

**TOWN OF DAMARISCOTTA
HISTORIC PRESERVATION ORDINANCE
CHAPTER 107**

| | |
|---|-----------|
| §107.1 AUTHORITY | 2 |
| §107.2 PURPOSE AND INTENT | 2 |
| §107.3 APPLICABILITY | 3 |
| §107.4 DEFINITIONS | 3 |
| §107.5 HISTORIC PRESERVATION REVIEW COMMISSION | 8 |
| §107.6 CRITERIA FOR ESTABLISHMENT OF ADDITIONAL HISTORIC DISTRICTS, HISTORIC SITES, INDIVIDUAL HISTORIC PROPERTIES AND HISTORIC LANDMARKS | 10 |
| §107.7 ESTABLISHMENT OR MODIFICATION OF AN HISTORIC DISTRICT, HISTORIC SITE, INDIVIDUAL HISTORIC PROPERTY OR STRUCTURE AND HISTORIC LANDMARKS | 10 |
| §107.8 BOUNDARIES OF THE HISTORIC DISTRICT | 11 |
| §107.9 CERTIFICATE OF APPROPRIATENESS | 12 |
| §107.10 PROCEDURE FOR OBTAINING A CERTIFICATE OF APPROPRIATENESS | 13 |
| §107.11 APPROVAL STANDARDS FOR OBTAINING A CERTIFICATE OF APPROPRIATENESS | 14 |
| §107.12 STANDARDS FOR DEMOLITION OR REMOVAL OF A HISTORICALLY SIGNIFICANT BUILDING OR OF A STRUCTURE IN THE EXISTING OR A FUTURE HISTORIC DISTRICT | 17 |
| §107.13 APPROVAL STANDARDS FOR ALTERATION OR REPLACEMENT OF NON-HISTORICALLY SIGNIFICANT PROPERTIES WITHIN AN HISTORIC DISTRICT | 18 |
| §107.14 APPEALS | 20 |
| §107.15 NATIONAL HISTORIC REGISTRY OF BUILDINGS IN DAMARISCOTTA VILLAGE – MAP | 20 |
| §107.16 FLOW CHART OF COA PROCESS | 22 |
| §107.17 CONFLICTS WITH OTHER ORDINANCES | 23 |
| §107.18 EFFECTIVE DATE | 23 |
| §107.19 ENFORCEMENT | 23 |

Historic Preservation Ordinance

Chapter 107

§107.1 Authority This ordinance is adopted in accordance with the legislative authority granted to the Town by Maine State Law, Title 30-A M.R.S.A. §3001 [and as adopted by Date of Approval by Town Meeting].

§107.2 Purpose and Intent

(a.) The purpose of this ordinance is to provide a legal framework for the residents of the Town of Damariscotta to protect the historic, architectural and cultural heritage of significant areas, landmarks and sites in Damariscotta, 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. In particular, a significant number of properties in the National Register Listed Historic District of Damariscotta have a collective historical significance and impact on the overall visual appearance of the town that requires protection under this local ordinance.

(b.) The intent of this ordinance is to ensure that the alteration, enlargement, construction, demolition or replacement of properties are carried out in a manner that is compatible with and maintains the essential character of the properties and the overall character of the Damariscotta Historic District as it exists as of the date of enactment of this ordinance or as it may be revised pursuant to the provisions of this ordinance, and to encourage historic preservation throughout the town. The Damariscotta Historic District established by this ordinance is coterminous with the areas identified by the National Register of Historic Places nomination of 2012, and as shown in the town tax map (see: §107-15 of this ordinance).

(c.) Each property in the Historic District is recognized as a physical record of its time, place and use. Changes that create a false sense of historical development should not be undertaken. As a result, this Ordinance is designed to *assist* property owners in working with the Town to maintain the architectural integrity of its historic resources. For example, the Ordinance seeks to:

(1.) Protect, preserve and enhance the exterior appearance and architectural features of structures within the Historic District, or other historic districts, sites, landmarks or individual historic properties as may be designated pursuant to §107-07 of this ordinance.

(2.) Encourage consideration of alternatives to the demolition or removal of designated historic properties, sites, landmarks and significant historic structures within the Historic District or as otherwise designated in this ordinance.

(3.) Preserve, protect and enhance the essential architectural character and appearance of designated districts by protecting relationships of groups of buildings or structures.

(4.) Accept new buildings and structures in designated districts that do not displace historic structures or sites, and that are designed and built in a manner which is compatible with the character and appearance of the district.

(5.) Promote the educational, cultural, economic and general welfare of the people of the Town of Damariscotta.

§107.3 Applicability

(a.) This Ordinance shall initially apply to all properties in the Damariscotta Historic District. It shall also apply in the future to any additions to the District, or to other historic districts, sites, monuments or resources located in the Town if and when determined by the process provided in this Ordinance, according to the criteria incorporated in this Ordinance. Properties separately added in the future to the National Register listing will not automatically become subject to this ordinance unless incorporated by the process established in this Ordinance.

(b.) Standards Incorporated by Reference: 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.) *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.

(2.) Any and all architectural and archaeological surveys of the town conducted or overseen by architectural historians and archaeologists recognized by the Maine Historic Preservation Commission and on file in the Town Office.

(3.) 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. Where available a link to same shall be provided on the Town website.

§107.4 Definitions

Terms Defined. As used in Ordinance, the following terms shall have the meanings indicated:

ABUTTER: The owner of a property sharing a common boundary with another property or within 100 feet of a given piece of property, whether or not these properties are separated by a

public or private way. Owners shall be considered to be persons listed by the Assessor's agent of Damariscotta and/or the ones against whom taxes are assessed.

ALTERATION: A change in the external architectural or landscape features of any structure.

APPROPRIATE: Suitable or fitting for a particular purpose, person, or occasion.

ARCHEAOLOGICAL SITE: A geographic location containing the physical evidence of previous human occupation, including, but not limited to, structures, artifacts, terrain features, graphics (paintings or drawings, etc.) and the evidence of plants or animals.

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. Exterior architectural feature refers to the architectural style and general arrangement of the exterior of a building or structure, including but not limited to: the roof shape and the kind and texture of the building materials; the type and style of all windows, doors, lights, dormers, gable cornices, porches, decorative trim, etc.; the location and treatment of any vehicle access or parking space; the design of any sign, except as expressly permitted by the Town Sign Ordinance; and the arrangement of any fencing.

ARCHITECTURAL SIGNIFICANCE: The embodiment of distinctive characteristics of a type, period or method of construction; represents the work of a master architect or builder; or possesses high artistic values.

BUILDING: Any combination of materials forming a shelter for animals or humans and/or their activities.

CERTIFICATE OF APPROPRIATENESS: A written approval following a prescribed review procedure granted by the Commission upon application of a person with sufficient right, title or interest in property, certifying that the proposed actions by an applicant are found to be acceptable in terms of the design criteria relating to the historic resource as set forth in this Ordinance.

COMMISSION: The Damariscotta Historic Preservation Review Commission (HPRC) established by this Ordinance.

COMPATIBILITY: The relationship between buildings of scale, height, proportion and mass, and their relationship to the viewscape.

CONTRIBUTING PROPERTY OR STRUCTURE: Any property or structure in the existing Historic District built prior to 1970 or replaced therein due to fire prior to 2000, and any property or structure otherwise built 50 or more years prior to the year of application for inclusion under this ordinance, whose architectural and visual character, whether by location, design, setting,

materials, workmanship or association adds to the historic district's sense of time and place and historical development, is capable of yielding important information about an historically significant period, or independently meets the National Registry criteria.

CONSTRUCTED: Built, erected, altered, enlarged, reconstructed, or moved upon, or any other physical operations on the premises which are part of and required for said construction.

DEMOLITION: The permanent removal, dismantling or destruction of all or any portion of an existing designated Historic Resource or structure located within a Historic District.

HISTORIC DISTRICT: A geographically definable area possessing a significant concentration, linkage, or continuity of sites, buildings, structures or landmarks 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 an individual historic landmark or historic site separated geographically, but linked by association or history.

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.

HISTORIC LANDMARK OR RESOURCE: 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 or may be designated in accordance with this Ordinance.

HISTORIC OVERLAY MAP: A map of the Town of Damariscotta which identifies the location of a designated historic district, historic site, historic landmark or area of neighborhood significance. This map may be used to overlay other Town maps such as zoning, land use or property tax to demonstrate the designated historic resources locations. [See §107-15.]

HISTORIC SIGNIFICANCE: The embodiment of one or more of the qualities and values noted in this ordinance. Any building classified as noncontributing is not considered to possess "historic significance," although if located within the Historic District it is otherwise subject to this Ordinance [See: §107-03. Applicability.]

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 this Ordinance.

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.

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.

MAJOR CHANGE: Additions or alterations to a structure or site, or a large-scale change that affects the character of the structure or related viewscape. In addition, all activities that affect the exterior of the building and require a building permit are also included in this definition.

MINOR CHANGE: 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. In no event shall a change be deemed minor when, in the determination of the Code Enforcement Officer, Town Planner or Historic Review Commission, such change shall alter the historic character of the building or site.

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.

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

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.

NON-CONTRIBUTING PROPERTY: A property that does not meet the definition of a 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 and workmanship are so altered or deteriorated that their overall integrity 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.

NEIGHBORHOOD SIGNIFICANCE: A contribution to the creation of a physical setting representing a period important to the evolution of the Town. It is understood, in this case, that the physical setting, which is composed of buildings, landscape features and open space, and

other architectural features, can transcend the sum of its parts in creating a sense of history. Some examples include: a building that is one of a group of similar buildings constructed and/or designed by an individual important in Damariscotta history; it is a compatible element in a group of buildings of similar or equally important significant architectural styles; its location (i.e., on a corner lot, on a rise of land, on a large parcel of land, as the first building to visually introduce an important group of buildings) makes it an important element in the neighborhood; its size gives it a dominant place in the neighborhood.

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, movable, an object is associated with a specific setting or environment.

RECONSTRUCTION: The rebuilding of a building or a part of a building. The reconstruction may or may not be a return to the original design of the building.

REHABILITATION: The upgrading of a building, previously in a dilapidated or substandard condition. "Rehabilitation" does not necessarily retain the building's original architectural features.

RESTORATION: The replication or reconstruction of a building's original architectural features. "Restoration" usually describes the technique of preserving historic buildings.

RHYTHM: Characterized by the regular recurrence of strong or weak architectural elements.

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. Their intent 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.

SITE: The location of a significant object, structure, or event.

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.

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 encompasses the public view

of a street, neighborhood or public land. Every kind of structure is considered in the context of its viewscape.

VIOLATION: Failure to comply with the plans and conditions listed in a Certificate of Appropriateness as approved by the Historic Preservation Review Commission, and/or any activity listed in the Certificate of Appropriateness which is carried on without first obtaining a Certificate of Appropriateness which permits the activity to proceed.

VISIBLE FROM THE STREET: Any site or structure that can be seen from any public street or way abutting the subject property.

VISUALLY COMPATIBLE: A mix of styles, sizes, color and other elements that blend together well and conform to the criteria of this Ordinance.

§107.5 Historic Preservation Review Commission (HPRC) This ordinance creates the Historic Preservation Review Commission with the following requirements and duties.

(a.) The HPRC will consist of three Damariscotta community volunteers appointed by the Board of Selectmen (BOS) for staggered three-year terms, and one alternate member. When initially created, one member will be appointed for a three-year term, one for a two-year term, and one for a one-year term. Members will be eligible to be reappointed at the end of their terms for an additional three years. The alternate member will be appointed for a one-year term, also renewable for a three-year term thereafter.

(1.) All members of the commission shall have a demonstrated interest, knowledge, or training in historic preservation or closely related fields. Where professionals are available in the community qualifications will conform to the Secretary of the Interior's Historic Preservation Professional Qualifications Standards. Information on the credentials of the commission members must be kept on file and available to the public.

(2.) Each commission member is encouraged to attend at least one informational or educational meeting per year, sponsored by the Maine Historic Preservation Commission (MHPC), pertaining to the work and functions of the local review commission or to historic preservation. This orientation and training sessions shall also be designed to provide a working knowledge of the roles and operations of Federal, State and local preservation.

(3.) The BOS will fill any vacancy on the Commission within sixty days.

(b.) Duties of the HPRC.

(1.) The Commission will file an annual report to the MHPC.

(2.) The HPRC will hold at least one public meeting quarterly, or more often as it deems necessary, and a quorum of 2 will be required at each meeting for voting purposes. Its duties include the creation of its own bylaws; the review of applications for alterations, relocation, demolition, and other actions affecting historic and prehistoric properties under its jurisdiction; and the review of all new construction affecting designated historic and prehistoric properties and/or districts within its jurisdiction to determine if locally listed prehistoric or historic archaeological sites will be affected.

(3.) During meetings, the HPRC will review applications submitted by the Town Planner or an applicant for proposed modifications to properties within the historic district. The owner of a building within the Historic District making such an application is required to send certified-mail, return-receipt letters to all abutters of the subject lot giving the time, place and reason for the HPRC meeting. The Town Planner will publish the application hearing notice in a newspaper in general circulation within Damariscotta to give notice of at least seven business days to the public, and post notice of the proposal on the Town web site at least seven business days prior to the meeting at which it will be considered. The Commission is empowered to either approve or deny completed applications submitted for *Certificates of Appropriateness (CoA)* (See: §900-09) once they have reviewed the application contents at the posted meeting and have provided non-applicants the opportunity to comment on the proposed modifications.

(4.) The HPRC shall assist, advise and help to educate the community, residents, property owners and officials of the Town concerning the physical and financial aspects and benefits of preservation, renovation, rehabilitation and the re-use of historic and archaeological sites, structures, buildings and landmarks, and help provide information useful to property owners who wish to maintain historic property.

(5.) The HPRC will serve as an advisor to the Town regarding historical and cultural resources;

(6.) The HPRC will maintain a detailed inventory of property within the existing Historic District [See: §107(a.)], and update and maintain this inventory as additional historic buildings, landmarks and sites that may be established in Damariscotta pursuant to this ordinance.

(7.) The HPRC will review all proposed National Register nominations for properties within its jurisdiction. When it considers a National Register nomination and 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 this area before rendering its decision with the help of the MHPC staff.

(8.) The HPRC will conduct or cause to be conducted a continuing survey of cultural resources in the community according to guidelines established by the MHPC, and make

recommendations for the designation of local landmarks and historic districts to the Town Board of Selectmen, and keep records of such decisions, and

(9.) The HPRC will establish and use written guidelines for the preservation of designated local landmarks and historic districts when making decisions on requests for permits for new construction, alterations, demolition, relocation, additions to, or other actions affecting any historic resources as described in this ordinance.

§107.6 Criteria for Establishment of Additional Historic Districts, Historic Sites, Individual Historic Properties or Structures and Historic Landmarks.

(a.) One or more of the following characteristics, without limitation as to cultural or chronological period, may serve to qualify an historic district, historic site, individual historic property, historic landmark or archaeological site, as defined in §107-04 of this Ordinance, to be established in accordance with this Ordinance:

(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 Damariscotta, Maine or 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.

(2.) Structures or sites importantly associated with historic personages.

(3.) Structures or sites importantly associated with historic examples of a great idea or ideal.

(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, engineer, architect or landscape architect.

(5.) Structures contributing to the visual continuity of an historic district.

(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.

§107.7 Establishment or Modification of an Historic District, Historic Site, Individual Historic Property or Structure and Historic Landmarks.

(a.) The existing local Historic Overlay District may be modified, or an additional local historic district or districts, historic buildings, landmarks or sites, may be created or modified through an amendment to this ordinance by the Town Meeting of the Town of Damariscotta in accordance with the following procedures:

(1) Anyone may propose an amendment to create or modify a historic overlay district, or to add historic buildings, landmarks or sites, to the HPRC.

(2.) A request for the creation or modification of an overlay district or designation of historic buildings, landmarks or sites must initially be made in writing to the HPRC and the Town Planner, and must include the following information:

(i.) A map showing the proposed boundaries of the new overlay district, historic buildings, landmarks or sites, or proposed changes to the boundaries of an existing district, historic buildings, landmarks or sites.

(ii.) A listing of the properties included within the new district, historic buildings, landmarks or sites, or proposed revision to an existing district, historic buildings, landmarks or sites, showing the Tax Map and lot number of each parcel and the current owner as recorded on the Town's assessment records.

(iii.) An evaluation of each property as a contributing or noncontributing building or structure using the methodology used in the Damariscotta 2012 Historic Resource Survey (as updated) or other methodology approved by the Maine Historic Preservation Commission. If the amendment proposes to remove properties from an existing overlay district, the classification of those properties in the 1979, 2010 or 2012 surveys or subsequent historical surveys must be provided.

(3.) Upon receipt of a request for an amendment, the HPRC shall conduct research on the proposal and solicit comment from the Maine Historic Preservation Commission.

(4.) Within forty-five (45) days of the receipt of a request for an amendment to an overlay district, the HPRC shall hold a public hearing on the request. The Commission shall provide public notice of the hearing by publishing the hearing notice in a newspaper in general circulation within Damariscotta at least fifteen (15) days prior to the hearing, and by posting on the Town web site. The HPRC shall also notify, in writing by certified mail, return-receipt all property owners within the boundary of the proposed amendment and within two hundred fifty (250) feet of the area at least fifteen (15) days prior to the hearing. The Board of Selectmen may set a reasonable fee on the proponents of the amendment to cover the cost of such notification.

(5) Within forty-five (45) days of the public hearing, the HPRC shall make a formal recommendation to the Planning Board and Board of Selectmen with respect to the request. The HPRC's recommendation shall specify the HPRC's findings and conclusions with respect to the request. The HPRC shall take into consideration a request by the owner of property within a proposed new or expanded overlay district to be excluded from the overlay district. The HPRC shall either approve the request or state in writing, and include in the Board's findings and conclusions, why such request was not approved.

(6.) A recommendation for the creation or amendment of a Historic District if approved by the Board of Selectmen shall be sent to the next regular or special Town Meeting for decision.

§107.8 Boundaries of the Historic District. The initial boundaries of the Damariscotta Historic Overlay District are presented in §107-15, and are described as follows:

(a.) Tax Map 6: {south of Main St. & west of Water St. with frontage on the river} Lots 19 to 14; Lot 14-1; Lots 13 to 8;

(b.) Tax Map 6: {south of Main St. at Bristol Rd. intersection} Lot 136; Lot 120;

(c.) Tax Map 6 {north of Main St. River to Lincoln Theater} Lots 26 to 27; Lot 29; Lots 31 to 32; Lot 34; Lot 36;

(d.) Tax Map 6 {north of Main St. from Theater to Church St.} Lots 75 to 84.

§107.09. Certificate of Appropriateness

(a.) The owner/applicant of a property in the Historic District who proposes to undertake any activity that will change the design, material, scale, color or location of the **exterior** building features of a property in the District (including windows and roofs), or that is not an "exempt activity" under this Ordinance must obtain a *Certificate of Appropriateness (CoA)* from the HPRC *prior* to receiving any building, plumbing, electrical or other permits and approvals required for the work or, if no permits or other approvals are required, *before* commencing the work. This applies to all properties in the Historic District, and in or to any future historic districts, sites, structures or landmarks, and includes:

(1.) The alteration of a building or structure.

(2.) The construction of an addition to a building or structure.

(3.) The construction or placement of an accessory building on the site such as a garage or shed.

(4.) The relocation of a building or structure.

(5.) The alteration, placement, construction, or removal of contributing structures or site features of historic significance.

(6.) The demolition or removal of a building or structure.

(7.) The construction or placement of a new principal or accessory building on the site.

(b.) **Exempt activities.** Activities that do not adversely impact the *exterior* of an historic structure are exempt from the requirement of obtaining a Certificate of Appropriateness from the HPRC. A property owner who intends to undertake an activity that they believe is an exempt

activity may request a review from the Damariscotta *Town Planner* prior to undertaking the activity. The property owner may provide the Town Planner with either a verbal or written description of the proposed activities. If the Town Planner determines that the proposed activity constitutes an exempt activity, he may so advise the property owner.

(c.) *Examples* of activities **exempt** from requiring a Certificate of Appropriateness include:

- (1.) Interior alterations, and activity that is not visible from a public way.
- (2.) Installation of temporary buildings or temporary structures.
- (3.) Landscaping.
- (4.) Installation of walks, driveway or sidewalks; and constructions, demolitions or alterations under orders issued by a building inspector, Code Enforcement Officer, or similar agent for the purposes of public safety.
- (5.) Installation of storm windows, storm doors, screen windows, screen doors and window air conditioners.
- (6.) Installation of flagpoles, sculpture, mailboxes, window boxes, gutters, downspouts and leaders, house numbers, garden furniture, solar panels, wind powered units, or heat pump inverters and related wall mounted conduits that are not visible from the street the front of the building faces.
- (7.) Routine maintenance: normal repair and upkeep of a building or structure that does not change the design, material or scale of exterior building features. Repainting of a building or structure is considered to be routine maintenance unless the color is to be changed, as is the replacement or repair of exterior elements with similar materials, such as roofing with the same type of shingles, replacement of clapboards with similar clapboards, or the replacement of doors or windows with new doors or windows of a similar design and made with similar materials. Repair or replacement with different materials is not considered routine maintenance, except that alternatives to wooden window framing may be exempted as long as they do not detract from the historical appearance of the building.

§107.10 Procedure for obtaining a Certificate of Appropriateness (CoA).

(a.) Step One: The applicant will complete and submit an application for a CoA to the Town Planner. CoA application forms are available at the Town office and on the Town web site.

(b.) Step Two: The applicant will meet with the Town Planner to review the checklist contained in the CoA application form; and the Planner will provide assistance as required to complete the application. Once a completed application is submitted, the Planner shall complete review of the application within 10 business days and forward it to the HPRC.

(c.) Step Three: The HPRC shall begin review of the application at its next scheduled meeting following submission of the completed application. Such meeting shall be posted as a public hearing and abutters shall be notified of the meeting by certified mail, return receipt requested,

by the applicant.

(d.) Step Four: The HPRC will review the application, provide an opportunity for public comment, and then vote whether or not to issue a CoA *during the meeting*. Should the HPRC require additional information or clarification, the HPRC may vote to continue review of the application to its next regularly scheduled meeting or special committee meeting. The HPRC will vote on an application only at a posted public meeting, unless the review has been continued as discussed above. Its decision will be recorded in written minutes containing a notice of decision within five business days of the hearing, but the date of the decision for purposes of appeal shall be the date of the hearing at which it was made. A decision on a CoA may only be tabled to the next HPRC meeting if the HPRC deems it necessary to obtain additional material from the Applicant or Town Planner. In such a case another HPRC meeting will be held within seven days, rather than waiting another month for a regular HRC meeting.

(e.) Step Five: After the HPRC decision the applicant will proceed with or abstain from their project; contact the Town Code Enforcement Officer (CEO) for any additional required permitting; or submit their application to the Planning Board (if needed) for additional approval.

(f.) Parties aggrieved by a decision of the HPRC may appeal such decision pursuant to the provisions of §107-14.

(g.) §107-16 of this Ordinance presents a flow chart outlining the application process for a CoA.

§107.11. Approval Standards for Obtaining a Certificate of Appropriateness (CoA).

(a.) In reviewing and approving applications for a CoA, the HPRC will consider and take into account the *Secretary of the Interior's Standards for the Treatment of Historic Properties, with a focus on the Standards for Rehabilitation* (as may be updated), and their application to activities that are visible from public streets or ways, including the following standards:

(1.) All structures and sites shall be recognized as products of their own time. A property will be used as it was historically or be given a new use that requires minimal changes to its distinctive materials, features, spaces, and spatial relationships.

(2.) The historic and/or neighborhood significance of the property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.

(3.) Distinctive materials, features, finishes, and/or construction techniques or examples of craftsmanship that characterize a property will be preserved.

(4.) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires the replacement of a distinctive feature, the new feature will match the old feature in design, color, texture and, wherever possible, materials. Historic

accuracy of the replacement of missing features will be documented by photographic, physical and/or other evidence.

(5.) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(6.) Archeological resources as defined in the Archaeological Resources Protection Act of 1979 (Pub.L. 96–95, as amended) (ARPA) will be protected and preserved in place. If such resources must be disturbed, mitigation measures consistent with Federal and Maine State law will be undertaken.

(7.) New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion and massing to protect the integrity of the property and its environment.

(b.) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property would be unimpaired. *The Secretary of Interior's Standards for Rehabilitation* provide discussion and examples of how these standards may be applied in Damariscotta.

(c.) Additional local standards. The HPRC shall find that the proposed activities meet the following additional local standards based on the type of activities proposed. If more than one type of activity is proposed, the standards for each type of activity must be met for the application to be approved.

(1.) The alteration of a building or structure.

(i.) Porches: Existing porches should be maintained and preserved. Character-defining elements associated with porches, such as columns, pilasters, decorative brackets, railings, and balustrades, should not be substantially altered. It is not appropriate to enclose a porch that is visible from a public way, but screens may be added if they are attached in a manner that does not damage the historic materials and the modification is completely reversible.

(ii.) Roof: If the entire roof is being replaced, the material should be compatible with the visual character of the building. The replacement material may revert back to a historically appropriate material if historic documentation is available.

(iii.) Appendages: Appendages to the structure, such as solar collectors, antennas, heat pump inverters and satellite dishes, should be located to minimize the visual impact on the historic building and should be attached in a manner that does not damage the historic materials and is completely reversible.

(iv.) Windows: The creation of new windows or skylights that result in removal of portions of the historic structure are inappropriate unless the window or skylight is located in a portion of the structure that has been previously modified so that its historic value has been lost. If a new window or skylight is permitted, the design should be compatible with the existing building and the location should minimize the visual impact on the historic building.

(v.) Doors: Replacement doors should utilize the existing opening and should be visually compatible with the remainder of the property.

(vi.) Garage doors: Increasing the size of the opening in the wall to allow the installation of double or triple-width garage doors facing the street is not appropriate.

(vii.) Materials: Wherever practical, existing materials should be maintained. In the case of the change of material, the material shall have a similar visual appearance.

(2.) The construction of an addition to a contributing building or structure.

(i.) The addition should minimize the impact, both physically and visually, on the historic property.

(ii.) The addition should not visually overwhelm or obscure the historic structure.

(iii.) The mass, scale and volume of the addition should be compatible with the historic building.

(iv.) Where feasible, the addition should be attached to the historic property with a connecting link that minimizes the damage or removal of elements of the historic building.

(v.) It is not appropriate to add decks and porches that are visible from a public way. Sunrooms and similar spaces are appropriate only if they meet the other standards of this section.

(3.) The construction or placement of an accessory building, such as a garage or shed, on the site of a contributing building.

(i.) The building should be constructed of materials that are visually compatible with the materials of the historic building but that are appropriate to the current period.

(ii.) The design of the building with respect to massing and scale should be compatible with the massing and scale of the historic building, including features such as rooflines.

(iii.) The location of the accessory building should minimize its visual impact on the historic building and not obscure it and should be consistent with the placement of similar accessory buildings on the sites of other comparable contributing buildings in the district.

(4.) The relocation of a contributing building or structure.

(i.) The new location of the building or structure should be consistent with the established pattern of the immediate neighborhood surrounding the site with respect to its setback from the street, orientation of the front facade of the building to the street and the placement of the building on the lot with respect to side lot lines and adjacent properties.

(ii.) If an accessory building is relocated, the new location should maintain the spatial relationships on the lot if that relationship is an essential element of the historic character of the property.

(5.) The alteration, placement, construction or removal of significant site features on the site of a contributing building or structure.

(i.) Existing fences or walls should be maintained as far as physically possible. New or replacement fences or walls should be located to reflect the established pattern in the neighborhood and on adjacent lots if a pattern exists. This is particularly important with respect to the relationship with the street and sidewalk (if any). Fences should be compatible to other historic fences in the district with respect to design, size, and details.

(ii.) The use of concrete for walls and steps is inappropriate for new or replacement site features. Use of granite blocks for steps is appropriate.

(6.) New parking areas should be located to the side or rear of the principal buildings when feasible.

(7.) New driveway locations should maintain the established pattern in the immediate neighborhood of the site. The area between the front facade of the principal building and the sidewalk or street should not be used for new or expanded driveways or parking areas.

§107.12. Standards for demolition or removal of a Historic Site, Individual Historic Property or Structure and Historic Landmarks, or of a contributing structure in the existing of a future historic district.

(a.) The HPRC shall approve a CoA for the demolition or removal of a principal building located in the Historic Overlay District (or any historic resource created under this ordinance in the future) **only** if it finds that either of the following conditions exists:

(1.) The building is identified and determined to be a non-contributing or non-historic property by the HPRC after a regularly scheduled public hearing before the HPRC; or

(2.) The property owner has demonstrated to the HPRC at one of its regularly scheduled public hearings that cost-effective repair of the building (i.) is not possible, as documented in writing by a structural engineer, builder, or architect with experience in the renovation of historic properties and (ii.) that there is no buyer for the property willing to undertake its repair as an historic structure. If the structural integrity of the building is in such disrepair as to be hazardous, the structure may be condemned by the Code Enforcement Officer.

(b.) If a CoA is granted for the demolition or removal of an historic structure, the town planner and the property owner shall photograph the exterior and interior of the structure to preserve this as a record of the structure for the historic records of the town. Such photographs shall be retained in the archives of the town and shared with the historical society and town library.

(c.) If the property owner demonstrates to the Commission's satisfaction that they cannot repair the building, the issuance of the CoA for demolition or removal shall be ***delayed for a period of one hundred and twenty (120) days*** during which period the owner must make a reasonable and good faith attempt to sell the property to someone who will repair the building in accordance with the following process. The time period shall commence when the HPRC is notified ***in writing*** by the owner that the owner cannot repair the property and a sale offering statement has been provided to the Town Planner, ***after the public hearing on this application***.

(d.) Within five (5) days of the determination by the Commission in writing that the owner cannot repair 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 repair the property. In addition, the notice shall be published by the owner in a newspaper of general local circulation 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 one hundred and twenty (120) day period. The owner shall provide the Town Planner with evidence that notices have been posted and published as required.

(e.) The HPRC may also publicize the sale offering statement to ensure national publicity is made available and to increase the likelihood of an outcome that avoids demolition or removal of the historic property.

(f.) During the 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 restore the building or structure and the land pertaining thereto. Prior to making such offer to sell, the owner shall first file a statement with the Town Planner identifying the property, the offering price and the date the offer to sell shall begin.

(g.) At the end of the delay day period, the property owner may request that the Commission release the CoA, allowing the Code Enforcement Officer to issue a demolition or moving permit. The HPRC shall authorize the release of the CoA only if it finds that the property owner made a bona fide and good faith effort to sell the property as an historic property at a reasonable price relative to its fair market value and that there is no buyer that is willing to repair the property.

§107.13. Approval standards for alteration or replacement of non-contributing properties within a Historic District.

(a.) In reviewing and approving applications for a CoA involving a non-historically significant property, the HPRC shall consider the additional local standards appropriate to the proposed activity as set forth in this ordinance and find that the appropriate standards have been met, with a view to retaining the overall appearance of the entire Historic District (or other historic resource created under this ordinance).

(b.) Concerning the construction or placement of a new principal building on the site:

(1.) The building should be located on the lot so that the front setback is consistent with the current setback of the principal buildings on adjacent lots and within the immediate neighborhood.

(2.) The general placement of the building on the lot should maintain the pattern of buildings and voids along the street.

(3.) The front entrance of the building should be oriented to the street.

(4.) The height, scale, and massing of the building should be visually compatible with the principal buildings on adjacent lots.

(5.) The design and location of site elements, including driveways, sidewalks, fences, and walls, should be visually compatible with the pattern of the immediate neighborhood especially with respect to scale and location on the lot.

(c.) Concerning the construction or placement of a new accessory building on the site, the accessory building should be located to the side or rear of the principal building and be visually compatible with the principal building and principal buildings on adjacent lots.

(d.) Concerning alterations to a building or structure that substantially alter its front facade or the orientation of the building to the street.

(1.) The alterations should be visually compatible with the age and style of the principal building.

(2.) Alterations that attempt to replicate features from an earlier time period or that make the building look historic are inappropriate.

(e.) Concerning the construction of an addition to a building or structure.

(1.) Additions should be visually compatible with the age and style of the principal building.

(2.) The placement of the addition in relationship to the principal building should be visually compatible with the principal building and principal buildings on adjacent lots.

(3.) Additions that attempt to replicate features from an earlier time period or that make the building look historic are inappropriate.

§107.14. Appeals.

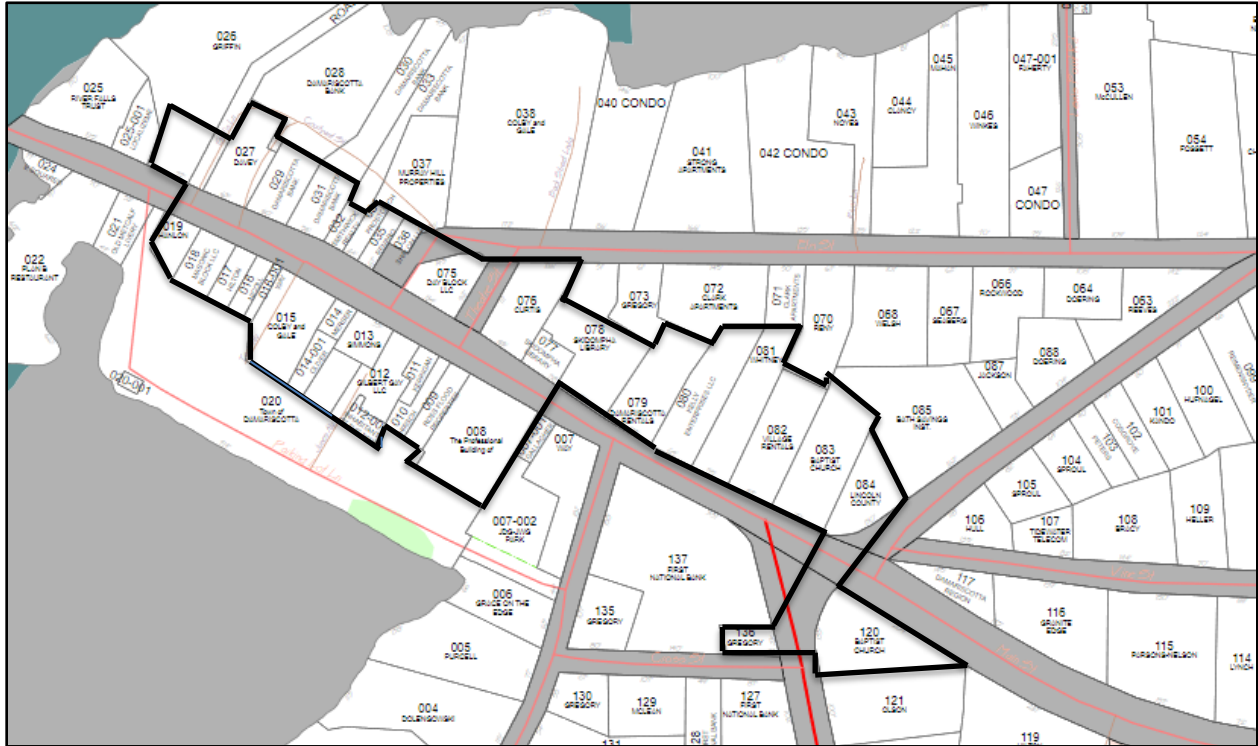
(a.) Administrative Appeals of decisions of the HPRC on the issuance or denial of a Certificate of Appropriateness (CoA) must be made within 30 days of the date of the decision being appealed, pursuant to the Town of Damariscotta Board of Appeals Ordinance, Section 5.A.1, taking into account the record before the HPRC. The HPRC shall issue its written minutes recording the decision within five business days of taking its decision. Appeals shall be made to the Board of Appeals under the procedures in the town Land Use Ordinance. Appeals may be taken by any applicant or their authorized agent against the HPRC for alleged misinterpretation of the Ordinance or of the Secretary of the Interior's Standards for Rehabilitation. Abutters or aggrieved parties objecting to the grant of a CoA may also bring an appeal on the same terms.

(b.) Appeals from the decisions of the Board of Appeals shall be made to the Superior Court.

§107.15. Damariscotta Historic District Map. The map presents the existing Historic District and will be updated pursuant to any future expansion by a separate warrant article.

Main Street Historic District

March 3, 2020



§107.16 Flow Chart for COA Process

Property owner wants to repair, upgrade, demolish or otherwise change a property in the Historic District



Property owner meets with Planner to review project



Planner determines project requires a COA



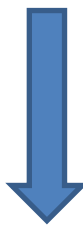
Property owner prepares an application for a COA with assistance of Planner, if necessary



Planner reviews application and, if complete, forwards it to the HPRC within 10 business days



HPRC begins review of application at next scheduled meeting, which is posted as a public hearing with abutter notification by the applicant



If additional information is required the hearing may be continued to the next regularly scheduled or special HPRC meeting

HPRC votes on the application at a posted public hearing or a continued public hearing or tables the application to a HPRC meeting to be held within seven days



If project is approved with or without modifications, the applicant contacts the CEO regarding any additional required permitting



Parties aggrieved by a decision of the HPRC may appeal pursuant to §107-14

Planner determines project is an exempt activity and COA is not required. Property owner meets with CEO regarding any other required permitting

COA = Certificate of Appropriateness
 HPRC = Historic Preservation Review Commission
 CEO = Code Enforcement Officer

§107.17. Conflicts with Other Ordinances

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control.

§107.18. Effective Date

- (a.) The effective date of this ordinance is March 3, 2020
- (b.) A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be available to the public at reasonable cost at the expense of the person making the request and be available for downloading from the Town web site. Notice of the availability of this Ordinance shall be posted on the Town web site.

§107.19. Enforcement.

- (a.) Any violation of this Ordinance shall be deemed to be a nuisance.
- (b.) This ordinance shall be administered and enforced by the Town Planner in coordination with the Code Enforcement Officer (CEO) and the HPRC.

(1.) The Town Planner, CEO and HPRC will develop guidelines for enforcement and make them available on the Town web site and in print for the public at no charge.

(2.) Any aggrieved person who believes that there has been an error made in the interpretation or application of the provisions of this Ordinance may appeal, within the time limits for such appeals, such determination to the Board of Appeals as an administrative appeal.

(c.) Fines for violations will be as established by the Board of Selectmen. 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 penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452.

(d.) Where the above provisions do not result in an abatement of a violation of this Ordinance, Municipal Officers make seek legal or equitable relief through the Court system, following the steps noted in the Site Plan Review Ordinance **§ 102-14. C.**

(e.) The invalidity of any section or provision of this Ordinance shall not be held to invalidate any other section or provision of this Ordinance.