

**TOWN OF NEW CANAAN  
HISTORIC DISTRICT COMMISSION**



**HISTORIC DISTRICT REGULATIONS  
&  
RULES OF PROCEDURE**

Approved: June 26, 2008  
Effective: August 1, 2008

## **PREAMBLE**

The New Canaan Historic District and the Historic District Commission were established by the Town of New Canaan in 1963 to promote the educational, cultural, economic and general welfare of the Town of New Canaan through the preservation and protection of buildings and structures associated with the history and style of architecture within the Town of New Canaan.

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## **ARTICLE 1 – INTRODUCTION**

### **SECTION 1.1 AUTHORITY**

These regulations and rules of procedure (the “Regulations”) are adopted under the authority of Chapter 97a – Part I, Section 7-147c(e) of the General Statutes of the State of Connecticut, as amended. The statutes in Chapter 97a – Part I are copied in Appendix A of these Regulations.

### **SECTION 1.2 PURPOSES**

These Regulations have been adopted to provide guidance to property owners as to factors to be considered in preparing an application for a “Certificate of Appropriateness,” and to provide guidance to the Commission as to factors to be considered when deciding an application for a “Certificate of Appropriateness.” These Regulations set forth standards for preserving historic structures; rehabilitating historic structures; restoring historic structures; and reconstructing historic structures.

No building or structure shall be erected or altered within the historic district until after an application for a “Certificate of Appropriateness” as to exterior architectural features has been submitted to the Historic District Commission and approved by the Commission. In addition, no area within the historic district shall be used for industrial, commercial, business, home industry or occupational parking until after an application for a certificate of appropriateness as to parking has been submitted to the Commission and approved by the Commission.

The erection or alteration of exterior architectural features shall be reviewed by the Commission with consideration of appearance, materials, components, features, finishes, measurements, construction methods, scale, and spatial relationships, in order to preserve the historic character of the buildings and structures within the historic district.

### **SECTION 1.3 JURISDICTION**

The jurisdiction of the Commission extends to all properties within the historic district of the Town of New Canaan. All buildings and structures located within the historic district, regardless of age or style, are regulated as to their exterior architectural features. The district was created pursuant to an ordinance adopted by the Town of New Canaan in 1963, and the boundaries of the district are set forth in § 31-7 of the ordinances. The ordinances are set forth in Chapter 31 of the Code of the Town of New Canaan, and are copied in Appendix B of these Regulations.

The Commission shall not have jurisdiction over interior architectural features or uses of buildings; the color of paint used on the exterior of any building or structure; or the softscape materials used in landscaping.

## **SECTION 1.4 JURISDICTION OF OTHER AGENCIES**

These Regulations are in addition to the requirements of other agencies with respect to construction activity on buildings or other structures, exterior and landscape lighting, site grading, excavation, filling, etc. Regardless of whether a certificate of appropriateness is required from the Historic District Commission, activities on properties within the historic district might require a permit or license from the New Canaan Building Department; the Planning & Zoning Department; the Inland Wetlands Department; the Health Department; the Department of Public Works; or other agencies or departments of the Town or the State. These Regulations shall not be construed to limit the authority of other Town or State agencies, departments, or officials.

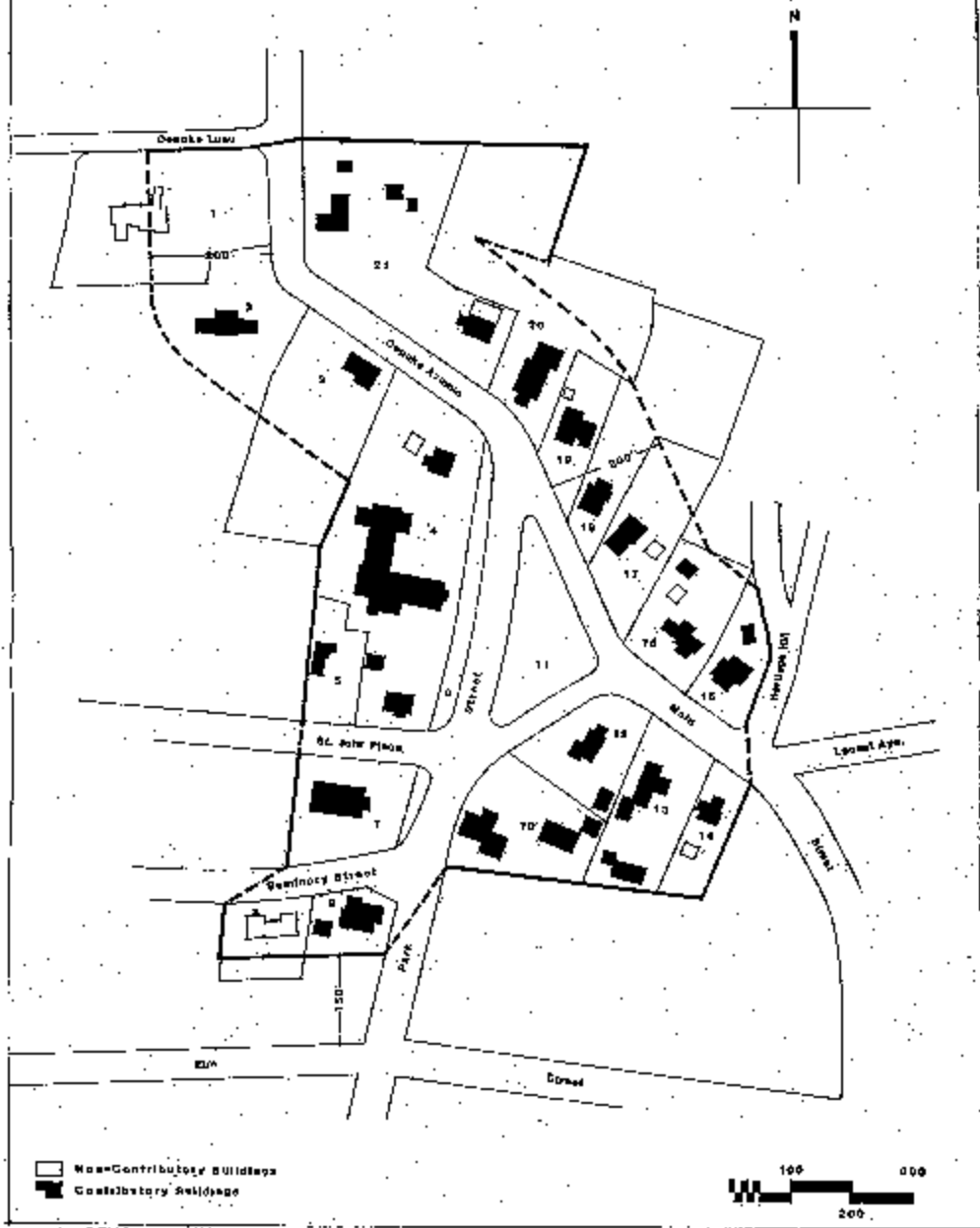
## **SECTION 1.5 PROPERTIES WITHIN THE HISTORIC DISTRICT**

The official boundaries of the historic district are set forth on the New Canaan Land Records on file in the office of the New Canaan Town Clerk. Without limitation, the following properties or structures are within the historic district (see also, map on next page):

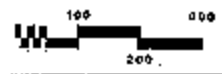
1. 20 Oenoke Lane, originally the site of the H.V.B Smith House;
2. 40 Oenoke Ridge, c. 1929 by F.F. Fischer;
3. 24 Oenoke Ridge, 2<sup>nd</sup> Episcopal Manse, 1834;
4. 1 Park Street, Congregational Parsonage 1822, and  
23 Park Street, Congregational Church, 1843;
5. 17 St. John Place, originally the site of the St. John Observatory;
6. 7 St. John Place, 2<sup>nd</sup> Congregational Parsonage, c. 1889;
7. 49 Park Street, 1<sup>st</sup> Church of Christ Scientist, 1953;
8. 18 Seminary Street, originally the site of the Silliman-Drummond House;
9. 63 Park Street, Theophilus Fitch House, 1836;
10. 46 Park Street Street, Husted-St. John House, c. 1742;
11. The Wayside Cross on God's Acre;
12. 35 Main Street, Scoville-Schweppe House, 1888;
13. 41-45 Main Street, Church Hill Walk, 1965;
14. 51 Main Street, 1<sup>st</sup> Episcopal Rectory, 1881;
15. 46 Main Street, A. Comstock-Benson House, 1841;
16. 38 Main Street, A. Seymour-S. Comstock House, 1737;
17. 18 Main Street, Henry B. Rogers House, 1859;
18. 12 Main Street, Lucy Weed Cottage, 1844;
19. 4 Main Street, Joseph Scofield House, 1839;
20. 5 Oenoke Ridge, St. Mark's Episcopal Church, 1833, now St. Michael's Lutheran Church;
21. 13 Oenoke Ridge, The New Canaan Historical Society,  
Hanford-Silliman House, 1764  
Studio of John Rogers, 1876  
Rock School, 1799  
1<sup>st</sup> Town House, 1825

**HISTORIC DISTRICT OF NEW CANAAN, CONN.**

ESTABLISHED NOVEMBER 1983 MAP JF-DATED JULY 17, 2007



Non-Contributory Buildings  
 Contributory Buildings



- |                                      |                              |                                   |
|--------------------------------------|------------------------------|-----------------------------------|
| 1. 20 DENOKE LANE                    | 8. 18 SEMINARY STREET        | 15. 45 MAIN STREET                |
| 2. 40 DENOKE RIDGE                   | 9. 63 PARK STREET            | 16. 38 MAIN STREET                |
| 3. 24 DENOKE RIDGE                   | 10. ST. JOHN PLACE (CONDO)   | 17. 18 MAIN STREET                |
| 4. FIRST CONGREGATIONAL CHURCH       | 11. GOD'S ACRE               | 18. 12 MAIN STREET                |
| 5. 17 ST. JOHN STREET                | 12. 35 MAIN STREET           | 19. 4 MAIN STREET                 |
| 6. COMMON LAND                       | 13. CHURCH HILL WALK (CONDO) | 20. ST. MICHAEL'S LUTHERAN CHURCH |
| 7. FIRST CHURCH OF CHRIST, SCIENTIST | 14. 51 MAIN STREET           | 21. NEW CANAAN HISTORICAL SOCIETY |

## **ARTICLE 2 – DEFINITIONS**

### **SECTION 2.1 USE OF TERMS**

In the interpretation and enforcement of these Regulations, the words and phrases used shall be construed as defined in this Article, unless otherwise clearly qualified by their context. Certain words contained herein shall be interpreted as follows:

1. The word “shall” is mandatory and not discretionary.
2. The word “may” is permissive.
3. When not inconsistent with the context:
  - a. Words in the present tense include the future and vice-versa.
  - b. Words in the singular include the plural and vice-versa.
  - c. Words in the masculine include the feminine and neuter and vice-versa.
4. “Filed” shall mean “submitted” and vice-versa.

Words not defined in this Article shall be interpreted by the Commission after consulting one or more of the following sources (These sources are available at the New Canaan Public Library and/or the New Canaan Building Department):

1. The Connecticut General Statutes.
2. The Connecticut State Building Code.
3. The U.S. Secretary of the Interior’s Standards for the Treatment of Historic Properties;
4. A comprehensive architectural dictionary.
5. The Illustrated Book of Development Definitions (Rutgers University, Center for Urban Policy Research – Piscataway, NJ), as amended.
6. Black’s Law Dictionary.
7. A comprehensive general dictionary.

### **SECTION 2.2 STATUTORILY DEFINED TERMS**

In the interpretation and enforcement of these Regulations, the following words and phrases shall be construed in accordance with the statutory definitions set forth in Section 7-147a of the Connecticut General Statutes, as the same may be amended from time to time (see Appendix A of these Regulations):

**ALTERED** means changed, modified, rebuilt, removed, demolished, restored, razed, moved or reconstructed.

**APPROPRIATE** means not incongruous with those aspects of the historic district which the Historic District Commission determines to be historically or architecturally significant.

**BUILDING** means a combination of materials forming a shelter for persons, animals or property.



**ERECTED** means constructed, built, installed or enlarged.

**EXTERIOR ARCHITECTURAL FEATURES** means such portion of the exterior of a structure or building as is open to view from a public street, way or place. (The Commission's policy is to consider views from any public street, way or place, whether inside the district or outside the district, as long as the exterior architectural feature is inside the district. The Commission's policy is also to disregard landscape screening when determining whether the exterior architectural feature is visible.)

**STRUCTURE** means any combination of materials, other than a building, which is affixed to the land, and shall include, but not be limited to, signs, fences and walls.

### **SECTION 2.3      OTHER DEFINED TERMS**

The following words and phrases shall have the following definitions:

**APPLICANT** means a person who applies for a Certificate of Appropriateness.

**APPLICATION** means an application in the form approved by the Commission for a Certificate of Appropriateness.

**AGENT** means a person acting on behalf of another person. With respect to an applicant, it means any person authorized in writing to act on the applicant's behalf, such as by submitting an application or acting as the applicant's representative during the application process or during construction.

**BUILDING INSPECTOR** means the Chief Building Official of the Town of New Canaan, and any assistants authorized to conduct inspections.

**CERTIFICATE OF APPROPRIATENESS** means a certificate issued by the Historic District Commission approving the erection or alteration of any exterior architectural feature of any building or structure within the historic district, together with any conditions imposed with the certificate.

**COMMISSION** means the Historic District Commission of the Town of New Canaan, Connecticut.

**COMMISSIONER** means any person appointed to serve on the Commission, and includes regular members and alternate members.

**DISTRICT** means the historic district of the Town of New Canaan, established by ordinance in 1963, as amended.

**FREEDOM OF INFORMATION ACT** means the State of Connecticut Freedom of Information Act (FOIA) set forth in the General Statutes of Connecticut, Chapter 14, section 1-200 et seq., as the same may be amended from time to time.

**HARDSCAPE** means nonliving materials used in landscaping, especially masonry work or woodwork, such as walls, fences, arbors, well houses, patios, decks, terraces, pools, water features, walkways, driveways, and parking areas, as well as lighting fixtures and lighting structures.

**HISTORIC LANDSCAPE MATERIAL** means any mature living tree or shrub that adds significant historic value to the town and the property on which it sits. Historic Landscape Material may be considered by the Commission only for purposes of suggesting the preservation by the owner; these suggestions shall be non-binding and are to encourage preservation of living historic materials only.

**PERSON** means any individual, firm, partnership, association, corporation, company, organization, or legal entity of any kind.

**SOFTSCAPE** means the organic materials used in landscaping, such as grass, flowers, herbs, plants, shrubs, trees, wood chips, mulch, etc.

**TOWN** means the Town of New Canaan, Connecticut.

**WRITING (also “written” or “in writing”)** means a hard-copy, paper document with an original signature, submitted to the appropriate person under these regulations as the context requires.

## **ARTICLE 3 – APPLICATION PROCEDURE**

### **SECTION 3.1 PRE-APPLICATION MEETING**

Pre-application meetings are strongly encouraged. An applicant may request a pre-application meeting with the Commission to: discuss proposed activity on a preliminary basis; seek informal guidance from the Commission in advance of submitting an application; discuss the information or documentation that might be required to complete an application; or, determine whether the proposed activity requires a Certificate of Appropriateness. If the Commission determines that the proposed activity involves items not subject to approval by the Commission, then no application shall be required. A pre-application meeting may be requested through the Building Inspector or through the Chairman of the Commission. Pre-application meetings shall be held at a duly noticed Commission meeting. Comments or suggestions made by Commissioners at a pre-application meeting shall not be binding upon the Commission or any Commissioner at or in connection with any formal application, hearing, or decision.

### **SECTION 3.2 WHERE AND WHEN APPLICATIONS ARE TO BE SUBMITTED**

Applications for a certificate of appropriateness shall be in the form required by the Commission, and shall be submitted to the Commission through the Building Inspector in the offices of the Building Department of the Town of New Canaan. Application forms may be obtained from the Building Department. Applications shall contain all the information required on the application form and in this Article and any other information that the Commission may reasonably require for it to make a fair and informed decision.

Applications are required in the following circumstances, and no such work shall be conducted without Commission approval of a certificate of appropriateness:

1. Any person intending to erect or alter any exterior architectural feature of any building or structure within the historic district shall submit an application prior to erecting or altering such exterior architectural feature.
2. Any person intending to create, enlarge, or alter any parking area within the historic district to be used for industrial, commercial, business, home industry or occupational parking shall submit an application prior to performing any such work.
3. Any person intending to erect any outdoor sign or bill poster within the historic district shall submit an application prior to erecting the same.

In order to allow for timely publication of legal notices, and to allow for timely distribution of application materials to Commissioners, complete applications shall be filed at least two weeks prior to any regular meeting of the Commission. The schedule of regular meetings is on file in the office of the New Canaan Town Clerk.

Serial applications are strongly discouraged. Rather than applying for certificates of appropriateness on a piecemeal basis, applicants are strongly encouraged to submit a single application that covers their entire project.

### **SECTION 3.3 FORM AND CONTENT OF APPLICATIONS**

Applicants shall submit the following information, plans, and supporting documents, and **a total of nine (9) sets shall be provided:**

1. The application form required by the Commission, with all sections completed.
2. The application fee set by the Board of Selectmen of the Town of New Canaan.
3. Photographs of the subject property showing:
  - (a) existing conditions and details of any exterior architectural feature to be altered;
  - (b) the general location of the building or structure;
  - (c) the view from the public street, way, or place;
  - (d) any available samples of features, structures, or buildings to be added or erected.
4. Unless waived by the Commission, architectural plans and elevations showing all proposed alterations or erections of exterior architectural features, including a sight line elevation showing the view from the perspective of a six foot tall person standing on the adjacent public street, way, or place. [One full-size set of plans at least 24" by 36" shall be submitted; together with eight reduced-size set of plans 11" by 17"]. Architectural plans shall include window schedules and other customary detail drawings showing the proposed detail for all exterior architectural features, and call-outs of all materials on the drawings comprising the materials makeup.
5. When a new building or structure is proposed, an A-2 survey showing the location of all existing buildings and structures, and the location of all proposed buildings or structures (minimum scale 1" = 20').
6. When an application is submitted by an agent, a written letter of authorization shall be submitted, signed by the property owner.
7. When an application involves the installation or alteration of hardscape (such as terraces, patios, fences, walls, pools, water features, walkways, driveways, etc.), a site plan shall be submitted showing the existing conditions and the proposed conditions. The site plan shall have a minimum scale of 1" = 20'.
8. When any application involves ground elevation changes in excess of six inches associated with the erection or alteration of the building or structure, a topographic survey by a licensed surveyor with one-foot contours and appropriate spot elevations shall be submitted showing the existing grade and the proposed grade for the building or structure involved.

### **SECTION 3.4            ADDITIONAL INFORMATION**

The Commission may require further information as may be reasonably deemed necessary by the Commission to enable it to make a fair and informed determination on the application. For example, the Commission may require that manufacturer or material specifications be provided. In addition, the Commission may require that sample materials be provided, such as sample window glass, sample bricks or stone, sample siding, sample roof shingles, etc. The Commission may also request that a mock-up be installed on the property when reasonably necessary to determine the scale or visibility of the exterior architectural feature.

The Commission may, if it deems appropriate, employ a consultant knowledgeable in particular areas of expertise to assist the Commission in reviewing any application for a certificate of appropriateness.

### **SECTION 3.5            INCOMPLETE APPLICATIONS**

No application shall be deemed complete unless it shall be in such form and contain such information as this Article requires or as the Commission reasonably deems necessary for it to make a fair and informed determination of the issues. Any application that is materially incomplete may be rejected by the Commission or by the Commission's agent. Any application deemed incomplete may be denied by the Commission.

### **SECTION 3.6            EXAMPLES OF ACTIVITIES REQUIRING APPROVAL**

Erection or alteration of buildings and structures in the historic district is a regulated activity for which a certificate of appropriateness is required with respect to exterior architectural features. The following are examples of regulated activities, buildings, or structures if visible from any public street, way, or place:

1. All principal buildings in the district.
2. Accessory buildings and structures including but not limited to:
  - a. Garages;
  - b. Sheds;
  - c. Barns;
  - d. Greenhouses.
3. Architectural elements including but not limited to:
  - a. Substantial removal or replacement of siding, especially any proposed aluminum, vinyl or similar siding;
  - b. Exterior trim and ornament;
  - c. Window frames, sash and muntins;
  - d. Shutters;
  - e. Storm doors and storm windows;
  - f. Window boxes and planters;
  - g. Chimneys;
  - h. Substantial removal or replacement of roof covering;

- i. Doors and entranceways;
  - j. Porches and decks;
  - k. Exposed foundations;
  - l. Dormers;
  - m. Skylights and solar panels;
  - n. Plumbing vents, fan or exhaust vents;
  - o. Awnings;
  - p. Exterior light fixtures;
  - q. Satellite dish, television or radio antenna;
  - r. Gutters, leaders and downspouts;
  - s. Any other rooftop appurtenances.
4. Site fixtures and structures including but not limited to:
- a. Fences and walls;
  - b. Patios and terraces;
  - c. Rock gardens;
  - d. Outdoor fireplaces and cooking structures;
  - e. Water fountains or features;
  - f. Swimming pools;
  - g. Driveways and walkways;
  - h. Pergolas, trellises, and arbors;
  - i. Gazebos;
  - j. Well houses;
  - k. Flag poles;
  - l. Landscape light fixtures.
5. Parking areas for industrial, commercial, business, home industry, or occupational uses
6. Signs other than temporary signs.
7. Miscellaneous fixtures and structures including but not limited to:
- a. Storage tanks, oil and propane tanks;
  - b. Air conditioning equipment;
  - c. Utility equipment;
  - d. Garbage enclosures;

### **SECTION 3.7 EXEMPTED ACTS**

Nothing in this Article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in the appearance or design thereof; nor to prevent the erection or alteration of any such feature which the Building Inspector or a similar agent certifies is required by the public safety because of a condition which is unsafe or dangerous due to deterioration.

The Commission shall have the responsibility and power to determine if any maintenance or repair is exempt, or whether the maintenance and repair is not exempt because it involves a change in the appearance or design of the exterior architectural feature. Prior to performing any such maintenance or repair, the property owner shall describe the project to the Commission in

writing, and the Commission shall determine whether an application for a certificate of appropriateness is required.

Subject to the foregoing, the following are examples of non-regulated activities or elements that do not require Commission action:

1. Interior alterations;
2. Construction or alterations not visible from any public street, way or place, provided the Commission will disregard landscape screening when determining what is visible;
3. Painting and choice of paint color;
4. Masonry repair and re-pointing that matches the existing materials and appearance;
5. Roofing repairs or re-shingling that matches the existing materials and appearance;
6. Landscape planting;
7. Street address signs and numbers;
8. Standard mailboxes and newspaper tubes.
9. Temporary signs such as real estate signs, tag sale signs, political signs, and event banners.
10. Temporary fixtures and structures such as tents for special events, construction waste containers, trailers, portable playsets, portable sculptures, and portable outdoor furniture.

## **ARTICLE 4 – GUIDELINES & STANDARDS**

In preparing an application for a certificate of appropriateness, an applicant should be guided by the standards developed by the U.S. Secretary of the Interior for the Treatment of Historic Properties.<sup>1</sup> This Article summarizes the standards. There are different standards for the following four treatments, and both the applicant and the Commission should be guided by this order of preference: (1) preservation; (2) rehabilitation; (3) restoration; and (4) reconstruction.

### **SECTION 4.1      STANDARDS FOR PRESERVATION**

**Preservation** is defined as the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project. The standards for preservation are as follows:

1. A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.
2. The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color, and texture.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

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<sup>1</sup> A copy of the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties, with related guidelines, is available in the office of the New Canaan Building Department.



## **SECTION 4.2            STANDARDS FOR REHABILITATION**

**Rehabilitation** is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. The standards for rehabilitation are as follows:

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

## **SECTION 4.3            STANDARDS FOR RESTORATION**

**Restoration** is defined as the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project. The standards for restoration are as follows:

1. A property will be used as it was historically or be given a new use which reflects the property's restoration period.
2. Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces, and spatial relationships that characterize the period will not be undertaken.
3. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Materials, features, spaces, and finishes that characterize other historical periods will be documented prior to their alteration or removal.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.
6. Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of the deterioration requires replacement of a distinctive feature, the new feature will match the old in design color, texture, and, where possible, materials.
7. Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.
8. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
9. Archeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
10. Designs that were never executed historically will not be constructed.

#### **SECTION 4.4            STANDARDS FOR RECONSTRUCTION**

**Reconstruction** is defined as the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location. The standards for reconstruction are as follows:

1. Reconstruction will be used to depict vanished or non-surviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.
2. Reconstruction of a landscape, building, structure, or object in its historic location will be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts which are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.
3. Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.
4. Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or

the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the non-surviving property in materials, design, color, and texture.

5. A reconstruction will be clearly identified as a contemporary re-creation.
6. Designs that were never executed historically will not be constructed.

## **ARTICLE 5 – PUBLIC HEARING AND DECISION**

### **SECTION 5.1 PUBLIC HEARING REQUIRED**

The Commission shall hold a public hearing upon each application for a Certificate of Appropriateness, unless the Commission determines that such application involves items not subject to approval by the Commission. The Commission or its agent shall arrange for publication of a legal notice in the newspaper prior to the public hearing in accordance with the requirements of the Connecticut General Statutes. Applicants are advised to file applications at least three weeks prior to the Commission's regular meeting date in order to allow for timely publication of the legal notice. The schedule of regular meeting dates is on file in the office of the New Canaan Town Clerk.

### **SECTION 5.2 CONDUCT OF PUBLIC HEARING**

The Commission may conduct the public hearing at any of the Commission's regular meetings, or at any special meeting that has been duly noticed. The Commission shall cause each public hearing to be recorded by a sound recording device or be transcribed by a stenographer. The public hearing shall be commenced (also called "opened") by the Chairman, who shall identify the subject property and invite comment on the application. Any member of the public may comment on an application in person or in writing at any time until the public hearing is closed. Unless otherwise determined by the Commission, the public hearing shall be conducted in the following order:

- e. Presentation by the applicant, the applicant's agents or representatives, including a detailed description of the application, blueprints, drawings, specifications as to materials, photographs, and any other pertinent evidence;
- f. Questions from Commissioners regarding the application;
- g. Evidence and comment from members of the public in support of the application;
- h. Evidence and comment from members of the public in opposition to the application;
- i. Summary of any written comments received by the Commission from any person not in attendance at the public hearing;
- j. Rebuttal by the applicant;
- k. Further questions from Commissioners;
- l. Close the public hearing.

To maintain an orderly process, each side shall proceed without interruption by the other. The Secretary or staff assistant shall mark each item of evidence as an Exhibit in numerical order, and retain each Exhibit in the Commission's records for the application. Any person displaying poster boards or large exhibits shall supply a copy of the same for the Commission's records.

### **SECTION 5.3 CONTINUATION OF PUBLIC HEARING**

If a public hearing is commenced but not completed on the date scheduled and noticed, the public hearing may be continued to another date. Publication of additional legal notices in the newspaper is not required for continued public hearings, but the Commission meetings shall be duly noticed or adjourned as required by the state Freedom of Information Act (FOIA).

### **SECTION 5.4 CLOSE OF PUBLIC HEARING**

While the public hearing is “open” on an application, all members of the Commission, including the alternate members, may ask questions and participate in the discussions. Once the public hearing is “closed” (i.e., completed), no further comments shall be offered by the applicant or any member of the public, and no further evidence shall be submitted to the Commission. Furthermore, once the public hearing is closed, no further comments shall be offered by any Commissioner who is not seated for this application.

### **SECTION 5.5 DECISIONS**

After the public hearing has been closed, and before deliberating on an application, the Chairman shall determine which Commissioners are seated for purposes of voting upon the application. Only those Commissioners who are seated may participate in the deliberations and voting. Alternate members have no authority to deliberate or vote unless seated for an absent, recused, or disqualified regular member. A quorum shall consist of at least three Commissioners, and a concurring vote of three Commissioners is necessary to approve a certificate of appropriateness.

In passing on appropriateness as to exterior architectural features, buildings, or structures, and parking areas, the Commission shall consider those factors set forth in Connecticut General Statutes § 7-147f (see Appendix A). These statutory factors, and pertinent court decisions, shall take precedence over the guidelines and standards of the U.S. Secretary of the Interior summarized in Article 4. The Commission may grant variations based on exceptional practical difficulty or undue hardship, in accordance with Connecticut General Statutes § 7-147g (see Appendix A).

The Commission shall not prohibit any proposed exterior modification of an existing structure on the grounds of its incongruity with the historic aspects of the area if the proposed modification, in the opinion of the Commission, is congruous with the existing features of the said existing structure.

When a certificate of appropriateness is denied, the Commission shall place upon its records and in the written notice to the applicant the reasons for its determination, which shall include the bases for its conclusion that the proposed activity would not be appropriate. In the written notice to the applicant, the Commission may make recommendations relative to the design, arrangement, texture, material and similar features.

## **SECTION 5.6            APPROVAL WITH CONDITIONS**

The Commission may issue a certificate of appropriateness with stipulations setting forth reasonable conditions. These conditions shall be attached to the certificate of appropriateness and set forth in the records of the Commission.

## **SECTION 5.7            DEADLINE FOR DECISION**

Unless otherwise provided by statute, the Commission shall pass upon each application for a certificate of appropriateness within sixty-five days after the filing of an application. The Commission shall give written notice of its decision to the applicant.

## **SECTION 5.8            AS BUILT DRAWING OR SURVEY**

At the request of the Historic District Commission, the applicant shall provide to the Commission an As Built Drawing or Survey that may include, at the discretion of the Commission, the location of any new structures, site improvements, fences, and any other features pertinent to the Certificate of Appropriateness issued to the applicant. The minimum scale of the As Built Drawing or Survey shall be 1" = 20'. The survey or drawing shall be for purposes of determining compliance with the Certificate of Appropriateness.

## **ARTICLE 6 – ENFORCEMENT**

### **SECTION 6.1 VIOLATIONS**

If the Commission or its enforcement agent, the Building Inspector, determines that any person is engaging in any activity without a required certificate of appropriateness, or is exceeding any conditions or stipulations of a certificate of appropriateness, or has obtained a certificate of appropriateness through deception or through inaccurate information as to the nature or scope of the work to be completed, or has engaged in or is engaging in any other violation of these Regulations or of the related statutes (see Appendix A) or town ordinances (see Appendix B), the Commission or its agent shall take action to prevent such violations. The Building Inspector shall promptly inform the Commission, in writing, of any action taken.

### **SECTION 6.2 PENALTIES**

As enforcement officer for the Commission, the Building Inspector shall take action to prevent or correct illegal acts. Pursuant to § 7-147h of the Connecticut General Statutes, and §31-6 of the Code of the Town of New Canaan, the Building Inspector may take any one or more of the following actions:

1. Issue stop work orders;
2. Issue municipal citations in the amount and manner provided by § 7-148(c)(10) of the Connecticut General Statutes, as the same may be amended from time to time;
3. Take any other enforcement action authorized by the enabling statutes, § 7-147a et seq. of the Connecticut General Statutes (see Appendix A).

## **ARTICLE 7 – GENERAL AND ADMINISTRATIVE PROVISIONS**

### **SECTION 7.1 COMMISSION OFFICERS**

The Commission shall annually elect from its own number a Chairman, a Vice-Chairman, and a Secretary. The officers of the Commission shall have the following duties:

**A. Chairman.** The Chairman shall:

1. Set the agenda for each Commission meeting. [The agenda for any regular meeting of the Commission may be amended by a two-thirds vote. The agenda for a special meeting may not be amended];
2. Preside at all meetings and hearings of the Commission;
3. Appoint committees from the Commission membership to study or work on issues of concern to the Commission, provided that the committees shall follow all applicable requirements of FOIA;
4. Appoint a secretary pro tempore to serve in the absence of the secretary;
5. Appoint alternates to fill a vacancy caused by the absence, disqualification or recusal of a regular member; and
6. Perform other duties normally carried out by a Chairman.

**B. Vice Chairman.** The Vice-Chairman shall act for the Chairman in the Chairman's absence and shall have the authority to perform duties prescribed for that office. In the absence of both the Chairman and the Vice-Chairman, the members of the Commission shall elect a Chairman pro tempore.

**C. Secretary.** The Secretary (also known as the "clerk" of the Commission) shall:

1. Ensure that agendas for regular meetings, and notices for special meetings, are properly posted at least twenty-four hours in advance of the meeting as required by the Freedom of Information Act (FOIA);
2. Ensure that legal notices are properly published in the newspaper prior to the commencement of a public hearing on an application for a certificate of appropriateness. Unless otherwise provided by statute, a legal notice of the time and place of the hearing shall be published not more than fifteen days nor less than five days before the commencement of the hearing;
3. Ensure that all Commission members are provided with timely notice of all meetings, and with copies of all agendas, applications, and application materials;
4. Ensure that all votes of the Commission are noted and filed within forty-eight hours as required by FOIA;
5. Ensure that minutes of each Commission meeting are prepared and filed within seven days as required by FOIA;
6. Ensure that records of the Commission are properly filed as required by FOIA;
7. Keep a record of the seating and rotation of alternates;
8. Attend to the correspondence of the Commission;
9. File with the Connecticut Commission on Culture and Tourism the annual report required by General Statutes § 7-147c(g); and
10. Perform other duties as are normally carried out by a Secretary.



## **SECTION 7.2           ALTERNATE MEMBERS**

The alternate members of the Commission shall, when seated as provided in this section, have all powers and duties of a regular member of the Commission. If a regular member of the Commission is absent, disqualified, or recuses himself or herself from serving on a particular matter, the Chairman shall designate an alternate to act in place of the regular member, and the Chairman shall choose alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting. Alternate members may participate in public hearings on any application for a certificate of appropriateness, but once the public hearing is closed, alternate members may not participate in the deliberations or vote unless seated as provided in this section.

## **SECTION 7.3           CONFLICT OF INTEREST**

If a member of the Commission finds himself or herself in conflict, for personal or financial reasons, with a particular application, a particular applicant, or a particular person interested in the application, the Commissioner shall recuse himself or herself from any involvement in the application. Such Commissioner shall not participate in the public hearing or in the deliberations on the application, shall not vote on the application, and shall remove himself or herself from the Commission table and either leave the room or sit in the public seating while the application is pending. Commissioners shall follow, as a minimum standard of conduct, the provisions pertaining to conflicts of interest set forth in the Code of Ethics, Chapter 17 of the Code of the Town of New Canaan.

## **SECTION 7.4           MINUTES AND RECORDS**

The minutes shall be taken either by the Secretary or by a recording secretary retained or employed by the Town. The minutes shall include the following minimum information: the attendance of Commissioners; a description of agenda items and the business transacted by the Commission; all motions, resolutions, or determinations made; the votes of each Commissioner on each motion, resolution, or determination. The Commission shall not require the Secretary or recording secretary to include in the minutes a verbatim statement or summary of each statement made during the course of the meeting, so long as the minutes accurately reflect the business transacted and decisions made. Letters and other records generally should not be attached to the minutes or filed in the Commission's minute book, but may be submitted for the Commission's records. Votes shall be available for public inspection within forty-eight hours, and minutes shall be available for public inspection within seven days, as required by FOIA.

Unless the Town establishes a regular office or place of business for the Commission, all meeting schedules, regular meeting agendas, and special meeting notices shall be posted in the office of the New Canaan Town Clerk, and all agendas, notices, votes, minutes, and records of the Commission shall be filed and kept in the office of the New Canaan Town Clerk.

## **SECTION 7.5 SEVERABILITY**

If any provision of these Regulations is declared, by a court of competent jurisdiction, to be unconstitutional or beyond the powers granted to the Commission by law, such action shall not affect the validity of any other provision or part hereof.

## **SECTION 7.6 REPEAL**

Upon approval and adoption of these Regulations by the Commission, all prior regulations adopted by the Commission shall be repealed and the within shall be substituted in lieu thereof.

## **SECTION 7.7 APPEAL**

Any person aggrieved by a decision of the Commission may appeal to the Connecticut Superior Court in accordance with § 7-147i of the General Statutes of the State of Connecticut (see Appendix B).

## **SECTION 7.8 EFFECTIVE DATE OF THESE REGULATIONS**

The effective date of these Regulations is August 1, 2008. All applications filed after this date shall be processed in accordance with these Regulations.

## **APPENDIX A**

### **GENERAL STATUTES OF CONNECTICUT**

#### **TITLE 7 MUNICIPALITIES**

#### **CHAPTER 97A – PART I – HISTORIC DISTRICTS<sup>2</sup>**

##### **Sec. 7-147a. Historic districts authorized. Definitions**

(a) As used in this part: "Altered" means changed, modified, rebuilt, removed, demolished, restored, razed, moved or reconstructed; "erected" means constructed, built, installed or enlarged; "exterior architectural features" means such portion of the exterior of a structure or building as is open to view from a public street, way or place; "building" means a combination of materials forming a shelter for persons, animals or property; "structure" means any combination of materials, other than a building, which is affixed to the land, and shall include, but not be limited to, signs, fences and walls; "municipality" means any town, city, borough, consolidated town and city or consolidated town and borough; "appropriate" means not incongruous with those aspects of the historic district which the historic district commission determines to be historically or architecturally significant.

(b) Any municipality may, by vote of its legislative body and in conformance with the standards and criteria formulated by the Connecticut Commission on Culture and Tourism, establish within its confines an historic district or districts to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places associated with the history of or indicative of a period or style of architecture of the municipality, of the state or of the nation.

(c) The legislative body of any municipality may make appropriations for the purpose of carrying out the provisions of this part.

##### **Sec. 7-147b. Procedure for establishment of historic district**

Prior to the establishment of an historic district or districts, the following steps shall be taken:

(a) The legislative body shall appoint or authorize the chief elected official of the municipality to appoint an historic district study committee for the purpose of making an investigation of a proposed historic district or districts. The legislative body of a municipality which proposes to establish more than one district may establish more than one committee if the proposed districts are not contiguous to each other nor to any existing historic district. Each committee established under the provisions of this section shall consist of five regular and three alternate members who shall be electors of the municipality holding no salaried municipal office. Such alternate members shall, when seated as provided in this section,

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<sup>2</sup> The statutes are printed here as a convenience. The Historic District Commission shall not be liable for any typographic errors or other errors in the printing. An official printing of the General Statutes, together with any amendments thereto, shall be used and applied by the Historic District Commission.

have all powers and duties of a member of the committee. If a regular member of such committee is absent or has a conflict of interest, the chairman of the committee shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

(b) The historic district study committee shall investigate and submit a report which shall include the following: (1) An analysis of the historic significance and architectural merit of the buildings, structures, places or surroundings to be included in the proposed historic district or districts and the significance of the district as a whole; (2) a general description of the area to be included within the district or districts, including the total number of buildings in each such district or districts listed according to their known or estimated ages; (3) a map showing the exact boundaries of the area to be included within the district or districts; (4) a proposed ordinance or proposed ordinances designed to create and provide for the operation of an historic district or districts in accordance with the provisions of this part; (5) such other matters as the committee may deem necessary or advisable.

(c) The historic district study committee shall transmit copies of its report to the Connecticut Commission on Culture and Tourism, the planning commission and zoning commission, or the combined planning and zoning commission, of the municipality, if any, and, in the absence of such a planning commission, zoning commission or combined planning and zoning commission, to the chief elected official of the municipality for their comments and recommendations. In addition to such other comments and recommendations as it may make, the Connecticut Commission on Culture and Tourism may recommend either approval, disapproval, modification, alteration or rejection of the proposed ordinance or ordinances and of the boundaries of each proposed district. Each such commission, board or individual shall deliver such comments and recommendations to the committee within sixty-five days of the date of transmission of such report. Failure to deliver such comments and recommendations shall be taken as approval of the report of the committee.

(d) The historic district study committee shall hold a public hearing on the establishment of a proposed historic district or districts not less than sixty-five nor more than one hundred thirty days after the transmission of the report to each party as provided in subsection (c) of this section, except that, if all such parties have delivered their comments and recommendations to the committee, such hearing may be held less than sixty-five days after the transmittal of the report. The comments and recommendations received pursuant to subsection (c) of this section shall be read in full at the public hearing.

(e) Notice of the time and place of such hearing shall be given as follows: (1) Written notice of the time, place and purpose of such hearing, postage prepaid, shall be mailed to the owners of record of all real property to be included in the proposed historic district or districts, as they appear on the last-completed grand list, at the addresses shown thereon, at least fifteen days before the time set for such hearing, together with a copy of the report of the historic district study committee or a fair and accurate synopsis of such report. A complete copy of the report, a copy of all recommendations made under subsection (c) of this section, a map showing the boundaries of the area to be included in the proposed district and a copy of the proposed ordinance shall be available at no charge from the town clerk during business hours or shall be mailed, upon request, to any owner of record of real property in the proposed historic district or districts with the notice of the hearing; and (2) by publication of such notice in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the municipality at least twice, at intervals of not less than two days, the first not more than fifteen days nor less than ten days and the last not less than two days before such hearing.

(f) The historic district study committee shall submit its report with any changes made following the public hearing, along with any comments or recommendations received pursuant to subsection (c) of this section, and such other materials as the committee may deem necessary or advisable to the legislative body and the clerk of the municipality within sixty-five days after the public hearing.

(g) The clerk or his designee shall, not later than sixty-five days from receipt of such report, mail ballots to each owner of record of real property to be included in the proposed district or districts on the question of creation of an historic district or districts, as provided for in sections 7-147a to 7-147k, inclusive. Only an owner who is eighteen years of age or older and who is liable, or whose predecessors in title were liable, to the municipality for taxes on an assessment of not less than one thousand dollars on the last-completed grand list of the municipality on real property within the proposed district, or who would be or would have been so liable if not entitled to an exemption under subdivision (7), (8), (10), (11), (13), (14), (15), (16), (17), (20), (21), (22), (23), (24), (25), (26), (29) or (49) of section 12-81, may vote, provided such owner is the record owner of the property, thirty days before the ballots must be returned. Any tenant in common of any freehold interest in any land shall have a vote equal to the fraction of his ownership in said interest. Joint tenants of any freehold interest in any land shall vote as if each joint tenant owned an equal, fractional share of such land. A corporation shall have its vote cast by the chief executive officer of such corporation or his designee. No owner shall have more than one vote.

(h) The form of the ballot to be mailed to each owner shall be consistent with the model ballot prepared by the Historic Preservation Council of the Connecticut Commission on Culture and Tourism established pursuant to section 10-409. The ballot shall be a secret ballot and shall set the date by which such ballots shall be received by the clerk of the municipality. The ballots shall be mailed by first class mail to each owner eligible to vote in such balloting at least fifteen days in advance of the day on which ballots must be returned. Notice of balloting shall be published in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the municipality at least twice, at intervals of not less than two days, the first not more than fifteen days or less than ten days and the last not less than two days before the day on which the ballots must be returned. Such ballot shall be returned to the municipal clerk, inserted in an inner envelope which shall have endorsed on the face thereof a form containing a statement as follows: "I, the undersigned, do hereby state under the penalties of false statement that I am an owner of record of real property to be included in the proposed historic district and that I am, or my predecessors in title were, liable to the municipality for taxes on an assessment of not less than one thousand dollars on the last grand list of the municipality of real property within the district, or who would be or would have been so liable if not entitled to an exemption under subdivision (7), (8), (10), (11), (13), (14), (15), (16), (17), (20), (21), (22), (23), (24), (25), (26), (29) or (49) of section 12-81." Such statement shall be signed and dated. Any person who intentionally falsely signs such ballot shall be guilty of false statement as provided in section 53a-157b. The inner envelope, in which the ballot has been inserted by the owner, shall be returned to the municipal clerk in an outer envelope endorsed on the outside with the words: "Official ballot". Such outer envelope shall also contain, in the upper left corner of the face thereof, blank spaces for the name and return address of the sender. In the lower left corner of such outer envelope, enclosed in a printed box, there shall be spaces upon which the municipal clerk, before issuance of the ballot and envelopes, shall inscribe the name, street and number of the elector's voting residence and the date by which the ballot must be returned, and before issuance the municipal clerk shall similarly inscribe such envelope with his name and address for the return thereof. All outer envelopes shall be serially numbered. The ballots shall be returned to the municipal clerk by the close of business on the day specified, and such clerk shall compare each ballot to the list of property owners to whom such ballots were mailed to insure that each such ballot has been

properly signed and returned.

(i) If two-thirds of all property owners voting cast votes in the affirmative, the legislative body of the municipality shall by majority vote take one of the following steps: (1) Accept the report of the committee and enact an ordinance or ordinances to create and provide for the operation of an historic district or districts in accordance with the provisions of this part; (2) reject the report of the committee, stating its reasons for such rejection; (3) return the report to the historic district study committee with such amendments and revisions thereto as it may deem advisable, for consideration by the committee. The committee shall submit an amended report to the legislative body within sixty-five days of such return. The committee need not hold a public hearing other than the one provided for in subsection (d) of this section, notwithstanding any changes in its report following such hearing, unless the legislative body has recommended a change in the boundaries of the proposed district or districts. The legislative body of the municipality may authorize another ballot of the owners within a proposed district or districts to be cast, other than the balloting provided for in subsection (g) of this section, notwithstanding any changes in the proposed ordinance following such balloting, if the boundaries of the proposed district in which the owners' property is situated are changed.

(j) Any ordinance, or amendment thereof, enacted pursuant to this part, which creates or alters district boundaries, shall contain a legal description of the area to be included within the historic district. The legislative body, when it passes such an ordinance, or amendment thereof, shall transmit to the municipal clerk a copy of the ordinance or amendment thereof. Such ordinance, or amendment thereof, shall be recorded in the land records of the municipality in which such real property is located and indexed by the municipal clerk in the grantor index under the names of the owners of record of such property.

#### **Sec. 7-147c. Historic district commission**

(a) Once an historic district has been established, the historic district study committee shall cease to exist and thereafter an historic district commission shall perform all the functions of the committee relative to the new district and to administering the provisions of this part.

(b) The historic district commission may from time to time, by following the procedure for creation of an historic district provided for in section 7-147b, suggest that an historic district be enlarged or that additional districts be created. Where additional property is to be included within an existing district, the owners of such additional property shall vote pursuant to subsection (g) of section 7-147b.

(c) Notwithstanding the provisions of section 7-147b, the legislative body of the municipality may enact amendments to the ordinance or ordinances of an historic district established pursuant to this part if such amendments do not involve changing district boundaries or the creation of new districts. No amendment shall be enacted until the substance of such amendment has first been submitted to the historic district commission having jurisdiction over the district affected for its comments and recommendations and either its comments and recommendations have been received or sixty-five days have elapsed without receipt of such comments and recommendations. The historic district commission may suggest amendments to the legislative body.

(d) The historic district commission established under the provisions of this part shall consist of five regular and three alternate members, who shall be electors of the municipality in which the district is situated holding no salaried municipal office. The ordinance shall

provide that one or more of the members or alternates of the historic district commission shall reside in an historic district under the jurisdiction of the commission, if any persons reside in any such district and are willing to serve on such commission. Such alternate members shall, when seated as provided in this section, have all powers and duties of a member of the commission. If a regular member of said commission is absent or has a conflict of interest, the chairman of the commission shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting. The method of appointment shall be fixed by ordinance. The appointments to membership in the commission shall be so arranged that the term of at least one member shall expire each year, and their successors shall be appointed in like manner for terms of five years. Vacancies shall be filled for the unexpired term and in the same manner as the original appointment. The commission shall elect annually a chairman, a vice-chairman and a clerk from its own number. Each member and alternate shall continue in office until his successor is duly appointed. All members and alternates shall serve without compensation. Any member or alternate may be appointed for another term or terms.

(e) The historic district commission shall adopt rules of procedure not inconsistent with the provisions of this part. The commission may adopt regulations not inconsistent with the provisions of this part to provide guidance to property owners as to factors to be considered in preparing an application for a certificate of appropriateness.

(f) The historic district commission shall keep a permanent record of its resolutions, transactions and determinations and of the vote of each member participating therein.

(g) A copy of any ordinance creating an historic district adopted under authority of this part, amendments to any such ordinance, maps of any districts created under this part, annual reports and other publications of the historic district commission and the roster of membership of such commission shall be transmitted to the Connecticut Commission on Culture and Tourism. The historic district commission shall also file with the Connecticut Commission on Culture and Tourism at least once every year a brief summary of its actions during that year, including a statement of the number and nature of certificates of appropriateness issued, any changes in the membership of the commission and any other information deemed appropriate by the historic district commission.

(h) The historic district commission may accept grants and gifts, employ clerical and technical assistance or consultants and incur other expenses appropriate to the carrying on of its work, subject to appropriation by the municipality or receipt of such grants or gifts and may expend the same for such purposes.

(i) A municipality which has more than one historic district may establish more than one historic district commission if the districts are not contiguous.

(j) Any historic district commission established under this section may, unless prohibited by charter, ordinance or special act: (1) Make periodic reports to the legislative body; (2) provide information to property owners and others involving the preservation of the district; (3) suggest pertinent legislation; (4) initiate planning and zoning proposals; (5) cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation; (6) comment on all applications for zoning variances and special exceptions where they affect historic districts; (7) render advice on sidewalk construction and repair, tree planting, street improvements and the erection or alteration of public buildings not otherwise under its control where they affect historic districts; (8) furnish information and

assistance in connection with any capital improvement program involving historic districts;  
(9) consult with groups of experts.

**Sec. 7-147d. Certificate of appropriateness: Parking areas**

(a) No building or structure shall be erected or altered within an historic district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to the historic district commission and approved by said commission.

(b) No building permit for erection of a building or structure or for alteration of an exterior architectural feature within an historic district and no demolition permit for demolition or removal of a building or structure within an historic district shall be issued by a municipality or any department, agency or official thereof until a certificate of appropriateness has been issued. A certificate of appropriateness shall be required whether or not a building permit is required.

(c) The historic district commission may request such plans, elevations, specifications, material and other information, including in the case of demolition or removal, a statement of the proposed condition and appearance of property after such demolition or removal, as may be reasonably deemed necessary by the commission to enable it to make a determination on the application. The style, material, size and location of outdoor advertising signs and bill posters within an historic district shall also be under the control of such commission. The provisions of this section shall not be construed to extend to the color of paint used on the exterior of any building or structure.

(d) No area within an historic district shall be used for industrial, commercial, business, home industry or occupational parking, whether or not such area is zoned for such use, until after an application for a certificate of appropriateness as to parking has been submitted to the commission and approved by said commission. The provisions of this section shall apply to the enlargement or alteration of any such parking area in existence on October 1, 1973.

**Sec. 7-147e. Application for certificate. Hearing. Approval**

(a) The historic district commission shall hold a public hearing upon each application for a certificate of appropriateness unless the commission determines that such application involves items not subject to approval by the commission. The commission shall fix a reasonable time and place for such hearing. Notice of the time and place of such hearing shall be given by publication in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the municipality not more than fifteen days nor less than five days before such hearing.

(b) Unless otherwise provided by ordinance, a majority of the members of the commission shall constitute a quorum and the concurring vote of a majority of the members of the commission shall be necessary to issue a certificate of appropriateness. Within not more than sixty-five days after the filing of an application as required by section 7-147d, the commission shall pass upon such application and shall give written notice of its decision to the applicant. When a certificate of appropriateness is denied, the commission shall place upon its records and in the notice to the applicant the reasons for its determination, which shall include the bases for its conclusion that the proposed activity would not be appropriate. In the notice to the applicant the commission may make recommendations



relative to design, arrangement, texture, material and similar features. The commission may issue a certificate of appropriateness with stipulations. Evidence of approval, as referred to in section 7-147d, shall be by certificate of appropriateness issued by the commission. Failure of the commission to act within said sixty-five days shall constitute approval and no other evidence of approval shall be needed.

**Sec. 7-147f. Considerations in determining appropriateness. Solar energy systems**

(a) If the commission determines that the proposed erection, alteration or parking will be appropriate, it shall issue a certificate of appropriateness. In passing on appropriateness as to exterior architectural features, buildings or structures, the commission shall consider, in addition to other pertinent factors, the type and style of exterior windows, doors, light fixtures, signs, above-ground utility structures, mechanical appurtenances and the type and texture of building materials. In passing upon appropriateness as to exterior architectural features the commission shall also consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style, scale, general design, arrangement, texture and material of the architectural features involved and the relationship thereof to the exterior architectural style and pertinent features of other buildings and structures in the immediate neighborhood. No application for a certificate of appropriateness for an exterior architectural feature, such as a solar energy system, designed for the utilization of renewable resources shall be denied unless the commission finds that the feature cannot be installed without substantially impairing the historic character and appearance of the district. A certificate of appropriateness for such a feature may include stipulations requiring design modifications and limitations on the location of the feature which do not significantly impair its effectiveness. In passing upon appropriateness as to parking, the commission shall take into consideration the size of such parking area, the visibility of cars parked therein, the closeness of such area to adjacent buildings and other similar factors.

(b) In its deliberations, the historic district commission shall act only for the purpose of controlling the erection or alteration of buildings, structures or parking which are incongruous with the historic or architectural aspects of the district. The commission shall not consider interior arrangement or use. However, the commission may recommend adaptive reuse of any buildings or structures within the district compatible with the historic architectural aspects of the district.

**Sec. 7-147g. Variations, permissible when**

Where, by reason of topographical conditions, district borderline situations or because of other unusual circumstances solely with respect to a certain parcel of land and not affecting generally the district in which it is situated, the strict application of any provision of this part would result in exceptional practical difficulty or undue hardship upon the owner of any specific property, the commission in passing upon applications shall have power to vary or modify strict adherence to said sections or to interpret the meaning of said sections so as to relieve such difficulty or hardship; provided such variance, modification or interpretation shall remain in harmony with the general purpose and intent of said sections so that the general character of the district shall be conserved and substantial justice done. In granting variations, the commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, better fulfill the purposes of said sections. In addition to

the filing required by subsection (b) of section 7-147e, the commission shall, for each variation granted, place upon its records and in the notice to the applicant the reasons for its determinations.

#### **Sec. 7-147h. Action by commission to prevent illegal acts**

(a) If any provision of this part or any action taken or ruling made by the historic district commission pursuant to the provisions of said sections or of any regulation or ordinance adopted under said sections has been violated, the commission may, in addition to other remedies, institute an action in the superior court for the judicial district wherein such violation exists, which court shall have jurisdiction to restrain such violation and to issue orders directing that the violation be corrected or removed. Such order may direct the removal of any building, structure or exterior architectural feature erected in violation of said sections or any bylaw or ordinance adopted under said sections or the substantial restoration of any building, structure, or exterior architectural feature altered or demolished in violation of said sections or any regulation or ordinance adopted under said sections. Regulations and orders of the commission issued pursuant to said sections, or to any regulation or ordinance adopted under said sections, shall be enforced by the zoning enforcement official or building inspector or by such other person as may be designated by ordinance, who may be authorized to inspect and examine any building, structure, place or premises and to require in writing the remedying of any condition found to exist therein or thereon in violation of any provision of the regulations or orders made under the authority of said sections or of any regulation or ordinance adopted under said sections.

(b) The owner or agent of any building, structure or place where a violation of any provision of this part or of any regulation or ordinance adopted under said sections has been committed or exists, or the lessee or tenant of an entire building, entire structure or place where such violation has been committed or exists, or the owner, agent, lessee or tenant of any part of the building, structure or place in which such violation has been committed or exists, or the agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation or who maintains any building, structure or place in which any such violation exists, shall be fined not less than ten dollars nor more than one hundred dollars for each day that such violation continues; but, if the offense is wilful, the person convicted thereof shall be fined not less than one hundred dollars nor more than two hundred fifty dollars for each day that such violation continues. The superior court for the judicial district wherein such violation continues or exists shall have jurisdiction of all such offenses, subject to appeal as in other cases. Each day that a violation continues to exist shall constitute a separate offense. All costs, fees and expenses in connection with actions under this section may, in the discretion of the court, be assessed as damages against the violator, which, together with reasonable attorney's fees, may be awarded to the historic district commission which brought such action. Any funds collected as fines pursuant to this section shall be used by the commission to restore the affected buildings, structures, or places to their condition prior to the violation wherever possible and any excess shall be paid to the municipality in which the district is situated.

#### **Sec. 7-147i. Appeals**

Any person or persons severally or jointly aggrieved by any decision of the historic district commission or of any officer thereof may, within fifteen days from the date when such

decision was rendered, take an appeal to the superior court for the judicial district in which such municipality is located, which appeal shall be made returnable to such court in the same manner as that prescribed for other civil actions brought to such court. Notice of such appeal shall be given by leaving a true and attested copy thereof in the hands of or at the usual place of abode of the chairman or clerk of the commission within twelve days before the return day to which such appeal has been taken. Procedure upon such appeal shall be the same as that defined in section 8-8.

**Sec. 7-147j. Exempted acts. Delay of demolition**

(a) Nothing in this part shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the historic district which does not involve a change in the appearance or design thereof; nor to prevent the erection or alteration of any such feature which the building inspector or a similar agent certifies is required by the public safety because of a condition which is unsafe or dangerous due to deterioration; nor to prevent the erection or alteration of any such feature under a permit issued by a building inspector or similar agent prior to the effective date of establishment of such district.

(b) If a building in an historic district is to be demolished, no demolition shall occur for ninety days from issuance of a demolition permit if during such time the historic district commission or the Connecticut Commission on Culture and Tourism is attempting to find a purchaser who will retain or remove such building or who will present some other reasonable alternative to demolition. During such ninety-day period the municipality may abate all real property taxes. At the conclusion of such ninety-day period, the demolition permit shall become effective and the demolition may occur. Nothing in this section shall be construed to mandate that the owner of such property sell such property or building.

**Sec. 7-147k. Prior districts unaffected. Validation of prior creations and actions. Nonprofit institutions of higher education excluded**

(a) The provisions of this part shall in no way impair the validity of any historic district previously established under any special act or the general statutes. Any and all historic districts created under the general statutes, prior to October 1, 1980, otherwise valid except that such districts, district study committees, municipalities or officers or employees thereof, failed to comply with the requirements of any general or special law, and any and all actions of such districts or historic district commission, are validated.

(b) The provisions of this part shall not apply to any property owned by a nonprofit institution of higher education, for as long as a nonprofit institution of higher education owns such property.

**Sec. 7-147l and 7-147m. Repealed. (1980, P.A. 80-314, § 12.)**

**Sec. 7-147n and 7-147o.** Reserved for future use.

**APPENDIX B**  
**HISTORIC DISTRICT ORDINANCE**

**Chapter 31 – New Canaan Town Code<sup>3</sup>**

**HISTORIC DISTRICT AND COMMISSION**

- § 31-1. Establishment.**
- § 31-2. Intent.**
- § 31-3. Administration.**
- § 31-4. Permitted exterior features and modifications.**
- § 31-5. Land Use.**
- § 31-6. Procedure.**
- § 31-7. District Boundaries.**
- § 31-8. Members.**
- § 31-9. Officers.**
- § 31-10. Effective Date.**

**[HISTORY: Adopted by New Canaan Town Meeting 6-25-63; effective 7-25-63.]**

**§ 31-1. Establishment.**

Under the authority contained in Public Act No. 430, enacted by the 1961 General Assembly of the State of Connecticut there is established: (a) An Historic District within the Town of New Canaan, and (b) An Historic District Commission of five (5) members and three (3) alternates who shall be residents and electors of the Town of New Canaan holding no public office who shall be empowered to perform all functions appointed to them by said Public Act No. 430.

**§ 31-2. Intent.**

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<sup>3</sup> The ordinance is printed here as a convenience. The Historic District Commission shall not be liable for any typographical errors or other errors in printing. The official text of the ordinance shall be the text used by the Board of Selectmen in 1963, as amended.

It is the intent of this ordinance to promote the educational, cultural, economic and general welfare of the Town of New Canaan through the preservation and protection of buildings, places and districts of historic interest within the Town of New Canaan.

**§ 31-3. Administration.**

The Historic District Commission shall administer the provisions of said Public Act No. 430 as implemented by this ordinance within the limits of the appropriation made by the Town and the budgetary allocation made by the Board of Finance.

**§ 31-4. Permitted exterior features and modifications.**

In implementing Section 5 of said Public Act No. 430, the Commission shall prepare a list of exterior architectural features which it shall designate as being obviously congruous with the historic and architectural aspects of the area. From time to time this list may be added to, in the light of the experience and decisions of the Commission. Copies of the list shall be placed in the office of the Building Inspector and shall there be available to the public.

The Commission shall not prohibit any proposed exterior modification of an existing structure on the grounds of its incongruity with the historic aspects of the area if the proposed modification, in the opinion of the Commission, is congruous with the exterior features of the said existing structure.

**§ 31-5. Land use.**

No powers of the New Canaan Town Planning and Zoning Commission and the New Canaan Zoning Board of Appeals having to do with land use within the Historic District shall be impaired by this ordinance.

**§ 31-6. Procedure. [Amended 5-11-2005; effective 5-27-2005]**

- A. No work on any type of structure which would change the appearance of any property within the Historic District when viewed from the street line shall be begun until the property owner has filed an application with the Building Inspector and has received a certificate of appropriateness from the Historic District Commission. For the purpose of this ordinance, the Building Inspector shall require the application to provide such information on those forms devised by the Historic District Commission as may be adopted or modified from time to time by the Commission. The Commission shall hold a public hearing upon each application for a certificate of appropriateness, unless the Building Inspector or the Chairman of the Commission determines that the application is substantially incomplete, or determines that such application involves items not subject to approval by the Commission. The Commission shall give written notice of its decision to the applicant, in the manner and time required by Section 7-147e of the Connecticut General Statutes, as the same may be amended from time to time. All hearings and all meetings of the Commission at which decisions are made shall be open to the public.

The Commission may issue a certificate of appropriateness with stipulations or conditions.

- B. For purposes of this ordinance, the Building Inspector shall be the enforcement agent of the Commission, and may (1) issue stop work orders, (2) issue municipal citations in the amount and manner provided by Section 7-148(c)(10) of the Connecticut General Statutes, as the same may be amended from time to time, (3) take any other enforcement action authorized by the enabling statutes, Section 7-147a et seq. of the Connecticut General Statutes, as the same may be amended from time to time. The Building Inspector and members of the Commission shall have the right to inspect the exterior of properties within the Historic District at reasonable times, including, without limitation, when activity or work occurs that might require a certificate of appropriateness, when an application for a certificate of appropriateness is pending, while approved work is progressing, and upon completion of approved work, in order to determine the applicability of and compliance with this ordinance.

**§ 31-6. District Boundaries.**

The boundaries of the Historic District shall be as follows: Beginning at a point on the northerly line of North Main Street where the westerly line of Husted Lane intersects the northerly line of North Main Street; running thence running northerly along said westerly line of Husted Lane 200 feet; running thence in a generally westerly and northwesterly direction on a line 200 feet northerly of and parallel with the northerly line of North Main Street and Oenoke Avenue to the easterly line of land of The New Canaan Historical Society; running thence easterly, northerly and thence westerly along land of said Society to the easterly line of Oenoke Avenue; running thence westerly across Oenoke Avenue to the southerly line of Oenoke Lane; running thence westerly along the southerly line of Oenoke Lane 200 feet; thence running southerly and easterly on a line 200 feet westerly and southerly and parallel with Oenoke Avenue to the westerly line of land of The Congregational Church; thence running southerly along the westerly line of land of said The Congregational Church and land of Carla Barratt-Brown to the northerly line of St. John's Place; thence southerly across St. John's Place to the westerly line of land of The Christian Science Church; thence southerly along the westerly line of land of said The Christian Science Church to Seminary Street; thence running southwestly across Seminary Street to the westerly line of land of Louise Van A. Frank; thence running southerly along the said westerly line of said Louise Van A. Frank to a point 150 feet northerly of the north line of Elm Street; running thence easterly through land of Louise Van A. Frank and land of Louise S. Perkins on a line parallel with and 150 feet northerly of the north line of Elm Street to the westerly line of Park Street; thence running northeasterly across Park Street to the southwestly corner of land of Helen M. Ashwell; thence running easterly along the southerly lines of lands of Helen M. Ashwell, of W. Harry Siemon and E. Tremain Bradley and of The American Red Cross Society to the easterly line of land of said The American Red Cross Society; thence running northerly along the easterly line of land of the said The American Red Cross Society to the southerly line of said North Main Street; and thence northerly across said North Main Street to the point or place of beginning.

**§ 31-8. Members.**

There shall be appointed by the Board of Selectmen a Commission of five regular members and three alternate members. The regular members shall serve in the following order: three from the fifteenth day of November, 1963 and two (2) from the fifteenth day of November, 1965 and quadrennially thereafter for four (4) year terms, the alternate members to serve two (2) from the fifteenth day of November, 1963 and one (1) from the fifteenth day of November, 1965 and quadrennially thereafter for four (4) year terms. The initial terms shall be three (3) from the date of appointment to the fifteenth day of November, 1963 and two (2) from the date of appointment to the fifteenth day of November, 1965 for regular members, and two (2) from the date of appointment to the fifteenth day of November, 1963 and one (1) from the date of appointment to the fifteenth day of November, 195 for alternate members. In case of a vacancy by reason of death, resignation, removal of residence from town or failure to qualify, the Board of Selectmen shall appoint a successor who shall serve for the remainder of the term of his predecessor and until his successor shall have been appointed and shall have qualified.

**§ 31-9. Officers.**

The Commission shall annually elect from its own number a Chairman, a Vice-Chairman and a Secretary.

**§ 31-10. Effective date.**

The provisions of Public Act No. 430 of the 1961 General Assembly having to do with the application for and issuance of certificates of appropriateness shall take effect when the New Canaan Historic District Commission has certified to the Board of Selectmen that a Plan of Preservation and Protection and the necessary Commission procedures have been developed.

A map showing the exact boundary lines of the area to be included within the proposed Historic District has been filed with the New Canaan Town Clerk for public inspection.