



Historic District Commission



49 Main Street • New Castle • New Hampshire
• 03854

Z-61

9.3 HISTORIC DISTRICT ORDINANCE

Sections Adopted or Amended May 11, 2021:

1. Section 9.2.5.1.d – Replaced old terminology with Shoreland Water Quality Protection Act
2. Section 9.2.5.1.e – Removed wording requiring ZBA relief for buffer encroachment. Replaced old terminology with Shoreland Water Quality Protection Act.
3. Section 9.2.9 – Deleted Paragraph regarding Appeals
4. Section 9.2.10 – Deleted Paragraph regarding Review Procedures
5. Section 11.2 – Added new wording regarding appeals
6. Section 11.3 – Added new wording regarding fees
7. Section 5.4.2 – Added new wording
8. Section 6.3 – Deleted wording related to Marinas, Docks and Piers. Added wording for Docks.
9. Section 2.3.13a – Amended language for clarity, added an example and a reference on the accompanying chart.

Sections Adopted or Amended May 10, 2022:

1. Section 9.2.5.1 – Added new terminology regarding Conditional Use Permit's appeal process.
2. Section 9.2.10 – Added new section regarding Local Shoreland Permit, and its requirements along with a State Shoreland Permit, per RSA 483-B.
3. Section 9.1.1.30 – Added new wording regarding Building Permits, Timeframe, and its definition.

Sections Adopted or Amended May 9, 2023:

1. Section 9.3.7.3.b – Historic District Commission wording , certificate of Approval and Notice of Disapproval wording - Deleted ten days and added five days.
2. Section 9.3.7.3.c – Historic District Commission wording , certificate of Approval and Notice of Disapproval wording - Deleted ten days and added five days.
3. Section 9.3.7.4.c – Historic District Commission wording , Notice of Decision wording-Deleted 72 hours and added five days.
4. Building Code - amended with updated language.
5. Section 1: Code Adoption - amended with updated language, adoption of Building and Fire Codes.
6. Section 13: Permits - Update wording.

9.3 HISTORIC DISTRICT ORDINANCE

9.3.1 Authority and Purpose:

Pursuant to RSA 673:1 and under the authority granted to the Town in RSA 674:46, the Town of New Castle has established an Historic District Commission and has enacted the New Castle Historic District Ordinance as an overlay zoning district within the New Castle Zoning Ordinance. The preservation of cultural resources and particularly of structures and places of historic, architectural and community value is hereby declared to be a public purpose. The specific purposes of the Ordinance include the following:

1. To preserve and protect the buildings and the historic architectural landscape of the Historic District;
2. Conserve property values in the District;
3. Maintain continuity of scale and architectural style of constructed, reconstructed and renovated buildings within the District;
4. To promote the cultural and educational values of the historic buildings in the Town;
5. To further the implementation of the New Castle Master Plan.

9.3.2 Definitions:

Unless specifically defined below or in Section 2 of the New Castle Zoning Ordinance, words or phrases in this ordinance shall be interpreted to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

- a. Appearance. The architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, color, and texture of the – building material and the type, design, and character of all windows, doors, light fixtures, signs and appurtenant elements.
- b. Character. The aggregate of visible historic and architectural features and traits that together form the distinct nature of an historic district.
- c. Construction. The act of adding to an existing structure or the erection of a new principal accessory or structure on a lot or property.
- d. Demolition. Any act or process that destroys in part or in whole a landmark or structure.
- e. Historic Property. Any historic site, place, building, structure, or object that is deemed by the Commission to have historic, cultural, or architectural significance.
- f. Maintenance/Routine Maintenance. Ordinary maintenance and repair of any architectural feature that does not involve permanent removal or a change in design, dimensions, materials or outer appearance of such feature. It includes repairing/preserving original work with like materials to match what is original so that

- the repair is virtually indistinguishable.
- g. **Moving**. Any relocation or removal of a structure on its site or to another site.
 - h. **Preservation**. The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic structure, place, or feature.
 - i. **Reconstruction**. The act or process of reproducing by new construction, the form, feature, and detailing of a non-surviving site, landscape, building, structure, or object for the purposes of replicating its appearance at a specific period of time and in its historic location.
 - j. **Regulations**. Design guidelines and standards of review promulgated by the New Castle Historic District Commission under authority granted in RSA 674:46- that interpret and implement statutory requirements and are in conformance with the Historic District Ordinance.
 - k. **Rehabilitation**. The process of returning property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.
 - l. **Restoration**. The act or process of accurately recovering the form, features, and character of a property and its setting as it appeared at a particular period of time by means of removal of features from other periods in its history and reconstruction of missing features from the restoration period.
 - m. **Rules of Procedure**. A set of rules adopted by the Commission pursuant to RSA 676:1 concerning the method of conducting the Commission's business.
 - n. **Scale**. The proportionate size or mass judged to be in relation to the predominant size and mass of structures in the area or neighborhood of reference.
 - o. **Significant Change**. Substituting a different feature or material or adding or subtracting from the original fabric or structure.
 - p. **Texture**. The visual and tactile quality of a surface, apart from its color or form.

9.3.3 **Establishment of District:**

An historic district is established as an overlay district to the other districts established in this zoning ordinance and is superimposed upon them. The permitted uses, regulations and procedures applicable in the Historic District shall apply in addition to the regulations of the underlying districts and other applicable ordinances.

1. **Overlay District Boundaries**

An historic district shall be shown on the Zoning Map as from time to time adopted and amended by the Town of New Castle. It may coincide with, cross, or include all or part of one or more of the underlying districts.

2. **Verbal Description**

The New Castle Historic District boundaries are defined on Maps of the Tax Assessors of the Town of New Castle. The Boundary of the district is described as follows: Beginning at the point where Portsmouth Avenue enters Great Island from the west at the town cemetery, and extending easterly to the intersection with Oliver Street, one lot deep along the southerly side of that avenue and to the Piscataqua River on the northerly side of that avenue. Thence extending northeasterly along Oliver Street including both sides of the street to the intersection with Cape and River Roads. Thence extending southeasterly along River Road to its intersection with Cranfield Street one lot deep along the southwesterly side. Thence extending in two directions: first, southwesterly along Cranfield Street to the intersection with Neals Lane, one lot deep on the southeasterly side of the street and to the Piscataqua River on the northwesterly side; second, northeasterly along Cranfield Street to the intersection with Main Street and thence easterly along both sides of Main Street to the intersection with Wentworth Road, thence easterly along Ocean Street, one lot deep on the southeasterly side of Cranfield Street and southerly side of Main Street and to the Piscataqua River on the northwesterly side of Cranfield Street and northerly side of Main Street and Ocean Street.

9.3.4 **Historic District Commission:**

Pursuant to authority and stipulations of RSA 673:1 and 674:46, and in order to carry out the purpose of this ordinance the Town of New Castle established an Historic District Commission and Historic District Ordinance at the Annual Town Meeting of 1993. There is herein established the New Castle Historic District Commission with the functions and duties as authorized in RSA 673-676 and set forth in this Article, and as may be needed to carry out the purpose of this Article.

1. **Membership:**

- a. The Historic District Commission shall consist of five members and up to three alternates appointed by the Board of Selectmen. All members and alternates must be residents of New Castle and must have demonstrated interest and ability to understand, appreciate, and promote the purposes of this Article.
- b. One member shall be a member of the Board of Selectmen, one member shall be a member of the Planning Board, and at least two members shall be residents of the historic district. In appointing the remaining members and alternates the Board shall strive to include:
 - 1) a local historical society member;
 - 2) a registered architect or a builder;
 - 3) a member of another land use board;
- c. Whenever a regular member of the Commission is absent or whenever a regular member disqualifies himself or herself, the chairperson shall designate an alternate to act in the place of the absent member.

2. **Terms of Office, Officers, Vacancies, and Removal:**

- a. Nominations for the Historic District Commission shall be put forward by the Chair, and Members shall be appointed by the Select Board for three-year terms. However, the initial appointment shall be staggered so that two members shall be appointed for three years, two members for two years, and one member for one year.
- b. The Commission shall annually elect a chairperson from the appointed members and may create other officers as it deems necessary. The term of every officer and chairperson elected by the Historic District Commission shall be one year. Both the chairperson and officers shall be eligible for re-election.
- c. The Select Board shall act upon nominations sent by the Chair within sixty days to fill a vacancy, including expired terms. Vacancies shall be filled as provided by RSA 673:12.
- d. Members may be removed for cause in a manner as provided by RSA 673:13; the chairperson may request the voluntary resignation of any member who fails to attend three consecutive meetings without just cause.

3. **Meetings:**

Meetings of the Historic District Commission shall be held at the call of the Chair and at such other times as the Commission members may determine in their Rules of Procedure, but not less than four times a year. Public notification and the public hearings of the Commission's actions shall be in conformance with RSA 91-A and other applicable statutory requirements. Four 4 members of the Commission shall constitute a quorum for the conduct of business.

4. **Powers and Duties:**

The Commission shall have all the powers and duties vested in Historic District Commissions under RSA 674 and 675. In accordance with RSA 674:46, the Historic District Commission shall have the powers and duties to:

- a. Adopt and amend historic district regulations in the manner provided for in RSA 675:6, and adopt and amend Historic District Commission Rules of Procedure for the conduct of business in the manner provided for in RSA 676:1 and in accordance with RSA 91-A;
- b. Establish, adopt and make available, to applicants and the public, guidelines to be used by the Commission in reviewing and acting on applications for a Certificate of Approval to construct, alter, repair, move or demolish any building or structure within the historic district; such guidelines shall be consistent with the criteria established in Section 9.3.6 – Review Criteria;
- c. Approve or disapprove, in whole or in part, applications for Certificates of Approval for which a permit is required under Section 9.3.4., and file said Certificate of Approval or Notice of Disapproval with the Building Inspector;

- d. Request reports and recommendations from town departments and from other organizations and sources which may have information or can provide advice pertinent to the application or the proposal's impact on the District;
- e. Retain professional consultants as may be necessary to carry out the purposes of this Article, subject to the availability of funds for this purpose;
- f. Act in an advisory role to other officials, departments, boards, commissions, and committees of the town, regarding the identification, protection and preservation of local historical resources;
- g. Act as a liaison between the local government and individuals and organizations concerned with historic preservation;
- h. Work toward continuing education of citizens regarding historic preservation issues and concerns;
- i. Recommend and propose amendments and/or revisions of this Article and to the boundaries and limits of any Historic District to the Planning Board; and
- j. Keep or cause to be kept accurate and complete records of each application, all of which shall be a part of the public record.

9.3.5 Activities Subject to Approval by Historic District Commission:

Except as provided herein, it shall be unlawful for any owner or person (including without limitation any municipal or governmental entity) to construct, alter, move or demolish any building, structure, or improvements which lies within the New Castle Historic District and is visible from any street without first obtaining a Certificate of Approval from the Historic District Commission in the manner prescribed in this Article. Exceptions are declared in Section 9.3.5.2.

1. Activities Requiring Review:

For the purposes of this Article, the following activities shall require a Certificate of Approval from the Historic District Commission:

- a. Significant change, erection, alteration, relocation, or demolition of a building or structure and construction on any site;
- b. Construction or reconstruction of any stonewall or fencing; and
- c. Use of "nontraditional" building materials. These materials may be utilized within the district provided the materials are indistinguishable from traditional materials and meets the approval of a majority of the commissioners.

2. Exceptions:

For the purposes of this Article, the following activities shall not require a Certificate of

Approval from the Historic District Commission:

- a. Routine maintenance and repair of any building, structure, stonewall or fencing;
- b. Painting or repainting of buildings, structures or fences in any color;
- c. Installation of replacement windows or doors provided that the replacements:
 - 1) are of like material and of the same size and architectural features;
 - 2) if the windows or doors have glass panes, the replacement panes shall be of the same number and size and may not utilize "snap in" muntins or grills.
- d. Any heating or ventilating ducts or flues extending less than four feet above the roof plane or extend less than 12 inches out from the plane or vent into a public way.

9.3.6 Review Criteria:

The following criteria shall be considered by the Historic District Commission in reviewing applications for Certificate of Approval. In accordance with Section 9.3.4, review standards and design guidelines consistent with the following criteria may be further specified in the Historic District Regulations as adopted by the Commission per RSA 675:6.

1. Preamble:

- a. New Castle is an historic town with its character reflected in the architecture of the structures that lie within the historic district. New construction should reflect and respect established architectural traditions. Contemporary architecture is not allowed in the Historic District.
- b. It is not the purpose of this ordinance to deny a citizen the right to erect, alter, relocate, or demolish a building or structure within the historic district so long as the result will not affect the character of the historic district.

2. Criteria – Existing Structures:

- a. The impact of the proposed activity on the special character of the District, including the historical, architectural or cultural value of the buildings and streetscapes of the District.
- b. The compatibility of the exterior design, architectural components, texture and materials proposed to be used in relationship to existing structures and their setting.
- c. The scale and general size of new construction and renovations in relation to the existing surroundings, with consideration of such factors as height, width, streetscape, setbacks, number of stories, roof type, façade opening (windows, doors, etc.) and architectural details.

- d. The impact that the proposal will have on the setting and extent to which it will preserve and enhance the historical, architectural and cultural qualities of the district and the community shall be considered.

3. **Criteria – New Construction:**

- a. New Construction will be consistent with the criteria for Existing Structure, listed above.
- b. The Architecture of a proposed new structure shall conform in form and style to typical historic structures of the neighborhood within the District. Such structures shall conform to a specified historic architectural style.
- c. Size of proposed structures should be similar in external dimensions to typical historic structures of the style, except where such dimension would conflict with the building code. Such structure shall be consistent with the prevailing size and scale of other structures within the District or relevant neighborhood.

9.3.7 **Application Procedure:**

1. **Application for Certificate of Approval:**

- a. Prior to the issuance of a building permit for any exterior work with respect to any property situated in an Historic District, the owner shall submit a Certificate of Approval application to the Historic District Commission for consideration. The Building Inspector may issue the building permit only following approval of that application by the Historic District Commission or as provided in RSA Chapter 676:8 and 676:9.
- b. An application fee shall be required to accompany the application. The Historic District Commission shall establish an application fee schedule in its Regulations. Such fees shall be sufficient to cover the internal costs of review and processing of the application as well as the cost of legal notices as may be incurred by the Town.

2. **Information Required:**

a. **Application for Certificate of Approval:**

- 1) completed permit form;
- 2) narrative description of the project;
- 3) graphical renderings of sufficient clarity and detail to give the Commission a clear and certain understanding of the applicant's intention regarding the work contemplated.
- 4) when required by the Commission, site plans, building plans, elevations, perspective sketches, photographs, building materials samples or other

information reasonably required by the Commission to make its determination of approval or disapproval.

- b. As necessary in reviewing applications for Certificate of Approval applications for their impact on the Historic District, the Historic Commission may request reports and recommendations regarding the feasibility of the applicant's proposal from the Planning Board, Conservation Commission, Fire Chief, Building Inspector, and other administrative officials who may possess information concerning the impact of the proposal on the historic district, and seek advice from professional, educational, cultural or other groups or persons as may be deemed necessary for the determination of a reasonable decision.

3. **Hearings and Notices:**

- a. The Historic District Commission shall conduct one or more hearings on the application, with the first hearing held within thirty-five days of the filing of a completed application package.
- b. The Commission shall issue a Certificate of Approval or Notice of Disapproval within five days of the final hearing date unless the applicant shall agree to an extension in writing.
- c. Failure to render a decision within five days of the final hearing date or failure to render a decision within 70 days of the filing of a completed application, shall be deemed to constitute approval by the Commission, unless the applicant shall agree to an extension in writing.
- d. Written notice of the Commission hearing dates shall be given by certified mail to each abutting property owner, in cases involving demolition, relocation, new construction and/or substantial alteration. The costs involved in the above notification and required legal notices will be paid by the applicant.

4. **Notice of Approval or Disapproval:**

At the conclusion of its review, the Historic District Commission shall issue in writing one of the following documents:

a. **Certificate of Approval**

- 1) If in the opinion of a majority of the Historic District Commission members present and voting, the applicant's proposal meets the purposes of this Article, then the Commission shall issue a Certificate of Approval together with any changes, conditions, and/or stipulations necessary to comply with the provisions of this Article, signed by the chairperson.
- 2) After issuance of this Certificate, the building inspector may issue a building, demolition or other permit for the approved project.

- 3) Such approval shall lapse one year from the date of Commission's actions, unless an extension of no more than one year has been granted prior to the expiration of the original action. Such extensions may be granted without a Public Hearing, unless the Commission deems one to be in the public's interest.
- 4) No more than one extension shall be granted; except, if authorized following a Public Hearing convened to consider such a request.

b. **Notice of Disapproval**

- 1) If in the opinion of the majority of the Historic District Commission members present and voting, the application does not meet the purposes of this Article, then the Commission shall issue a Notice of Disapproval in writing together with the reasons for such decision, signed by the chairperson of the Commission.
- 2) The issuance of a Notice of Disapproval shall prohibit the building inspector from issuing a building, demolition, or other permit.
- 3) If the applicant's proposal is denied, the applicant may, and will be encouraged to, make modifications to the proposed plans and to resubmit the application for a hearing without prejudice.

c. **Notice of Filing of Decision**

All decisions of the Commission shall be made available for public inspection within five days and placed on file with the town clerk.

9.3.8 **Administration and Enforcement:**

1. **Appeals:**

Any person or persons jointly or severally aggrieved by a decision of the Historic District Commission shall have the right to appeal that decision to the Zoning Board of Adjustment in accordance with the provisions of RSA 676:5 and RSA

677:1-14. Appeals must be filed directly with the Zoning Board of Adjustment within thirty (30) days of the date of decision of the HDC without the need for the filing of a motion for rehearing with the HDC.

2. **Enforcement:**

In case of the violation of any ordinance or regulation made under the authority conferred by RSA 676, the Historic District Commission, in addition to other remedies, may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent or enjoin or abate or remove such violation.

3. **Penalties:**

Violation of this historic district ordinance may be made punishable as provided by RSA 676:17.

9.3.9 Validity:

If any section, clause, provision, portion or phrase of these Articles shall be held to be invalid or unconstitutional by any court of competent authority, such holding shall not affect, impair or invalidate any other section, clause, provision, portion or phrase of this Article.

9.4 MANUFACTURED HOUSING EXCLUSION DISTRICT

- 9.4.1** The Manufactured Housing Exclusion District is the area within the Residential District as defined in Section 3.1.6., where manufactured housing is prohibited.

9.5 PERSONAL WIRELESS SERVICE FACILITY OVERLAY DISTRICT

9.5.1 Purpose and Intent:

New Castle is a small, historic, densely populated island community. There are limits on the amount of land and how that land can be used. The total land area of the Town is .8 square miles; the population density of the Town is 1222.6 per square mile. Because Personal Wireless Service Facilities ("PWSFs") are inherently intrusive unless deployed in an aesthetically sensitive manner, and given the distinctive physical and historical character of the Town, this ordinance has been adopted to permit and promote the siting of PWSFs in a manner which meets the public interest by permitting the siting of PWSFs in the manner described below and by providing for Personal Wireless Services throughout the Town. The purpose of the Personal Wireless Service Facility Overlay District is to effectuate the following legislative goals:

1. Preserve the full authority of the Town of New Castle to regulate and to provide for reasonable opportunity for the siting of PWSFs.
2. Reduce adverse impacts the siting of such facilities may create, including, but not limited to: impacts on aesthetics, environmentally sensitive areas, historically significant areas, flight corridors, health and safety and prosperity.
3. Provide for and promote co-location on PWSFs.
4. Provide for removal of abandoned facilities.
5. Promote personal wireless services throughout the Town.
6. Discourage applications for variances from this ordinance because the

comprehensive scheme of regulation provided by this ordinance is in the public interest.

7. Legislate this ordinance pursuant to and consistent with relevant New Hampshire and federal law, including, but not limited to RSA 12-K et. seq. and the Telecommunications Act of 1996, as each may be amended.

9.5.2 Establishment of Personal Wireless Service Facility Overlay District:

The Personal Wireless Service Facility Overlay District shall consist of following and shall be subject to the hierarchical siting principles set forth below:

1. PWSFs may be deployed within existing structures, including legal nonconforming structures.
2. Town owned land outside the Historic District which does not restrict by deed or otherwise the siting of PWSFs.
3. Town owned or controlled public rights of way.

9.5.3 Siting Standards and Priorities

The following hierarchy for siting PWSFs shall apply, when consistent with the purpose and intent of this ordinance:

1. First, use of existing PWSFs;
2. Second, use of existing structures, including, but not limited to legal nonconforming structures;
3. Third, use of Town owned land as described herein.

Siting of PWSFs shall be by Alternative Antenna Structures, as defined herein. The height at which PWSFs may be deployed shall be the height of any existing structure within which such deployment occurs, including the height of any legal nonconforming structure, or, in the case of deployment of a new Alternative Antenna Structure within the public right of way, the height of existing utility poles within the public right of way in the immediate vicinity of the proposed deployment or, in the case of a new Alternative Antenna Structure on Town owned land, which is qualified for such a siting under this ordinance, such Alternative Antenna Structure may be deployed at a height which shall not exceed 10 feet over the average tree canopy height. Average tree canopy height means, for purposes of establishing the permitted height of an Alternative Antenna Structure, the average height found by inventorying the height at above ground level of all trees over twenty (20) feet in height within a radius extending fifty (50) feet from the proposed Alternative Antenna Structure.

9.5.4 Definitions:

1. **Alternative Antenna Structure:** A structure, including supporting apparatus and