

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1269

H. P. 856

House of Representatives, March 1, 1967

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Birt of East Millinocket.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

**AN ACT Enabling Municipalities to Create Historic Districts and to Provide for
the Preservation of Historic Buildings and Places.**

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 30, § 4958, additional. Title 30 of the Revised Statutes is amended by adding a new section 4958, to read as follows:

§ 4958. Historic districts

1. **Purpose.** The purpose of this section is to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of buildings, places and districts of historic interest, through the maintenance of such as landmarks in the history of architecture, of municipalities, of the State and of the nation, and through the development of appropriate settings for such buildings, places and districts.

2. **Zoning.** For such purposes a municipality may enact an historic district ordinance to establish, change, lay out and define districts which are deemed to be of historic or architectural value. In a municipality which has a planning board, such ordinance or amendments thereto shall be enacted in the manner provided by this subchapter for the enactment of zoning ordinances or amendments. A municipality which does not have a planning board may enact an historic district ordinance only after an historic district study committee appointed by the municipal officers has conducted a careful investigation of any proposed district or change therein, held a public hearing, and reported its recommendations at a meeting of the legislative body held not less than 30 days after the proposal has been submitted to the committee.

3. **Commission.** A municipality that enacts an historic district ordinance shall establish an historic district commission.

A. Appointments to the commission shall be made by the municipal officers.

B. The commission shall consist of not less than 3 nor more than 7 members and not less than one nor more than 2 associate members.

C. The term of office of a member shall be 3 years, except that the initial appointments shall be staggered so that subsequent appointments shall not recur at the same time.

D. In determining the qualifications of a member of the commission, the municipal officers shall take into consideration his demonstrated interest and ability to understand, appreciate and promote the purpose of this section.

E. A municipal officer may not be a member or associate member of the commission.

F. When a member is unable to act because of interest, physical incapacity, absence from the State or any other reason satisfactory to the chairman, the chairman shall designate an associate member to act in his stead. When there is a permanent vacancy, the municipal officers shall appoint a person to serve for the unexpired term.

G. An associate member may attend all meetings of the commission and participate in its proceedings, but may vote only when he has been designated by the chairman to act for a member.

H. The commission shall elect a chairman and secretary from its own membership.

4. **Certificate.** No building or structure shall be erected, constructed, moved, repaired, altered or demolished within any historic district created in accordance with this section until an application for a certificate of approval has been granted by the historic district commission, and no building or other permit shall be granted for any such purpose in an historic district until such certificate of approval has been issued.

5. **Factors.** In considering applications for certificates of approval, the historic district commission shall pass only on exterior features of a structure subject to public view from a public street or way. The commission shall consider among other pertinent factors the historical and architectural value and significance, architectural style, the general design, arrangement, texture and material of the building or structure in question, the relation of its exterior features to similar features of buildings in the immediate surroundings, and the position of such building or structure in relation to the street or public way and to other buildings and structures. The commission shall not refuse a certificate of approval or make any recommendations or requirements except for the purpose of preventing development obviously incongruous to the historic aspects of the surroundings and the historic district.

6. **Variances.** If the commission finds that strict adherence to the requirements of this section would impose an undue financial hardship upon an appli-

cant for a certificate of approval, or would block a municipal improvement of substantial benefit to the community, it may vary such requirements, granting a certificate of approval under such additional stipulations and conditions as will best fulfill the purposes of this section in all the circumstances, provided that such variance may be granted without substantial derogation from the purposes of this section.

7. Exemptions. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any building or structure which does not involve a change in design, material or the outward appearance thereof, nor to prevent the construction, repair, alteration or demolition of any building or structure which the building inspector or similar authority shall certify is required by the public safety because of an unsafe or dangerous condition; nor to prevent the erection, construction, moving, repair, alteration or demolition of any building or structure under a permit issued by the building inspector or similar authority prior to the effective date of the establishment of the historic district in which it stands.

8. Procedure.

A. Any individual, firm or corporation, proposing to carry out within an historic district any of the activities specified in subsection 4 shall file an application for a certificate of approval with the historic district commission at the time when application is made for any building or other permit required for such activity.

B. Within a reasonable time after the filing of such application, the commission, on due notice to all property owners and other affected thereby, shall hold a public hearing on such application. The commission may require that the applicant submit to it any plans, elevations and other information that it deems necessary, and may consult officials of the municipality, representatives of interested local organizations and professional consultants in reaching its determination.

C. As soon as conveniently possible after the public hearing, but in any event within a period of 30 to 60 days after the filing of the application for the certificate of approval, or within such further time as the applicant may in writing allow, the commission shall determine whether or not to grant the certificate of approval. If in light of the factors set forth in subsections 5 and 6 the commission determines that the application should be approved, or if the commission fails to make a determination within the time prescribed, the commission shall forthwith issue a certificate of approval. If the commission determines that a certificate should not issue, it shall place upon its records its findings of fact and reasons therefor. It may include recommendations as to changes in plan which might entitle the applicant to a certificate.

D. The commission shall forthwith notify the applicant and the building inspector or similar authority of its determination, furnishing them attested copies of the certificates of approval if issued, or of its findings and reasons and any recommendations if the certificate is not issued.

9. Appeals. Any applicant aggrieved by the decision of the historic dis-

district commission may appeal to the Superior Court in the manner provided by this subchapter for appeals from zoning boards of appeals.

10. Other powers. The historic district commission may, to the limit of appropriations or other available funds, be empowered to:

A. Receive money grants or gifts from state, federal or private sources and expend in the exercise of any of its powers and duties all funds received from any source;

B. Employ technical or clerical assistants, or consultants;

C. Prepare surveys and plans and advise and assist other agencies of the municipality in the preparation of surveys and plans involving buildings, places and districts of historical and architectural value within the municipality;

D. Carry out other activities in furtherance of the purpose of this section.