

**TOWN OF HAMPDEN, MAINE
HISTORIC PRESERVATION ORDINANCE**

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Town Clerk
Affix Seal



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**TOWN OF HAMPDEN, MAINE
HISTORIC PRESERVATION ORDINANCE**

**SECTION 1
INTENT AND PURPOSE**

This ordinance is adopted pursuant to the legislative authority vested in the Town of Hampden by virtue of Title 30-A, Maine Revised Statutes Annotated § Section 3001, and acts amendatory thereto, for the purposes of preserving, protecting, and enhancing buildings and places or areas within the Town which possess particular historical, cultural, or architectural significance in order to promote the educational, cultural and economic welfare of the residents and visitors to the Town. To achieve these purposes, it is intended that historic districts and related regulations be used to prevent inappropriate alterations of buildings of historic or architectural value; to preserve the essential character of neighborhoods; and to assure that new buildings or structures constructed in neighborhoods and districts of historic, prehistoric or architectural value are designed and built in a manner which is compatible with the character of the neighborhood or district. *(Amended: 5-7-90)*

**SECTION 2
DEFINITIONS**

2.1. Historic District. A geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and designated in accordance with the requirements of this Ordinance as appropriate for historic preservation. Such historic districts may also comprise individual elements separated geographically, but linked by association of history.

2.2. Historic Site. Any parcel of land of special significance in the history or prehistory of the Town and its inhabitants, or upon which a historic event has occurred, and which has been designated as such in accordance with this Ordinance. The term "historic site" shall also include any improved parcel, or part thereof, on which is situated a historic landmark, and any abutting improved parcel, or part thereof, used as and constituting part of the premises on which the historic landmark is situated as may be designed in accordance with this Ordinance. *(Amended: 5-7-90)*

2.3. Historic Landmark. Any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history as may be designated in accordance with this Ordinance.

2.4. Contributing Structure. A structure located within designated historic district and identified as contributing to the historical or architectural significance of said district.

2.5. Archeological Site. A geographic location of any remains of the prior presence of human beings including (without limitations); structure, artifacts, terrain features, graphics (such as paintings or drawings) or remains of plants, or animals associated with human being habitations. *(Amended: 5-7-90)*

SECTION 3
HAMPDEN HISTORIC PRESERVATION COMMISSION

3.1. Appointment. - Members of the Hampden Historic Preservation Commission shall be appointed by the Town Council.

3.2. Members. - The Commission shall consist of three (3) members who shall be residents of Hampden. Appointments shall be made on the basis of demonstrated interest, knowledge, ability, experience and desire to promote historic preservation in the Town, with the meaning of Section 1 of this Ordinance. Members of the Commission shall serve without compensation. (Amended 2/3/2020)

3.3. Terms. - The Commissioners who are first appointed shall be designated to serve terms as follows: One for one (1) year, two for two (2) years, and two for three (3) years, from the date of their appointment. Thereafter, said Commissioners shall be appointed for terms of three (3) years, except in those instances in which the appointment is made to fill a vacancy in an unexpired term, in which case the appointment shall be for the remainder of the unexpired term. An attempt will be made to fill vacancies within sixty (60) days. (Amended 5-21-90)

3.4. Associate members. - In addition, there shall be one (1) associate member appointed by the Town Council for a term of three (3) years, who shall be a resident of Hampden. The Chairperson of the Commission shall designate the associate member to vote in the stead of a regular member when necessary. (Amended 2/3/2020)

3.5. Eligibility. - Any regular or associate member shall be eligible to continue to serve in said capacity until a successor is duly appointed and qualified.

3.6. Officers. - The Commission shall elect annually a chairperson, vice chairperson and secretary from its own membership, a majority of the number of members or constitute a quorum for the transaction of business before said Commission, but if less than such majority is present at a meeting, a majority of those present may adjourn the meeting from time to time. The secretary shall maintain a permanent record of the activities of the Commission, including but not limited to such items as the number and types of cases reviewed and their disposition; new designations of historic sites, landmarks and districts made; attendance records; correspondence and minutes of all meetings. All records maintained or prepared by the secretary are deemed public and may be inspected at reasonable times.

3.7. Procedure. - The Commission for its purposes shall adopt, and may from time to time amend, rules of procedure.

3.8. Public meetings. - All meetings of the Commission shall be publicly announced, open to the public and have a previously available agenda. Public notice shall be provided prior to any special meetings of the Commission.

3.9. Duties. - The duties of the Commission, at a minimum, shall be to:

3.9.1. Make recommendations for establishing historic districts, historic sites, or historic landmarks to the appropriate local governing body, according to the procedures listed in Sections 4 and 5 of this Ordinance.

3.9.2. Review all proposed additions, reconstruction, alterations, construction, relocations or demolition of the properties designated or the jurisdiction of the Ordinance.

3.9.3. Review all proposed National Register nominations for properties within its jurisdiction.

3.9.4. Serve an advisory role to local government officials regarding local historical and cultural resources, and act as a liaison between local government and those persons and organizations concerned with historic preservation.

3.9.5. Conduct or cause to be conducted a continuing of local historic and cultural resources, in accordance with Maine Historic Preservation Commission guidelines.

3.9.6. Work to provide continuing education on historic issues to local citizens.

3.9.7. Attend Training Workshops.

3.9.8. Provide Annual Report. (*Amended: 5-21-90*)

3.10. Advisory consultants. - In addition to the regular members of the Commission, the Town Council may appoint other persons, not necessarily residents of the Town, who shall serve on an advisory or consultant basis to assist the members of the Commission in the performances of their functions. Persons appointed to serve in an advisory or consulting capacity shall hold office during the pleasure of the Council.

SECTION 4 QUALIFICATIONS

The historic districts, historic sites or historic landmarks established in accordance with this Ordinance shall have one or more or any combination of the following characteristics, without limitations as to cultural or chronological period:

4.1. Historic event. - 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 Hampden and the nation, including sites and buildings at which the public may gain insight or see examples either of particular items or of larger patterns in the North American heritage.

4.2. Historic personage. - Structures or sites importantly associated with historic personages.

4.3. Historic ideal. - Structures or sites importantly associated with historic examples of a great idea or ideal.

4.4. Architectural type. - Structures or structural remains and sites embodying examples of architectural types of specimens valuable for study 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, master designer, architect or landscape architect.

4.5. Visual continuity. - Structures contributing to the visual continuity of the historic district.

4.6. Eligibility for national recognition. - Those sites or areas on or eligible for listing on the National Register of Historic Places or as a National Historic Landmark.

SECTION 5
ESTABLISHMENT OF HISTORIC DISTRICTS, HISTORIC SITES
OR HISTORIC LANDMARKS

5.1. Preliminary Procedures. - Historic districts, historic sites or historic landmarks shall be established by amendment to Section 6 of this Ordinance, and shall overlay the districts created by the Hampden Zoning Ordinance. Such amendments may be initiated by the Town Council, the Planning Board, a petition signed by six (6) or more residents of the Town eighteen (18) years of age or older, or the property owner(s). A form directed to the chairperson of the Commission shall be completed and filed with the Town Manager. The Town Manager shall thereafter call a meeting of the Commission for the purpose of formulating the Commission's recommendation concerning the request. Any application for designation of structures, sites and districts for historic preservation shall be in writing, include an application fee paid in accordance with the Hampden Fees Ordinance and shall include the following as appropriate: *(Amended: 11-17-03)*

5.1.1. Designation of structures and sites for historic preservation.

- a. A concise description of the physical elements, qualities, architectural style, period and historical significance represented by the structure or site, including a consideration of scale, materials, workmanship and spatial qualities, as relevant.
- b. A concise statement of how the structure or site meets the review criteria of Section 4 above.
- c. Interior and exterior photographs of the structure, or a site map, illustrating significant details described in Section 5.1.1.a above.

5.1.2. Designation of districts for historic preservation.

- a. A concise statement of the remaining physical elements which make this area a historic district and a description of building types and architectural styles and periods represented.
- b. A concise statement of how the district meets the review criteria of Section 4 above.
- c. A justification of the boundaries of the district.
- d. A description of the types of structures that do not contribute to the significance of the district and an estimate of the percentage of non-contributing structures.
- e. A map showing all district structures with the identification of contributing structures.

5.1.3. Expansion of existing districts for historic preservation.

- a. A concise statement of the physical elements that justify an expansion of an existing district, an explanation detailing how the expansion is consistent with the character of the district, and a description of building types and architectural styles and periods represented.
- b. A concise statement of how the expansion of an existing district meets the review criteria of Section 4 above.
- c. A justification of the expanded boundaries of the district.

- d. A description of the types of structures that do not contribute to the significance of the district and an estimate of the percentage of non-contributing structures in the historic district's proposed expansion area.
- e. A map showing all district structures in the proposed expansion area with an identification of contributing structures.

5.2. Studies, Recommendations. - Before making its recommendation concerning the proposed establishment of a historic district, historic site or historic landmark, the Commission may conduct studies and research on the proposal. The Commission will make a report to the Council on every request received. Drafts of the report shall also be mailed to the Maine Historic Preservation Commission for review and comment.

5.3. Public Hearing, Final Report. - Before a final report is made to the Council, the Hampden Historic Preservation Commission shall hold a public hearing on the request, after due notice published at least seven (7) days prior to the hearing in a newspaper of general circulation in the Town. Written notice of the proposal shall also be given at least seven (7) days prior to the hearing to the applicants, owners of all property abutting or to be included within the proposed designation, and all other persons found by the Commission to have a special interest in the proposal. Failure of any such person to receive notice of the public hearing shall not necessitate another hearing, nor invalidate any action of the Commission. A copy of the proposal shall be sent, at the same time, to the chairperson of the Planning Board for review and recommendation at the next regular meeting of said Board. Not later than sixty (60) days after said public hearing, the Commission shall submit a final report with its recommendations to the Town Council.

5.4. Actions By The Town Council. - After receipt of the Commission's recommendations, as provided above, the Town Council at its next regular meeting shall consider and take all appropriate action on said proposed amendment in accordance with the Town Charter, the Council's rules of procedure adopted pursuant thereto, and the laws of the State of Maine. *(Amended 7-2-90)*

5.5. Notification. - After designation a notice will be published in the local newspaper and property owners will be notified in writing within thirty (30) days. *(Amended: 7-2-90)*

SECTION 6
**HISTORIC DISTRICTS, HISTORIC SITES
 AND HISTORIC LANDMARKS DESIGNATED**

The following described lands, buildings or structures, or areas of the Town are designated historic districts, historic sites or historic landmarks as follows: (as designated)

6.1. Historic Districts.

The Upper Corners Historic District

6.2. Historic Sites (Reserved).

6.3. Historic Landmarks.

Harmony Hall, 24 Kennebec Road
 Thomas Penneman Stetson Homestead, 12 Shaw Hill Road *(Amended: 5-20-02)*

SECTION 7 USES PERMITTED

Uses permitted in historic districts, historic sites or historic landmarks shall be those set forth in the Town of Hampden Zoning Ordinance provisions for the zone in which such district, site or landmark are located.

SECTION 8 CERTIFICATE OF APPROPRIATENESS

In any historic district and with respect to any historic site or historic landmark, no building permit shall be issued by the Code Enforcement Officer for any construction, alteration, or demolition until a corresponding Certificate of Appropriateness has been issued by the Commission.

8.1. Certificate Of Appropriateness. - A Certificate of Appropriateness issued by the Commission shall be required before a permit is issued for any of the following:

- 8.1.1. Any change in the exterior appearance of a historic landmark or site, or any building in a historic district by addition, reconstruction or alterations.
- 8.1.2. New construction or a principal or accessory building or structure visible from a public street where such building or structure will be located in a historic district.
- 8.1.3. Demolition of a historic landmark or of any building in a historic district.
- 8.1.4. Moving of a historic landmark or any building in a historic district.

8.2. Applications. - Application for a Certificate of Appropriateness shall be obtained from the Code Enforcement Officer when obtaining a building permit, or when no building permit is required but when such activity must be approved by the Planning Board.

SECTION 9 APPLICATION PROCEDURE

Written application for the Certificate of Appropriateness shall be submitted to the Code Enforcement Officer stating the location, use and nature of the matter or item for which such Certificate is sought. The Code Enforcement Officer shall date it and transmit such application to the Chairperson of the Historic Preservation Commission for action. The Commission shall consider each application and, within forty-five (45) days of the date of submittal, approve, approve with modifications or deny the application. By mutual written consent of the Commission and the applicant, the review period may be extended, to a period not to exceed forty-five (45) days. Failure to approve or deny the application at the end of the review period shall constitute approval of the application. When the Commission acts on the application, it shall be returned to the Code Enforcement Officer, who shall then issue or deny the permits, as appropriate. *(Amended: 5-21-90, 7-2-90)*

9.1. Application Contents. - The application shall state the location, use and nature of the matter for which such certificate is sought, include an application fee paid in accordance with the Hampden Fees Ordinance and shall contain at least the following information or documentation unless any such information or documentation is expressly waived by the Commission: *(Amended: 11-17-03)*

- 9.1.1. The applicant's name, address and interest in the subject property.

- 9.1.2. The owner's name and address, if different from the applicant's.
- 9.1.3. The address or location of the subject property.
- 9.1.4. The present use and zoning classification of the subject property.
- 9.1.5. A brief description of the construction, reconstruction, remodeling, alteration, maintenance, demolition or moving requiring the issuance of a Certificate of Appropriateness.
- 9.1.6. A drawing or drawings indicating the design, texture, color and location of any proposed alteration or new construction for which the Certificate is being applied. As used herein, drawings shall mean plans and exterior elevations drawn to scale, with sufficient detail to show as far as they relate to exterior appearances, the architectural design of the buildings, including materials, textures and colors, including samples of materials and colors. Drawings shall not be required to be professionally prepared, but shall be clear, complete and specific.
- 9.1.7. Photographs of the building involved and of adjacent buildings.
- 9.1.8. A site plan indicating improvements affecting appearance such as walls, walks, terraces, planting, accessory buildings, signs, lights and other elements. The Commission may waive the requirement for a site plan if the change involved would not affect the improvements shown on such a plan.

SECTION 10 ADMINISTRATIVE PROCEDURES

10.1. Notice To Owners. - Prior to issuance or denial of a Certificate of Appropriateness, the Commission shall take such action as may be reasonably required to inform by U.S. mail the applicant, all persons owning abutting property and/or within 100 feet of the exterior boundaries of the real estate under consideration in the application and all such other persons as the Commission may deem appropriate of the pendency of the application, and shall give such persons an opportunity to be heard. For purposes of the notice required hereunder, the owners of property shall be considered to be those against whom municipal taxes for the real estate are assessed. Failure of any person to receive notice shall not necessitate another hearing, nor invalidate any action by the Commission.

10.2. Hearing. - At the request of the applicant, or any other person receiving notice under Section 10.1 above, or where the Commission deems it necessary, a public hearing on the application shall be conducted by the Commission.

10.3. Approval. - If the Commission determines that the proposed construction, reconstruction, alteration, moving, or demolition is appropriate, it shall approve a Certificate of Appropriateness and return it to the Code Enforcement Officer, who shall notify the applicant of the determination.

10.4. Disapproval. - If the Commission determines that a Certificate of Appropriateness should not be issued, it shall place upon its record the reasons for such determination and shall forthwith return the application to the Code Enforcement Officer who shall notify the applicant of such determination, furnishing him/her an attested copy of the reasons therefor, and the recommendations, if any, as appearing in the records of the Commission.

10.5. Deleted (*Amended: 7-20-92*)

SECTION 11 STANDARDS OF EVALUATION

The standards and requirements contained in this section and in the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (the most current edition) as the same may be amended from time to time, shall be used in review of applications for Certificates of Appropriateness and specifically as to procedures before demolition can take place. Design considerations and structural factors related to maintaining historic structures in good conditions shall be the Commission's primary areas of focus. *(Amended 7-2-90)*

11.1. Demolition Or Removal. - A historic landmark, or any building or structure in a historic district, or any appurtenance thereto, shall not be demolished or moved and a Certificate of Appropriateness shall not be approved until either (a) in a historic district such building or structure has been identified by the Commission as incompatible with the historic district in which it is located, or (b) the property owner can demonstrate that it is not capable of earning an economic return on its value in its present location as appraised by a qualified real estate appraiser. If such a demonstration can be made, issuance of a Certificate for movement or demolition shall be delayed for a period of 180 days. Such time period shall commence when an application for a Certificate and the Statement of Sale, as outlined below, have been filed with the Commission.

Notices shall be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice shall be published in a newspaper of general local circulation at least three (3) times prior to demolition, the final notice of which shall be not less than fifteen (15) days prior to the date of the permit, and the first notice of which shall be published no more than fifteen (15) days after the application for a permit to demolish is filed.

Prior to the issuance of such Certificate for removal, the owners shall stipulate that the proper notices as required have been posted, that the property was properly offered for sale, that there have been no bona fide offers made, and that no contract for sale has been executed with interested parties. The owner shall for the period of time set forth and at a price reasonably related to its fair market value, make a bona fide offer to sell such building or structure, and the land pertaining thereto, 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, an owner shall first file a statement with the Historic Preservation Commission, identifying the property, the offering price and the date the offer to sell shall begin. The time period set forth in this Section shall not commence until such statement has been filed.

The purpose of this Section is to further the purposes of this Ordinance by preserving historic buildings which are important to the education, culture, traditions, and the economic value of the Town, and to afford the Town, interested persons, historical societies or organizations the opportunities to acquire or to arrange for the preservation of such buildings. The Commission may at any time during such stay approve a Certificate of Appropriateness in which event a permit shall be issued without further delay.

11.2. Reconstruction, Alterations And Maintenance. - A building or structure classified as a historic landmark, a historic site, or a building or structure located in a historic district, or any part thereof, or any appurtenance related to such structures or sites, including but not limited to walls, fences, light fixtures, steps, paving, signs and natural features shall not be reconstructed, altered or maintained, and no Certificate of Appropriateness shall be issued for such actions unless they will preserve or enhance its historical and architectural character.

11.3. Construction Of New Buildings And Structures In Historic Districts. - The construction of a new building or structure within a historic district shall be generally of such design, form, proportion, mass, configuration, building material, texture, color and location on a lot as will be compatible with other buildings in the historic district and with streets and open spaces to which it is visually related and in keeping with the area.

11.4. Visual Compatibility Factors For New Construction And Additions. - Within historic districts, historic sites, or historic landmarks, all new construction and all new additions shall be visually related generally in terms of the following factors:

11.4.1. Height. The height of proposed buildings shall be compatible with adjacent buildings.

11.4.2. Proportion of Building's Front Facade. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings, structures, and open spaces where it is visually related.

11.4.3. Proportion of Opening within the Facade. The relationship of the width of the windows to height of windows and doors in a building shall be visually compatible with those of windows and doors of buildings to which the building is visually related.

11.4.4. Rhythm of Solids to Voids in Front Facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with that of the buildings to which it is visually related.

11.4.5. Rhythm of Spacing of Buildings on Streets. The relationship of the building to the open space between it and adjoining buildings shall be visually compatible with those prevailing in the area to which it is visually related.

11.4.6. Rhythm of Entrance and/or Porch Projection. The relationship of entrances and porch projections to sidewalks of a building shall be visually compatible with those of buildings to which it is visually related.

11.4.7. Relationship of Materials and Textures. The relationship of the materials and textures of the facade of a building shall be visually compatible with that of the predominant materials used in the buildings to which it is visually related.

11.4.8. Roof Shapes. The roof shape of a building shall be visually compatible with that of the buildings to which it is visually related.

11.4.9. Scale of Building. The size of the building, the building mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with those characteristics of buildings and spaces to which it is visually related.

11.4.10. Directional Expression of Front Elevation. A building shall be visually compatible with the building, squares, and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or non-directional character.

11.5. Standards For Renovation, Alterations, And Repairs Of Existing Buildings, Structures, And Appurtenances Thereof. - Within historic districts, historic sites, and historic landmarks, the Commission shall use the standards listed below in the evaluation of an application for a Certificate of Appropriateness for all renovations, alterations, and repairs of existing buildings, structures, and appurtenances thereof:

11.5.1. Every reasonable effort shall be made to provide compatible use for a property which require minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose. *(Amended: 7-2-90)*

11.5.2. The distinguishing original qualities or characters of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible. *(Amended: 7-2-90)*

11.5.3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged. *(Amended 7-2-90)*

11.5.4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected. *(Amended 7-2-90)*

11.5.5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity. *(Amended: 7-2-90)*

11.5.6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures. *(Amended: 7-2-90)*

11.5.7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken. *(Amended: 7-2-90)*

11.5.8. Every reasonable effort shall be made to protect preserve archeological resources affected by, or adjacent to any project. *(Amended: 7-2-90)*

11.5.9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment. *(Amended: 7-2-90)*

11.5.10. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired. *(Amended: 7-2-90)*

SECTION 12 MAINTENANCE

12.1. Ordinary Maintenance Permitted; Public Safety

12.1.1. *Ordinary Maintenance Permitted.* - Nothing in the Ordinance shall be construed to prevent the ordinary maintenance of any exterior feature in a historic district or of any historic landmark which does not involve a change in the design, material, or outer appearance thereof. Paint color shall be specifically excluded from the scope of this Ordinance. The replacement and/or removal of the

following distinguishing elements: doors, windows, siding, trim and roofing materials are considered as renovations, alterations, and repairs and are subject to 11.5 *Standards For Renovation, Alterations, And Repairs Of Existing Buildings, Structures, And Appurtenances Thereof*. (Amended: 6-4-01)

12.1.2. *Safety*. - Nothing in this Ordinance shall prevent the construction, reconstruction, alteration, restoration, or demolition of any feature which the Code Enforcement Officer shall certify is required by the public safety because of an unsafe or dangerous condition.

12.2. Maintenance And Repair Required. - Neither the owner of nor the person in charge of a structure within a historic district, or of a historic landmark, shall permit such historic structure or historic landmark to fall into a state of disrepair which may result in the deterioration of any exterior appurtenances or architectural features so as to produce or tend to produce, in the judgment of the Commission, a detrimental effect upon the life and character of the historic landmark or structure in question, or which could lead to a claim that demolition is necessary for public safety, including but not limited to:

12.2.1. The deterioration of exterior walls or other vertical supports.

12.2.2. The deterioration of roofs or other horizontal members.

12.2.3. The deterioration of exterior chimneys.

12.2.4. The deterioration or crumbling of exterior plaster or mortar.

12.2.5. The ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.

12.2.6. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

SECTION 13

APPEALS

(Amended: 07-20-92) (Amended: 06-19-06)

Compliance With Board of Appeals Ordinance. All appeals and variances shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court. (Amended: 06-19-06)

13.1. Administrative Appeals. - An administrative appeal from any final decision of the Commission may be taken by any party or person aggrieved thereby to the Town of Hampden Board of Appeals within thirty (30) days from the date upon which the decision was rendered. The Board of Appeals shall hear the appeal at a public hearing, and shall affirm, modify or reverse the Commission's decision within thirty (30) days of said hearing, or the appeal shall be deemed denied. The Board of Appeals shall conduct an appellate review Commission' ruling. The Board's review of the decision shall be limited to a determination of whether the Commission acted arbitrarily, capriciously, or unreasonably, or whether the decision was based on an error of law. The Board shall not substitute its judgment for that of the Commission on issues dealing with a Certificate of Appropriateness. (Amended: 06-19-06)

13.2. Variance Appeals. - A variance appeal may be taken to the Board of Appeals by any person or party claiming that the application of the Ordinance to their property constitutes an undue hardship. After a public

hearing on the application, the Board of Appeals may grant a variance from the strict application of the Ordinance if it finds that:

- 13.2.1. The property in question cannot yield a reasonable return unless a variance is granted;
- 13.2.2. The need for a variance is due to the unique circumstances of the property and not the general conditions of the neighborhood or historic district; and
- 13.2.3. The granting of a variance will not alter the essential character of the neighborhood or historic district.

Any vote to grant a variance shall require a vote in favor thereof of at least four (4) members of the Board.

13.3. *Economic Appeals.* - An economic appeal may be taken to the Board of Appeals by any person or party claiming that the strict application of the Ordinance to their property creates an unreasonable economic or financial burden. Such an appeal shall not be taken until the person or party has exhausted all other applicable remedies before the Commission or the Board of Appeals. After a public hearing, the Board may grant a waiver from the strict application of the Ordinance if it finds that:

- 13.3.1. The cost of compliance is unreasonable and unduly burdensome in light of the financial capability of the applicant or the cost of compliance far outweighs any increase in the fair market value of the property that would arise from the required improvements (as demonstrated by a professional appraisal);
- 13.3.2. The alleged burden includes substantially more than inconvenience or inability to attain a higher financial return;
- 13.3.3. The waiver will not adversely affect the objectives of this Ordinance, nor alter the essential character of the neighborhood or historic district; and
- 13.3.4. The waiver will not have an undue adverse effect on the property values of adjoining property owners who have complied with the Ordinance.

Any vote to grant a waiver shall require a vote in favor thereof of at least four (4) members of the Board.

13.4. *Deleted.* (Amended: 06-19-06)

13.5. *Deleted.* (Amended: 06-19-06)

SECTION 14
VALIDITY AND SEPARABILITY

Should any section or provision of the Ordinance be declared to be invalid by any court, such decision shall not invalidate any other section or provision of this Ordinance.

SECTION 15
CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other ordinance, law, regulation or bylaw. Where this Ordinance imposes higher and/or stricter standards, the provisions of this Ordinance shall prevail.

SECTION 16
ADMINISTRATION AND ENFORCEMENT

16.1. Code Enforcement Officer. - This Ordinance shall be administered and enforced by the Code Enforcement Officer.

16.2. Authority. - The Code Enforcement Officer shall have the authority to inspect properties to ensure compliance with the requirements of this Ordinance, shall keep public records of proceedings and certificates issued under this ordinance, and shall have the authority to institute any and all actions and proceedings, either legal or equitable, that may be necessary or appropriate to enforce the provisions of this Ordinance.

16.3. Certificate of Appropriateness. - A Certificate of Appropriateness secured under the provisions of this Ordinance shall expire if the work authorized thereby is not commenced within one (1) year of the date on which it was granted and if the work is not completed within two (2) years of said date. The Commission may grant an extension for up to one (1) additional year for good cause shown.

16.4. Penalties. - Any person, firm, or corporation, being the owner or having control of, or the use of, any building, structure or land, or part thereof, or any building contractor, who violates any of the provisions of this Ordinance shall be guilty of a civil infraction and upon conviction thereof shall be fined in accordance with the following:

16.4.1. The minimum penalty for starting construction or undertaking any activity without the required Certificate of Appropriateness shall be \$100.00 and the maximum penalty shall be \$2,500.00.

16.4.2. The minimum penalty for a specific violation shall be \$100.00 and the maximum penalty shall be \$2,500.00.

16.5. Beneficiary. - All civil penalties shall inure to the benefit of the Town of Hampden. Each day of violation shall constitute a separate offense.