

## **SECTION 12 HISTORIC PRESERVATION**

### **12.1 Purpose**

Gardiner possesses a unique and diverse cultural heritage as a riverfront community. The purpose of this Section is to promote the general welfare of the community by providing a mechanism to identify and preserve distinctive historic and architectural characteristics of Gardiner, while recognizing the need to allow repairs or alterations to buildings to promote energy efficiency and contemporary use of properties.

### **12.2 Historic Commission**

#### **12.2.1 Establishment and Organization**

**12.2.1.1** A Historic Preservation Commission shall be established consisting of 7 members and 2 alternate members, who shall be residents of Gardiner. An alternate member shall become a voting member when so designated by the Commission Chairperson due to the absence of a primary member. Members of the Commission shall demonstrate an interest in the historical and architectural development of the city and shall be appointed with due regard to the proper representation of such fields as history, architectural history, architecture, landscape architecture, planning, engineering, archeology, law and building construction to the extent that such professionals are available in the community. Consideration shall also be given to appointment of at least one member who is a resident of a designated historic district.

**12.2.1.2** The Historic Preservation Commission of the City of Gardiner, hereinafter called the Commission, shall administer this Section.

**12.2.1.3** Members shall be appointed by the Mayor for a term of 3 years, except that the initial appointments shall be staggered so that subsequent appointments shall not recur at the same time.

**12.2.1.4** The members shall annually choose a chairperson who shall preside at all meetings.

**12.2.1.5** All meetings of the Commission shall be open to the public and the Commission shall keep a record of its proceedings and actions.

**12.2.1.6** A quorum shall consist of a majority of the members.

**12.2.1.7** A legal vote shall consist of a majority of the members present and voting.

**12.2.1.8** The Mayor shall act within 60 days to fill a vacancy, including expired terms.

**12.2.1.9** A municipal officer may not be a member of the Commission.

**12.2.1.10** A member may be removed by the City Council for the following reasons:

**12.2.1.10.1** Unable to continue being an active member due to physical or mental incapacity.

**12.2.1.10.2** The violation of state or federal criminal statutes.

**12.2.1.11** A vacancy shall be created when any one of the following occurs:

**12.2.1.11.1** Member moves his/her residence from the city.

**12.2.1.11.2** Member resigns.

**12.2.1.11.3** Member is removed for cause by the City Council.

**12.2.1.11.4** Death of a member.

**12.2.1.11.5** A Commission member has 3 consecutive absences. Exception may be agreed to by the Commission.

## **12.2.2 Powers and Duties**

The Commission shall be authorized to:

**12.2.2.1** Conduct a survey of historic and archeological resources within Gardiner according to guidelines established by the Maine Historic Preservation Commission and maintain a record of such.

**12.2.2.2** Recommend methods and procedures to the City Council necessary to preserve, restore, maintain and operate historic sites and properties under the ownership or control of the city.

**12.2.2.3** Review alterations, relocation and demolition of the designated historic and prehistoric properties under its jurisdiction.

**12.2.2.4** Review all new construction affecting historic and prehistoric properties and/or districts within its jurisdiction to determine if a locally listed historic or prehistoric archeological site will be affected.

**12.2.2.5** Review all proposed National Register nominations for properties within its jurisdiction. When the Commission considers a National Register nomination or other actions which are normally evaluated by a professional in a specific discipline and that discipline is not represented on the Commission, the Commission shall seek expertise in that area before rendering its decision.

**12.2.2.6** Recommend ordinances to the City Council and otherwise provide information for the purposes of historic preservation in the city.

**12.2.2.7** Recommend to the City Council guidelines for the conservation of designated local landmarks and historic districts to be used in decisions for requests for permits for new construction, alterations, demolition, relocation or additions to listed historic landmarks, properties and buildings within historic districts.

**12.2.2.8** Act in an advisory role to other officials and departments of local government regarding the protection of local cultural preservation.

**12.2.2.9** Act as a liaison on behalf of the local government to individuals and organizations concerned with historic preservation.

**12.2.2.10** Promote and conduct an educational and interpretive program on historic preservation and historic properties and sites within the city.

**12.2.2.11** Cooperate with federal, state and local governments in the pursuance of the objectives of historic preservation.

**12.2.2.12** Participate in the conduct of land use and other planning processes undertaken by the city, state or the federal government and the agencies of these entities.

**12.2.2.13** Submit an annual report of the activities of the Commission to the Maine Historic Preservation Commission.

**12.2.2.14** Participate in at least one informational/ educational meeting per year sponsored by the Maine Historical Preservation Commission.

**12.2.2.15** Issue Certificates of Appropriateness pursuant to this Section.

## **12.3 Establishment of Historic Properties, Landmarks and Districts**

### **12.3.1 Characteristics**

Any site, building, group of buildings, structure or object may be designated for preservation as an historic property, landmark or district if it meets one or more of the criteria established for inclusion in the National Register of Historic Places, which are as follows:

**12.3.1.1** The quality of significance in American history, architecture, archeology, engineering and culture on the local, state, and national levels is present in districts, sites buildings, structures and objects that possess integrity of location, design, setting, materials, workmanship, feeling and association, and

**12.3.1.1.1** That are associated with events that have made a significant contribution to the broad patterns of our history;

**12.3.1.1.2** Are associated with the lives of persons significant in our past;

**12.3.1.1.3** That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that represent a significant and distinguishable entity whose components may lack individual distinction;

**12.3.1.1.4** That have yielded, or may be likely to yield, information important in prehistory or history.

**12.3.1.2** Ordinarily, cemeteries, birthplaces or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

**12.3.1.2.1** A religious property deriving primary significance from architectural or artistic distinction of historic importance;

**12.3.1.2.2** A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event;

**12.3.1.2.3** A birthplace or grave of an historical figure of outstanding importance if there is no other appropriate site or building directly associated with this productive life;

**12.3.1.2.4** A cemetery that derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events;

**12.3.1.2.5** A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived;

**12.3.1.2.6** A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historic significance;

**12.3.1.2.7** A property achieving significance within the past 50 years if it is of exceptional importance.

## **12.4 Procedure**

**12.4.1** Any building, place, district, historic site, historic landmark or archeological site may be designated and added to this Section by the following procedures set forth herein:

**12.4.1.1** Designation may be initiated by resolution of the Commission or by a written request to the Commission from the City Council or the Planning Board or a resident or property owner of the City of Gardiner.

**12.4.1.2** The Commission shall consider each request and perform such studies, research and investigation, as it deems appropriate. The results of this study shall also be forwarded to the Maine Historic Preservation Commission for review and comment.

**12.4.1.3** The Commission, upon completion of the necessary research, shall submit its proposal to the Planning Board for a public hearing. The Commission shall notify all property owners included within the proposed designated area and all property owners within 100 feet of the proposed designated area of the date, time and place of the public hearing. A legal ad shall also be placed at least 10 days prior to the public hearing. The Planning Board shall follow its procedure for an amendment to this Ordinance.

**12.4.1.4** This Section and every addition shall contain a legal description of each affected geographical area. A copy shall be recorded in the Registry of Deeds and shall be added to all tax assessment records.

## **12.5 Gardiner Historic Register**

### **12.5.1 Downtown Historic District**

Beginning at the intersection of Brunswick, Water & Bridge at the Northwest corner of property line of the U.S. Post Office Building, thence heading in a Northeasterly direction down Water Street, encompassing the properties listed on the City of Gardiner Tax Map #34 Lots 119, 117, 116, 115, 113, 112, 111, 110, 109, 108, 107, 106, 105, 104, 103, 102, 154, 153, 150, 149, and 148, ending at the Southeastern boundary line of the Gardiner Public Library, then from this point, across Water Street in a Northeasterly direction to the Southeastern boundary of 151 Water Street, thence from this point heading up Water Street in a Northwesterly direction encompassing the properties on the City of Gardiner Tax Map #34 Lots 141, 140, 139, and 138 and Map 37 Lots 167, 166, 165, 164, 163, 162, 161, 160, 134, 133, 132, 131, 130, 129, 128, 127, 124, 123, 122, 121, 120, 119, 118, 117, 116, 115, 114, 113, 112, 111, 110, 109, and 108 ending at the Northwest boundary line of the Manson & Church Building, Map 37 Lot 108. Beginning at the Northeast boundary of the Manson & Church Building, heading in a Northeast direction on Bridge Street to the Northwest boundary line of the A-1 Diner, listed on the City of Gardiner Tax Map 37 Lot 107.

## **12.6 Certificate**

**12.6.1 A Certificate of Appropriateness** shall be required from the Historic Preservation Commission, except as provided below, for the construction, alteration, demolition or relocation of any exterior architectural feature for a building, site, monument or structure which is designated a historic property or landmark or is within a historic district, as defined. A Certificate of Appropriateness shall also be required for the demolition or removal of any identified historic resource or for the disruption of any

identified archeological resource. The Code Enforcement Officer may waive the requirement for a certificate of appropriateness or allow for emergency demolition or repairs to be made to a historic resource prior to the issuance of a certificate of appropriateness if she/he finds damage to or deterioration of the property creates an immediate threat to the public safety and/or the safety of adjacent buildings and therefore requires immediate action.

**12.6.2** The Code Enforcement Officer may grant a Certificate of Appropriateness for projecting, parallel and window or interior signs, as defined in the sign standards of this Ordinance.

**12.6.3** The sign standards in Section 10 of this Ordinance contain requirements for signs proposed in a Historic District.

**12.6.4** The ordinary maintenance or repair of any exterior architectural feature which does not involve a change in the appearance, material or design shall not require a Certificate of Appropriateness.

**12.6.5** The Commission may require additional information from the applicant in order to ensure that the intent of this Ordinance is met.

**12.6.6** Specifically excluded shall be the color of any substantially non-permanent exterior finish such as paint, which is applied to some underlying, substantially permanent material.

## **12.7 Application Procedure**

**12.7.1** A person informed by the Code Enforcement Officer that he/she requires a Certificate of Appropriateness shall file an application for a certificate with the Commission on forms provided for the purpose. If the person is informed that a variance and/or other plan review approval is also necessary, he/she shall first obtain the variance and/or Planning Board or site plan review approval as required.

**12.7.2** The applicant shall submit 8 copies of the application for Certificate of Appropriateness to the Commission a minimum of \* 21 days prior to the scheduled Commission meeting. *\*(Adopted June 18, 2014, Effective July 18, 2014)*

**12.7.3** The proposal for a Certificate of Appropriateness shall consist of an application with the submission requirements listed herein except for applications for the demolition or removal of an identified historic resource or the disruption of an identified archeological resource. These applications shall include only the information required by 12.7.3.1 through 12.7.3.7 and by 12.7.3.10 or 12.7.3.11 as appropriate.

**12.7.3.1** The applicant's name and address;

**12.7.3.2** The name and address of the applicant's agent;

**12.7.3.3** Location of the property;

**12.7.3.4** Verification of right, title or interest in the property;

**12.7.3.5** The name and address of the property owner;

**12.7.3.6** Description of any federal, state or local permits or approvals required by the project;

**12.7.3.7** Photographs of the building, structure and/or property showing all exterior areas to be affected by the proposal;

**12.7.3.8** Materials list for all elements of the proposal, including landscaping component;

**12.7.3.9** Site plan of the proposed project showing the following:

**12.7.3.9.1** Structures existing and proposed;

**12.7.3.9.2** Lines and dimensions of the property;

**12.7.3.9.3** Streets and ways, existing and proposed;

**12.7.3.9.4** Landscaping, existing and proposed;

**12.7.3.9.5** Scale drawing of the proposed activity, if requested by the Commission.

**12.7.3.10 Applications for the demolition of an identified historic resource shall include the following:**

**12.7.3.10.1** An analysis of the condition of the building including the building structure and building systems and the repairs or rehabilitation necessary to bring the building into compliance with current code requirements. This analysis shall be performed by a structural engineer or architect with experience in the renovation of historic properties.

**12.7.3.10.2** An analysis of the cost effectiveness of the rehabilitation of the property for an allowed use versus the demolition of the property. This analysis shall be prepared by an architect, real estate professional or appraiser with experience in the renovation of historic properties.

**12.7.3.10.3** Photographs of the property in an electronic format documenting both the condition of the structure and the historic elements of the structure such as architectural details.

**12.7.3.11 Applications for the disruption of an identified archeological resource shall include the following:**

**12.7.3.11.1** An alternatives analysis prepared by a qualified professional archeologist approved by the Maine Historic Preservation Commission assessing the need to disrupt the site including the possible redesign or relocation of the proposed activities requiring the disruption.

**12.7.3.11.2** A plan prepared by a qualified professional archeologist approved by the Maine Historic Preservation Commission identifying how negative effects on the resource can be mitigated and/or how proposed activities can be conducted to allow appropriate investigation of the archeological resources on the site.

**12.7.4** Exterior architectural feature shall mean that portion of the exterior of a building which is visible from a public street, place or way or would be visible but for the interpositioning of flora and/or other buildings, including (without limitation):

**12.7.4.1** The architectural style and general arrangement and setting thereof;

**12.7.4.2** The kind, finish and/or texture of exterior building materials, whether installed originally or as a replacement or as a change in or substitution for existing materials as by replacing a clear finish with a colored finish, or replacing a stained or natural finish with paint or replacing wood with brick or sandblasting or otherwise refacing an existing material;

**12.7.4.3** The visible inherent and substantially permanent color of materials used (e.g. brick, mortar, roofing, flashing, etc.);

**12.7.4.4** Other type and style windows, doors, lights, signs and other pertinent exterior fixtures.

**12.7.5** Following the filing of an application, the Commission shall hold a public meeting on the application within 40 days.

**12.7.6** At any meeting, an applicant may be represented by an agent or an attorney. During the public meeting and review of an application for a Certificate of Appropriateness, the applicant or his/her designated agent shall be present. Meetings and reviews of applications may be continued to other times.

**12.7.7** The Code Enforcement Officer or his/her designated assistant shall attend all meetings and may present to the Commission all plans, photographs or other material he/she deems appropriate for understanding of the application.

**12.7.8** Within 20 days of the public meeting, the Commission shall reach a decision on the application for a Certificate of Appropriateness. The Commission shall vote to deny, approve, or approve with conditions and shall inform the applicant in writing.



**12.7.9** Upon notification of the decision of the Commission, the Code Enforcement Officer, as instructed, shall forthwith issue, issue with conditions prescribed by the Commission or deny a building permit.

## **12.8 Standards of Evaluation**

**12.8.1** The Commission shall review an application for a Certificate of Appropriateness and shall use the U.S. Department of the Interior's Standards for the Treatment of Historic Properties, dated 1995, upon which to base its decision except for applications for the demolition or removal of an identified historic resource or the disruption of an identified archeological resource. These applications shall be governed by **12.8.3** or **12.8.4**.

**12.8.2** Materials of a different composition which match the original material's visual quality in design, color, and texture may be used to replace missing and/or deteriorated architectural features.

**12.8.3** The Commission shall approve a Certificate of Appropriateness for the demolition or removal of an identified historic resource only if it finds that the property owner has demonstrated that cost-effective rehabilitation of the building is not possible as documented by a structural engineer or architect with experience in the rehabilitation of historic properties and that there is no buyer for the property willing to undertake its rehabilitation.

**12.8.3.1** If the property owner demonstrates to the Commission's satisfaction that he/she cannot rehabilitate the building, the issuance of the Certificate of Appropriateness shall be delayed for a period of ninety (90) days during which period the owner must make a reasonable attempt to sell the property to someone who will rehabilitate the building in accordance with the following process. The time period shall commence when the Commission determines that the owner cannot rehabilitate the property and a sale offering statement has been provided to the Code Enforcement Officer.

**12.8.3.2** Within five (5) days of the determination by the Commission that the owner cannot rehabilitate the property, the property owner shall post notices on the premises of the building or structure proposed for demolition in a location clearly visible from the street. The notices shall indicate that the property is proposed to be demolished or moved and that it is available for sale to a buyer who will rehabilitate the property. In addition, the notice shall be published by the owner in a newspaper with general circulation in the municipality at least two times. The first notice must be published within seven (7) days of the Commission's finding, and the second notice must be published not less than forty-five (45) days prior to the end of the ninety (90) day period. The owner shall provide the Code Enforcement Officer with evidence that notices have been posted and published as required.

**12.8.3.3** During the ninety (90) day delay period, the owner shall make a bona fide offer to sell such building or structure and the land pertaining thereto, at a price reasonably

related to its fair market value, to any person, firm, corporation, government or agency thereof or political subdivision or agency thereof which gives reasonable assurance that it is willing to preserve and rehabilitate the building or structure and the land pertaining thereto. Prior to making such offer to sell, an owner shall first file a statement with the Code Enforcement Officer identifying the property, the offering price and the date the offer to sell shall begin.

**12.8.3.4** At the end of the ninety (90) day period, the property owner may request that the Commission release the Certificate of Appropriateness, allowing the Code Enforcement Officer to issue a demolition or moving permit. The Commission shall authorize the release of the Certificate of Appropriateness only if it finds that the property owner made a bona fide effort to sell the property at a reasonable price relative to its fair market value and that there is no buyer that is willing to rehabilitate the property.

**12.8.3.5** If the Commission authorizes the release of the Certificate of Appropriateness to demolish the property, the owner shall provide the Code Enforcement Officer with a photographic record in an electronic format of the exterior of the building including any significant architectural details and the interior of the building including. The CEO shall not issue the demolition permit until this documentation is received.

**12.8.4** The Commission shall approve a Certificate of Appropriateness for the disruption of an identified archeological resource only if finds that there is no reasonable alternative for the planned activities that will eliminate the need for the disruption. If such disruption is determined to be necessary by the Commission, the applicant shall be required to carry-out the project in such a manner so as to minimize the adverse effects on the resource to the extent reasonable and/or to provide adequate time and access for the investigation of the archeological resource.

**12.8.4.1** If the Commission authorizes the disruption of the archeological resources, the property owner shall be responsible for protecting and documenting the resources on the site prior to their disruption. Protection of the resources shall include leaving them untouched beneath a development through adaptation of the design. Where protection is not feasible the property owner shall excavate the site and remove and document the resources. This work shall be done by a qualified professional archeologist approved by the Maine Historic Preservation Commission.