

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1729

H. P. 1216

House of Representatives, June 15, 1967

Reported by a Minority of the Committee on State Government. Printed under Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

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 preservation of structures and places of historic value is declared to be a public 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. Districts. For such purpose a municipality that has a planning board and a zoning ordinance may enact an historic district ordinance to establish, abolish, change, lay out and define districts which are of historic or architectural value. After the effective date of this Act such ordinance or amendments thereto may be enacted only after the planning board has conducted a careful investigation of any proposed district or change therein, has held a public hearing thereon after public notice which shall include written notice to the owners of all properties to be included in such district or changed district as they appear on the municipality's official assessment record, to be included in such proposed district or change, and has reported its recommendations at a meeting of the legis-

lative body held not less than 10 days after the date of the hearing. No ordinance shall be enacted under this subsection unless 75% of all owners of property to be included within the proposed or affected district shall sign a petition favoring such ordinance to be prepared and circulated by the planning board as part of its investigation.

3. Commission. A municipality that enacts an historic district ordinance shall establish an historic district commission, or shall constitute its planning board as an historic district commission with all the powers and duties given to such a commission by this section. If a separate commission is established:

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 constructed, moved or substantially altered 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 public street or 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 the construction, moving or substantial alteration obviously incongruous to the historic aspects of the surroundings and the historic district.

6. **Hardship.** In a case in which the commission would otherwise refuse a certificate of approval, if it finds that to do so would impose an undue hardship upon an applicant, or would block a municipal improvement approved by the planning board, it may grant a certificate of approval under such reasonable stipulations and reasonable conditions as will best fulfill the purpose of this section considering all the circumstances.

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 thereof, nor to prevent the construction, repair, alteration or demolition of any building or structure which the building inspector or other 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 other 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.

B. Within a reasonable time, not exceeding 30 days after filing of such application, the commission, on written notice to all property owners as they appear on the municipality's official assessment record and others whom the commission shall determine to be 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 available or required by the local municipal building ordinance, and at the hearing may take testimony from 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 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 other 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 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 available funds, be empowered to:

A. Employ technical or clerical assistants or consultants;

B. Prepare surveys and plans involving structures, places and districts of historic and architectural value within the municipality and assist other agencies in the preparation of such surveys and plans;

C. Carry out other activities in furtherance of the purposes of this section.

11. Funds. Any municipality having an historic district ordinance may receive money, grants or gifts from state, federal or private sources to carry out the purposes of this section and may authorize the commission to expend such funds and any other appropriations in the exercise of any of its powers and duties.