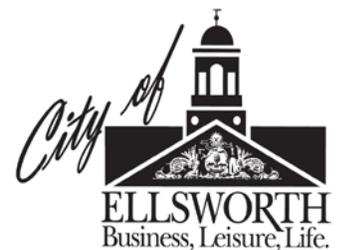


City of Ellsworth  
Chapter 39

# Historic Preservation Ordinance

A true copy –

Attest: Heidi-Noel Grindle  
City Clerk



*Adopted*  
*01/15/1979*  
*Amended 10/15/1984*  
*Repeal/Replace (Section 12 only) 12/20/1993*  
*Amended 08/20/2012*

1. Intent and Purpose. This ordinance is adopted in accordance with the Charter of the City of Ellsworth, and pursuant to the legislative authority vested in the City by virtue of Title 30, Maine Revised Statutes, Sections 1917 and 2151 (2) (G), and acts amendatory thereto, for the purposes of preserving, protecting, and enhancing buildings and places or areas within the City which possess particular historic or architectural significance in order to promote the educational, cultural, and economic welfare of the residents and visitors to the City. To achieve these purposes, it is intended that this ordinance be used to prevent inappropriate alterations and/or destruction of designated historic properties and that any new construction be completed in a manner which is compatible with the character of those properties.

2. Definitions.

2.1 Historic District. Any area which includes or encompasses such historic sites, historic landmarks, buildings, signs, appurtenances, structures or objects as may be designated in accordance with this Ordinance as appropriate for historical preservation.

2.2 Historic Site. Any parcel of land of special significance in the history of the City 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, archeological site, cemetery 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 designated in accordance with this Ordinance.

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

2.4 Cultural Resources. Any one or group of buildings, sites, landmarks or districts listed with significance as determined by this ordinance. Cultural resources may also be referred to as “historic properties.”

2.5 Designation. The identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government.

2.6 Protection. A local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to this subsection.

3. Qualifications for Designation. Cultural resources established in accordance with this Ordinance shall have one or more of the following criteria. These criteria are generally based on the standards used for evaluating cultural resources for inclusion in the National Register of Historic Places.

3.1 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 Ellsworth and the nation, including sites and buildings at which visitors may gain insight or see examples either of particular items or of larger patterns in the North American heritage.

- 3.2 Structures or sites importantly associated with persons significant to local, state or national history.
- 3.3 Structures or sites importantly associated with historic examples of a great idea or ideal.
- 3.4 Structures or structural remains and sites embodying examples of architectural types or 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.
- 3.5 Structures contributing to the visual continuity of the historic district.
- 3.6 Those sites or areas on or eligible for listing on the National Register of Historic Places or National Historic Landmark.

4. Establishment of Designated Cultural Resources. Historic districts, historic sites or historic landmarks shall be established by amendment to Section 5 of this Ordinance, and no property shall be included within a district without written notification to the property owner or owners, nor become an historic site or historic landmark without written consent of the property owner or owners. All such amendments shall be initiated by the completion of an Application for Historic Preservation Designation directed to the Chairman of the Historic Preservation Commission.

4.1 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.

4.2 Public Hearing, Final Report. Before a final report is made to the Council, the Historic Preservation Commission shall hold a public hearing on the request, after due notice. Written notice of the proposal shall be given to the applicant, 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. After said public hearing, the Commission shall submit a final report with its recommendations to the City Council, not later than thirty (30) days after public hearing.

4.3 Action By City Council. After receipt of the Commission's recommendations, as provided above, the City Council at its next regular meeting shall consider and take all appropriate action on said proposed amendment in accordance with the City Charter, the Council's rules of procedure adopted pursuant thereto, and the laws of the State of Maine. Within ten (10) days after the designation of any historic district, historic site

or historic landmark, the owner of each property so designated shall be given written notice of such designation by the City Clerk.

4.4 The Ellsworth Historic Preservation Commission shall maintain records of all cultural resources established by the City Council.

5. Currently Designated Historic Sites, Districts and Landmarks.

Appendix I - Historic buildings, historic sites and landmarks designated by the City of Ellsworth.

Appendix II – Historic Districts designated by the City of Ellsworth

6. Historic Preservation Commission.

6.1 Members of the Historic Preservation Commission shall be appointed by the City Council which shall make such appropriations each year as may be necessary to fund the activities of the Commission and dependent on the availability of funds.

6.2 The Commission shall consist of five (5) members and two (2) alternates, who shall be residents or property owners of the City of Ellsworth. Appointments shall be made on the basis of demonstrated interest, ability, experience and desire to promote historic preservation in the City of Ellsworth within the meaning of Section 1 of this Ordinance. Where such professionals are available in the community, qualifications will conform to the Secretary of the Interior's Historic Preservation Professional Qualifications Standards. Information on commission members credentials will be kept on file and available to the public. Each commission member is encouraged to attend one informational/educational meeting per year, which will be sponsored by the MHPC or other historic preservation organization. In addition to the regular members of the Commission, the City Council may, at the request of the Commission, appoint other persons, not necessarily residents of Ellsworth, who shall serve on an advisory or consultant basis to assist the members of the Commission in the performance of their functions.

6.3 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. Alternates will be appointed by the City Council and will serve a one (1) year term. Alternates may be reappointed by the City Council. Members of the Commission shall serve without compensation. Persons appointed to serve in an advisory or consulting capacity shall hold office at the pleasure of the Council.

6.4 Such Commission shall elect annually a chairman, vice chairman and secretary from its own membership. A majority of the number of members appointed by the City Council shall constitute a quorum for the transaction of business.

6.5 Said Commission for its purposes may from time to time propose to the City Council amendments to its rules and regulations consistent with the intention of

this Ordinance and of the Maine Historic Preservation Commission. Duties of the Commission shall include but not be limited to the following:

6.5.1 Conducting, or causing to be conducted a continuing survey of cultural resources in the community according to guidelines established by the Maine Historic Preservation Commission;

6.5.2 Making recommendations for designation of local landmarks and historic districts to the City Council;

6.5.3 Establishing and using written guidelines for the conservation of designated local landmarks and historic districts in decisions on requests for permits for alterations, demolition, or additions to listed landmarks and buildings within historic districts;

6.5.4 Acting in an advisory role to other officials and departments of local government regarding the protection of local cultural resources;

6.5.5 Acting as liaison on behalf of the local government to individuals and organizations concerned with historic preservation; and

6.5.6 Working toward the continuing education of citizens with the Certified Local Government's jurisdiction regarding historic preservation issues and concerns.

6.5.7 An annual report of the activities of the commission must be submitted to the City Manager, and to the MHPC.

6.5.8 The Commission shall follow the City of Ellsworth Code of Ethics/Conduct (Chapter 40).

6.6 The Historic Preservation Commission may, subject to appropriations by the City Council or other income, employ clerical and technical assistants or consultants, and may accept grants, money gifts, or gifts of service, and may hold or expand the same for all or any of the purposes of historic preservation in the City of Ellsworth. The Commission shall advise and assist owners of designated structures of historic sites with plans and assistance in complying with the requirement of this Ordinance to the extent possible under the funding available to the Commission, in an effort to further the accomplishment of this Ordinance. The Commission may erect a suitable sign or marker indicating the historical fact of any designated site or building, subject to City ordinances, appropriations or other income available to the Commission.

7. Uses Permitted. Uses permitted in historic districts, historic sites or historic landmarks shall be those set forth in the City of Ellsworth Unified Development Ordinance provisions for the zone in which such district, site or landmark are located.

8. Certificate of Appropriateness. In any designated 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 approved by the Historic Preservation Commission.

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

8.1.1 Material change in the exterior appearances of a historic landmark, site or any building in a historic district by addition, reconstruction or alteration, including removal of trim, elements, facing material, or parts of the structure; moving a structure; addition or removal of a sign; and improvements to walkways, driveways, or landscape features.

8.1.2 New construction of 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, structure or appurtenance 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 requesting a building application, or when no building permit is required but when such activity must be approved by the Historic Preservation Commission. The Commission may request additional materials including such items as photographs, architectural plans and construction bids.

9. Application Procedure. Applicants shall submit to the Historic Preservation Commission a completed application for Certificate of Appropriateness. Inclusion of all materials will assist the Commission in completing reviews. The Commission shall act on the application within thirty (30) days of submission. A thirty (30) day extension may be requested, if necessary. It shall be returned to the Code Enforcement Officer who shall then issue or deny permits as appropriate. The application shall include:

9.1 The applicant's name and address and his interest in the subject property.

9.2 The owner's name and address, if different from the applicant's.

9.3 The location of the subject property.

9.4 The present use and zoning classification of the subject property.

9.5 A brief description of the construction, reconstruction, remodeling, alteration, maintenance, demolition or moving requiring the issuance of a Certificate of Appropriateness.

9.6 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.

9.7 Photographs of the building involved and of adjacent buildings.

9.8 A site plan indicating improvements affecting appearance such as walls, walks, terraces, plantings, 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 site.

10. Administrative procedures.

10.1 Notice of Owner. 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 200 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 the property shall be considered to be those against whom municipal taxes for the real estate are assessed.

10.2 Hearings. 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 meeting on the application may 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 for issuing of necessary permits.

10.4 Disapproval. If the Commission determines that a Certificate of Appropriateness should not be issued it shall note in the official meeting minutes the reasons for such determination and furnish the applicant an attested copy of the reasons, and the recommendations, if any.

10.5 Appeals. An appeal from any final decision of the Commission as to any matter over which it has final authority may be taken by any party to the Board of Appeals within thirty (30) days of the date of the decision appealed from. The Board of Appeals may extend this time period only upon a showing by the person seeking an appeal that there was good cause for the failure to appeal within thirty (30) days of the decision.

10.5.1 An appeal shall be made by filing a written notice of appeal with the Board, which shall include the completed Certificate of Appropriateness, a concise statement of the relief requested and why it should be granted.

10.5.2 Upon being notified of an appeal, the Commission shall transmit all papers comprising the record of the decision appealed from to the Board.

10.5.3 The Board shall hold a public hearing on the appeal within thirty (30) days of its receipt of an appeal request. At least seven (7) days prior to the date of hearing on such appeal, the Board shall cause to be published in one issue of a newspaper of general circulation in the City, notice which includes:

- a. The name of the person(s) appealing;
- b. The location and description of the property involved;
- c. A brief description of the decision from which an appeal is taken;

d. The time and place of the hearing.

10.5.4 The Board shall, in addition to the notice in subsection 10.5.3 above, give written notice by regular mail or its equivalent to all abutting property owners (notice to abutting property owners shall be sent to the owner's address contained in the records of the City Tax Assessor), the person making the appeal, the Historic Preservation Commission and Code Enforcement Officer.

10.6 Appeals to the Superior Court. Any party may appeal, within forty- five (45) days after the decision is rendered, to the Superior Court from any order, relief or denial by the Board of Appeals. Such appeal shall be made in accordance with the Maine Rules of Civil Procedure, Rule 80B.

11. Standards of Evaluation. The standards and requirements contained in this section, and the Secretary of the Interior's Standards for the Treatment of Historic Properties, shall be used for review of applications for Certificates of Appropriateness and specifically as to procedures before demolition can take place.

11.1 Reconstruction, Alterations and Maintenance. A building or structure classified as a historic landmark, or any part thereof, or any appurtenance related to such structures, including but not limited to walls, fences, light fixtures, steps, paving and signs shall not be removed, 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.

11.2 Demolition or Removal. A historic landmark, or any appurtenance thereto, shall not be demolished or moved and a Certificate of Appropriateness shall not be approved until either (a) such building or structure has been identified by the Commission as incompatible with the historic district in which it is located, (b) the property owner can demonstrate that maintenance of the structure creates financial hardship, or c), that the property was properly offered for sale, after notices as required have been posted, that there have been no bona fide offers made, and that no contract for sale has been executed with interested parties. Proper notice shall include posting on the premises of the building or structure in a location clearly visible from the street, notice published in a newspaper of general local circulation at least three (3) times prior to demolition, the final notice of which shall not be 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 permit is filed. The owner shall for the period of time set forth and at a price reasonably related to its face 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, identify 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 City and to afford the City, interested persons, historic 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.

11.3 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 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. Within historic districts, new construction and existing buildings and structures and appurtenances thereof which are moved, reconstructed, materially altered, repaired or changed in color 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 Buildings Front Façade The relationship of the width of the buildings 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 with the Façade 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 façade 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 open space between it and adjoining buildings shall be visually compatible to those prevailing in the area to which it is visually related.

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

11.4.7 Relationship of Materials, Textures, and Color The relationship of materials, textures and color of the façade 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 buildings to which it is visually related.

11.4.9 Scale of Buildings 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 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.

12. Maintenance

Ordinary Maintenance. No ordinary maintenance or repair of any exterior feature in a historic district or of any historic building shall occur unless a Certificate of Appropriateness is first issued for that maintenance and repair. A Certificate of Appropriateness shall be issued if either:

12.1 The maintenance or repair does not involve a change in the design, material or outer appearance of the feature; or

12.2 The Building Inspector certifies in writing that the repair is required in the interest of public safety because of an unsafe or dangerous condition on the premises. Any modification under this subsection shall be permitted only upon a finding of the Commission that the proposed modification is the least disruptive manner of addressing the public safety concerns.

13. Penalties.

13.1 Violations. Any person who violates any provision of this Ordinance shall be guilty of a civil violation and shall be punished by a fine of not more than \$100 and not less than \$25. Each day that a violation continues shall be deemed a separate offense.

13.2 Additional Remedies. In addition to the remedies provided herein, the Commission and/or the Code Enforcement Officer are specifically authorized to institute any and all actions and proceedings, in law or in-equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this Ordinance or to prevent a threatened violation thereof.

Revisions adopted by the City Council on August 20, 2012

## Appendix I Designated Historic Sites and Landmarks

(\*asterisk indicates listing on the National Register of Historic Places)

Property	Address	Map/Lot	Date Accepted
*1. Ellsworth City Hall	1 City Hall Plaza	Map 136, Lot 189	9/17/79
*2. First Congregational Church	2 Church Street	Map 136, Lot 183	4/11/88
3. Old City Burying Ground	State Street	Map 136, Lot 182	9/17/79
*4. Ellsworth Public Library	20 State Street	Map 136, Lot 59	9/17/79
5. Ellsworth Soldier's Monument (Civil War) and Town Common	Bridge Hill intersect.	Map 133, Lot 33-1	4/28/80
*6. Old Hancock County Courthouse Old County Registry of Deeds	6 Court Street	Map 133, Lot 33	10/15/79
7. Judge John A. Peters, Jr. House	12 Maple Street	Map 134, Lot 213	4/28/80
8. Mary A. Lord House	1 Maple Street	Map 133, Lot 34	8/20/79
*9. Charles Jarvis Homestead	10 Surry Road	Map 134, Lot 226	12/17/79
10. Alexander B. Black House	6 Main Street	Map 134, Lot 10	9/17/79
11. The White Pillars (Geo. Herbert, Jr.)	88 Bucksport Road	Map 133, Lot 13	9/17/79
*12. Woodlawn (Col. John Black House)	19 Black House Dr.	Map 26, Lot 57	
*13. Whiting/Whitcomb House	214 Main Street	Map 136, Lot 213	12/17/79
14. Austin/Wiswell House	210 Main Street	Map 136, Lot 212	12/17/79
15. Joshua R. Jordan House	24 High Street	Map 134, Lot 89	4/28/80
*16. Birdsacre (Cordelia Stanwood Homestead)	289 High Street	Map 21, Lot 14	10/15/79
17. George Herbert House	6 Laurel Street	Map 133, Lot 38	7/21/80
18. Andrew Peters House	70 State Street	Map 136, Lot 62	7/21/80
19. Odd Fellows Hall	29 Main Street	Map 134, Lot 191	12/15/80
20. Albert Hopkins House	61 Pine Street	Map 134, Lot 108	8/18/80
21. George Smith House	29 Surry Road	Map 133, Lot 2	12/15/80
22. Copp/Dorr House	65 Pine Street	Map 134, Lot 107	6/16/80
23. John Black, Jr. House	70 Surry Road	Map 133, Lot 52	6/16/80
24. Little Red Farm, Levi Foster	95 Bayside Road	Map 21, Lot 2	2/3/81
25. Erastus Redman Building	14 Water Street	Map 134, Lot 17	5/21/84
26. Dr. Harding House	194 Main Street	Map 136, Lot 209	6/16/86
27. Dr. Walter Haynes House	62 Pine Street	Map 134, Lot 103	6/16/86
28. Nathaniel Treworgy Homestead	479 Surry Road	Map 9, Lot 9	10/19/87
29. James Hopkins House	140 State Street	Map 138, Lot 2	
30. Commercial Building, Dutton Block	63 Main Street	Map 134 Lot 44	
31. Commercial Building, Dutton Block	61 Main Street	Map 134, Lot 45	
32. Henry A. Dutton House	198 Main Street	Map 136, Lot 210	11/18/96
33. Jeremiah Giles House	18 South Street	Map 134, Lot 193	12/15/86
*34. Old Hancock County Jail	40 State Street	Map 136, Lot 61-1	11/21/05
*35. The Grand Theater (Samuel Kurson)	167 Main street	Map 136, Lot 258	9/21/09

Last updated: October, 2012

Administrative corrections made on June 26, 2014

## **Appendix II Historic Districts**

### 1. Union River Historic District

Adopted 07/19/1982, revised 10/12

Description: This district is located on State Street and includes the following Historic properties:

1. Ellsworth City Hall
2. First Congregational Church
3. Old City Burying Ground
4. Ellsworth Public Library
18. Andrew Peters House
34. Old Hancock County Jail