE 12. STANDARDS OF EVALUATION**

#### **12.1 GENERAL [Am 1]**

The standards and requirements contained in Article 12, the U.S. Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*, the Secretary of the Interior's *Standards for the Treatment of Historic Properties*, 1995 or most recent edition, *The Castine Historic Preservation Design Manual*, and with reference to the architectural and archaeological surveys of Castine on file in the Town Office shall be used in reviewing applications for Historic Preservation Certificates. The Commission's areas of focus shall be matters affecting the maintenance of historic structures, the protection of archaeological resources, and the preservation of the historic character of viewscales.

The standards of evaluation described below and elsewhere in this ordinance are intended for the evaluation of contributing properties. Changes to a non-contributing property are considered only insofar as they may affect the historic integrity of the viewscale or the district as a whole.

#### **12.2 RECONSTRUCTION, RENOVATION AND ALTERATION [Am 1]**

**12.2.1** Except as specified in Article 9, a structure designated as an historic landmark or site or a structure located in a designated historic district, or related structures or improvements, such as walls, fences, light fixtures, steps, or paving located in a designated historic district, shall not be altered, and no Historic Preservation Certificate shall be issued for such actions unless these actions will preserve or enhance the historical and architectural character of the structure, and are visually compatible with the viewscale.

**12.2.2** Every reasonable effort shall be made to use a property for its originally intended purpose or to provide compatible use for a property that requires minimal alteration to the structure or site and its environment.

**12.2.3** Rehabilitation work shall not destroy or displace the distinguishing features or character of a structure and setting. Distinctive stylistic features such as chimneys, molding, brackets, windows, doorways, porches, sidewalks, fences, and lighting that characterize historic structures shall be preserved wherever possible.

- 12.2.4** All structures and sites shall be recognized as products of their own time.
- 12.2.5** Changes that may have taken place in the course of time are evidence of the history and development of a structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected. Features not original to the structure and that have not acquired their own significance are deemed non-contributing and, therefore, can be replaced according to standards under §12.2.7 or §12.2.10.
- 12.2.6** Distinctive stylistic features or examples of skilled craftsmanship that characterize a structure or site shall be treated with sensitivity.
- 12.2.7** Deteriorated architectural features of structures, or settings, such as balustrades, brackets, windows, porches, doorways, fences, sidewalks, and lighting, shall be repaired rather than replaced whenever possible. In the event 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 accurate duplication of features, substantiated by historic, physical or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other structures.
- 12.2.8** The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other methods that will damage the historic building materials shall not be undertaken.
- 12.2.9** Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to any project.
- 12.2.10** Contemporary design for alterations and additions to existing properties is permitted when it does not destroy significant historical, architectural or cultural material, and the design is compatible with the size, scale, material and character of the property, neighborhood or environment. For clarification see *The Castine Historic Preservation Design Manual*, Pt. II, pp. 42-43 and Pt. III, pp. 53-55.
- 12.2.11** Whenever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

**12.3. CONSTRUCTION OF NEW BUILDINGS AND OTHER STRUCTURES IN HISTORIC DISTRICTS** [\[Am 1\]](#)

- 12.3.1** The construction of a new building or other structure shall be in keeping with the surrounding area and compatible, as defined in § 2.4, with other structures in the historic viewscape to which it is related.
- 12.3.2** The Commission shall review associated elements visible from the street, such as fences, walls, and signs to protect the district's viewscape.

**12.4 VISUAL COMPATIBILITY FACTORS FOR NEW CONSTRUCTION AND ADDITIONS [Am 1]**

Within historic districts, historic sites or landmarks, all new construction and all new additions shall be visually related.

**12.4.1 Height**

The height of proposed buildings and other structures shall be visually compatible with adjacent structures.

**12.4.2 Proportion of Building's Façade**

The relationship of the width of the building to the height of the front elevation shall be visually compatible with nearby buildings and open spaces.

**12.4.3 Proportion of Opening within the Façade**

The relationship of the width of the windows to the height of the windows and doors in a building shall be visually compatible with the windows and doors of nearby buildings.

**12.5 DEMOLITION OR REMOVAL [Am 1]**

An historic landmark, or any structure in an historic district or any attached structure, whether residential or commercial, shall not be demolished or removed and an Historic Preservation Certificate to do so shall not be issued unless one of the following conditions is met:

**12.5.1** the structure has been identified by the Commission as non-contributing or incompatible with the historic district in which it is located, or

**12.5.2** the property owner can demonstrate that it cannot be renovated or reconstructed so as to earn an economic return on its value in its present location as determined by a qualified real estate appraiser.

**ARTICLE 13. MAINTENANCE AND REPAIR**

The property owner or the person in charge of an individual historic property, a structure within an historic district or of an historic landmark shall not allow that structure or landmark to fall into a state of deterioration by neglect. This condition consists of the deterioration of any exterior structural or architectural feature to such a degree that it would produce, in the judgment of the Commission, an irretrievably detrimental effect on the life and character of that historic structure or landmark and that could lead to a claim that demolition is necessary for public safety. When the Commission acquires evidence of such deterioration, it shall notify the Code Enforcement Officer who will in turn notify the property owner of the potential violation of this ordinance. This condition of deterioration includes but is not limited to:

**13.1** the deterioration of exterior walls or other vertical supports;

**13.2** the deterioration of roofs or other horizontal members, including the ineffective waterproofing of exterior walls, roofs and foundations, as well as broken windows and doors;

**13.3** the deterioration of exterior chimneys;

- 13.4 the deterioration of exterior plaster or mortar;
- 13.5 the deterioration of any feature to the extent that it would create or permit the creation of any hazardous or unsafe condition.

## **ARTICLE 14. APPEALS**

### **14.1 ADMINISTRATIVE APPEALS**

An administrative appeal of any decision of the Commission may be taken by any party or person aggrieved thereby to the Zoning Board of Appeals pursuant to Article 14 of the *Zoning Ordinance of the Town of Castine, Maine*.

### **14.2 VARIANCE APPEALS**

An appeal for a variance may be taken to the Zoning Board of Appeals pursuant to Article 14 of the *Zoning Ordinance of the Town of Castine, Maine*.

### **14.3 FURTHER APPEALS**

A party aggrieved by the decision of the Zoning Board of Appeals may appeal it to Superior Court within forty-five (45) days from the date of the original decision pursuant to Title 30-A M.R.S.A., § 2691 and § 4353 and Maine Rules of Civil Procedure, Rule 80B.

## **ARTICLE 15. VALIDITY AND SEVERABILITY**

If any provision of this Ordinance shall be declared invalid for any reason by any court of competent jurisdiction, that declaration shall not be taken to affect the validity of any other provision of this Ordinance. To this end, the provisions of this Ordinance are hereby declared to be severable.

## **ARTICLE 16. CONFLICT WITH OTHER ORDINANCES**

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance or statute which also applies to the proposed activity, the requirement imposing the more restrictive or higher standard, as determined by the Board of Selectmen, shall govern.

## **ARTICLE 17. ADMINISTRATION AND ENFORCEMENT**

17.1 An Historic Preservation Certificate issued under this Ordinance shall expire if the authorized activity does not commence within one (1) year of the date of issue and if the activity is not completed within two (2) years of said date. The Commission may extend the Certificate for up to one (1) year for good cause.

17.2 This Ordinance shall be administered by the Commission and enforced by the Code Enforcement Officer (CEO).

- 17.3 The CEO shall investigate all complaints of alleged violations of this Ordinance, and shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to Certificate approvals.
- 17.4 The CEO shall keep a complete record of all essential transactions, including applications submitted, Certificates granted or denied, variances granted or denied, revocation actions, violations investigated, violations found, and fees collected.
- 17.5 If the CEO finds that any provision of the Ordinance is being violated, the CEO shall notify the person responsible for the violation in writing, indicating the nature of the violation and ordering the action necessary to correct it. A copy of the notice and order shall be submitted to the property owner, the Board of Selectmen and the Castine Historic Preservation Commission. A copy of the notice shall be maintained as a permanent record in the Map and Lot file. Any such notice is not a prerequisite to bringing any legal action noted in § 17.6, and the failure to give notice shall not in any way affect such legal action.
- 17.6 The Board of Selectmen, upon notice from the CEO, shall institute any and all actions, and proceedings, either legal or equitable, including seeking injunctions against violators and the imposition of fines that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Castine. The Board of Selectmen, or their authorized agent, is hereby authorized to enter into consent agreements for the purpose of eliminating violations of this Ordinance and assessing fines without Court action. Such agreements should not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of verified erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith.
- 17.7 Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be assessed a monetary penalty on a per-day basis in accordance with Title 30-A M.R.S.A., § 4452.

**ARTICLE 18. AMENDMENTS**

This Ordinance has been amended as indicated on the following dates:

Amendment 1 [Am 1] ..... 27 March 2010



## **APPENDIX A: TOWN SIDEWALK AND STREET GUIDELINES** [\[Am 1\]](#)

- All street surfaces should be constructed of asphalt cement concrete or Portland cement concrete.
- In general, the varying width and position of the sidewalks as they presently occur on the streets should remain the same. Efforts should be made to retain a grassy buffer strip between sidewalk and curb.
- As sidewalks are repaired, they should be replaced with exposed aggregate Portland cement concrete.
- If curbing is necessary, it should be granite. We do not recommend adding curbing to all areas just to have curbs.
- The levels of the sidewalks should be adjusted where necessary but not entirely redesigned.
- When sidewalks are replaced, they should conform to ADA regulations.