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REVISION OF THE  
HISTORIC DISTRICT ENABLING STATUTE

Connecticut General Statutes

Section 7-147 (a-m)

Prepared for and by  
Connecticut Historical Commission  
December, 1978  
Second Draft: January, 1979

An early draft of this revision was prepared by David Keith Leff, a student at the University of Connecticut School of Law. For his interest, enthusiasm and intelligence, the staff of the Connecticut Historical Commission is most grateful.

## INTRODUCTION

The first historic district in Connecticut was established in Litchfield in 1959 by Special Act. The local enabling legislation for historic districts, Public Act 430, which was codified as,

SECTIONS 7-147a-k, was enacted in 1961. Since the passage of P.A. 430 Connecticut developed the second has greatest number of municipal-ordinance established historic districts in the country. These districts range in size from over one thousand principle structures to only one structure. Over the years the law has grown by accretion through the amendment process since 1961 concepts in historic preservation, and authority of government to enact aesthetic controls have undergone substantial change. With years of experience in historic districting to draw upon, a comprehensive revision of the enabling legislation appears profitable and may prove beneficial in futhering the original purposes of P.A. 430. This proposed revision seeks to: 1) clarify ambiguities in the law; 2) give the legislation back some of the internal consistency it has lost through the amendment process and; 3) suggest substantive changes which may better facilitate preservation.

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PERSONS INTERVIEWED

1. Dr. Fred Cazal, Mansfield Historic District Commission.
2. Harlan Griswold, Chairman, Connecticut Historical Commission.
3. Jack Kennedy, West Hartford Historic District Study Committee.
4. Lee G. Kuckro, Chairman, Wethersfield Historic District Commission.
5. John W. Shannahan, Director, Connecticut Historical Commission.
6. Clark Strickland, Preservation Specialist, Connecticut Historical Commission.
7. Barry Williams, Chairman, Willington Historic District Study Committee.

DEFINITIONS

(a) Any municipality may by MAJORITY vote of its legislative body and in conformance with ~~(the standards and criteria)~~ GUIDELINES formulated by the Connecticut Historical Commission, 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 ~~(and districts of historic interest by the maintenance of such as landmarks in the history of)~~ ASSOCIATED WITH THE HISTORY <sup>OF</sup> ~~OR~~ INDICATIVE OF THE architecture of the municipality, of the state or of the nation and through the ~~(development of appropriate)~~ RETENTION OF ~~(settings)~~ such buildings AND places ~~(and districts)~~ AND THE PRESERVATION OF COMPATIBLE SETTINGS FOR THEM.

(b) FOR THE PURPOSES OF SECTIONS 7-147a to 7-147m, INCLUSIVE, THE WORDS "THIS ACT" SHALL REFER TO SECTIONS 7-147a to 7-147m, INCLUSIVE, AND ANY AMENDMENTS THERETO; THE WORD "ALTERED" INCLUDES THE WORDS "REBUILT", "REMOVED", "DEMOLISHED", "RESTORED", "RAZED", "MOVED", and "RECONSTRUCTED"; THE WORD "ERECTED" INCLUDES THE WORDS "CONSTRUCTED", "BUILT", "INSTALLED", AND "ENLARGED"; "Exterior architectural features" shall include such portion of the exterior of a structure OR BUILDING as is open to view from a public street, way, or place; "OPEN TO VIEW" MEANS VISIBLE FROM GROUND LEVEL WITH VEGETATION, INTERVENING BUILDINGS OR STRUCTURES OR MAN-MADE LANDSCAPING CONSIDERED AS THOUGH THEY HAVE BEEN REMOVED; THE WORD "BUILDING" MEANS A COMBINATION OF MATERIALS FORMING A SHELTER FOR PERSONS, ANIMALS OR PROPERTY; THE WORD "STRUCTURE" INCLUDES A COMBINATION OF MATERIALS OTHER THAN A BUILDING INCLUDING BUT NOT LIMITED TO A SIGN, FENCE, WALL, TERRACE, POOL, DECK, SURFACED VEHICULAR OR PEDESTRIAN WAY AND TENNIS COURT; THE WORD "MUNICIPALITY"

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SEC. 7-147a Historic Districts Authorized

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SHALL MEAN TOWN, CITY, BOROUGH, CONSOLIDATED TOWN AND CITY AND CONSOLIDATED TOWN AND BOROUGH.

(c) The legislative body of any municipality may make appropriations for the purpose of carrying out the provisions of [section 7-147a to 7-147k, inclusive] THIS ACT.

SUBSECTION (a)

1. The requirement that a majority of the local legislative body vote to established a study committee will eliminate confusion over the percentage of vote required and will promote uniformity throughout the state.
2. Clark Strickland has stated that "guidelines" rather than "standards" and criteria" is more accurate.
3. The word "landmarks" has been eliminated because it suggests museum pieces which are not necessarily the aim of historic districting. The change will help make it clear that a building or structure need not be highly unusual to be worthy of preservation. "The new preservation movement must look beyond the individual building and individual landmark and concern itself with the historic and architecturally valved areas and districts which contain special meaning for the community". U.S. Conference of Mayors With Heritage So Rich (1966) at 208. It is hoped that the change will promote preservation of diverse forms of architecture and not just the proverbial eighteenth century houses on the green. "The genius of many historic areas is the variety of visual experiences provided in large part by the many styles that are present, graphically documentary an areas evolution, growth and continuous use. To adequately present this continuum of history, the entire spectrum should be considered". National Trust for Historic Preservation, A GUIDE TO DELINEATING EDGES OF HISTORIC DISTRICTS (1976)
4. "Development has been eliminated because there is no development per se under this act. "Maintenance and improvement" of historic settings is closer to reality. "The primary purpose of the preservation of districts should be the maintenance of the environmental amenity, or the sense of time and place of culturally significant living parts of communities." National Trust for Historic Preservation, A GUIDE TO DELINEATING EDGES OF HISTORIC DISTRICTS (1976).

SUBSECTION (b)

1. Conversations with individuals on local commission revealed some confusion as to the meaning of "structure" or building and therefore they are defined. "Altered" and "erected" are defined so that words included within their meaning need not be repeated throughout the statute. Currently, different words are used in various sections without any real difference in their meanings. These definitions are derived primarily from Mass Gen. Laws Ann Chap 40C 5 (1968 upon which the Connecticut historic district legislation was largely based.
2. The definition of "exterior architectural feature" was taken from section 7-147d (a) and put in this subsection so all definition would be together.



SUBSECTION (b) (CON'T)

3. "This Act" is defined to prevent repetition of the section numbers throughout the statute and to prevent the current situation where the statute has more sections (due to amendment) than are made reference to throughout the body of the law.
4. A definition of "historic" or "historic district" was considered, but a fluid meaning based on the language of subsection (a) will do more to promote the development of preservation law as the meaning of historic preservation changes over time. A definition is workable. The following was adopted by the Connecticut Historical Commission in 1975: "An historic district is an area, or cluster of related buildings, or objects and structures in a compatible setting which, taken as a whole, visually express styles and modes of various periods in American history" CONNECTICUT HISTORICAL COMMISSION, A Handbook: Standards and Criteria for Establishing an HISTORIC DISTRICT (1977).
5. The definition of "municipality" is inferred from Sec. 7-101a.

PRELIMINARY STEPS

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 EXECUTIVE OFFICER OF THE MUNICIPALITY TO APPOINT an historic district study committee for the purpose of making an investigation of a proposed historic district, OR DISTRICTS. Each historic district study committee established under the provisions of §section 7-147a to 7-147k, inclusive, THIS ACT shall consist of five members who shall be electors of the municipality holding no salaried municipal office. IN CASE OF INABILITY OF ANY MEMBER OF THE STUDY COMMITTEE TO ACT BECAUSE OF ABSENCE OR SICKNESS, THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY SHALL APPOINT A REPLACEMENT.

b) The historic district study committee shall investigate and WRITE A REPORT INCLUDING §on the FOLLOWING: (1) the historic significance AND ARCHITECTURAL MERIT of the buildings, structures, features, AND places or surroundings to be included in a proposed historic district or districts AND THE SIGNIFICANCE OF THE DISTRICT AS A WHOLE; (2) §and designate the area to be included therein, A COMPLETE DESCRIPTION OF THE AREA TO BE INCLUDED WITHIN THE PROPOSED HISTORIC DISTRICT OR DISTRICTS, INCLUDING THE TOTAL NUMBER OF BUILDINGS THEREIN LISTED ACCORDING TO THEIR KNOWN OR ESTIMATED AGES; (3) A MAP SHOWING THE EXACT BOUNDARIES OF THE AREA TO BE INCLUDED WITHIN THE PROPOSED HISTORIC DISTRICT OR DISTRICTS; (4) A PROPOSED ORDINANCE DESIGNED TO IMPLEMENT THE PROVISIONS OF THIS ACT; (5) SUCH MATTERS AS THE COMMITTEE MAY DEEM NECESSARY OR ADVISABLE.

(c) The historic district study committee shall transmit copies of its report to the Connecticut Historical Commission, the planning commission and zoning commission of the municipality, if any, and in the absence of such a planning commission or zoning commission to the §Selectmen

or to the warden and burgesses or to the chief executive officer of the municipality for their consideration COMMENTS and recommendations and each such body or individual shall give his recommendations within ninety days from the date of receipt of such report. In addition to such other COMMENTS and recommendations as it may WISH TO MAKE, the Connecticut Historical Commission may comment upon and may recommend either approval, disapproval, modification, alteration or rejection of the PROPOSED ORDINANCE AND THE boundaries of each proposed district. Such recommendations shall be read in full at the public hearing to be held by the historic district study committee as hereinafter specified. EACH BODY OR INDIVIDUAL SHALL GIVE ITS OR HIS COMMENTS AND RECOMMENDATIONS WITHIN NINETY DAYS FROM THE DATE OF RECEIPT OF SUCH REPORT failure to make recommendations within ninety days after the date of such receipt AND FAILURE TO DO SO SHALL be taken as approval of the report of the historic district study committee.

(d) The historic district study committee shall hold a public hearing on the establishment of a proposed district or districts not more than one hundred fifty days after the transmission RECEIPT of its report BY ALL THE BODIES OR THE INDIVIDUAL as provided SPECIFIED in subsection (c) of this section. 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 postage prepaid shall be given 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 twenty days before the time set for such hearing.

(together with a copy) COPIES of the report or of the historic district study committee (for a fair and accurate synopsis of such 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 TO EACH 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 five days APART, the <sup>SECOND LEGAL ADVERTISEMENT NOT LESS THAN</sup> first not more than two days before such hearing.

(f) The historic district study committee shall submit (a final report) ITS REPORT WITH ANY CHANGES MADE FOLLOWING THE PUBLIC HEARING (the report of the committee shall contain the following:

(1) A complete description of the area to be included within the proposed historic district of districts including the total number of buildings therein listed according to their known or estimated ages; (2) a map showing the exact boundaries of the area to be included within the proposed historic district or districts; a proposed ordinance designed to implement the provisions of sections 7-147a to 7-147k, inclusive; (4) a copy of the report) ALONG WITH THE COMMENTS and recommendations (of the historical commission;) RECEIVED PURSUANT TO SUBSECTION (c) OF THIS SECTION, AND (5) such other (matters) MATERIALS as the committee may deem necessary (and) OR advisable.

(g) The legislative body (after reviewing the report of the historic district study committee) shall NOT LATER THAN SIXTY DAYS FROM RECEIPT OF SUCH REPORT AUTHORIZE (cause) ballots to be (taken) MAILED (Any ballot or balloting required under the provisions of section 7-147b shall be a secret ballot and may be taken in writing

by mail or by use of voting machines) to (the owners of) EACH OWNER of (all) real property to be included in the proposed district on the question of adoption of (an historic district ordinance and,) HISTORIC DISTRICT STATUS AS PROVIDED FOR IN THIS ACT. (In any balloting required under the provisions of said section, each) ONLY AN owner of the age of eighteen years or more who is liable or whose predecessors in title were liable to the town for taxes assessed against him or them, as the case may be, on an assessment of not less than one thousand dollars on the last completed grand list of the (town) MUNICIPALITY on real property within the district, or who would be 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), (49), of section 12-81, may vote provided he is the record owner of the property fourteen days before the ballots must be returned. A joint owner of any freehold interest in any land shall have a vote equal to the fraction of his or her ownership in said interest. A corporation (which is liable to the town for taxes assessed against it of not less than one thousand dollars on the last-completed grand list of the town on real property within the district shall have one vote which shall be cast) 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) PURSUANT TO SUBSECTION (g), the legislative body shall provide for the form of such ballot WHICH SHALL BE A SECRET BALLOT and shall set ~~(a~~ a date on which such balloting shall take place, if such balloting is by voting machine, or shall set ~~)~~ the date by which such ballots shall be ~~[postmarked for return]~~ RECEIVED BY THE CLERK OF THE MUNICIPALITY. ~~[If such ballot is in writing by mail. Such]~~ <sup>THE</sup> THE legislative body shall cause ~~[notice of such balloting to be given by written notice]~~ SUCH BALLOTS TO BE mailed BY FIRST CLASS MAIL to each person eligible to vote in such balloting at least fifteen days in advance ~~[thereof and by]~~ OF THE DAY ON WHICH BALLOTS MUST BE RETURNED. THE LEGISLATIVE BODY SHALL CAUSE publication OF A LEGAL NOTICE in a newspaper having a general circulation in the municipality ~~(seven)~~ NO MORE THAN EIGHT BUT NOT LESS THAN FIVE DAYS in advance ~~[thereof]~~ OF THE DAY ON WHICH BALLOTS MUST BE RETURNED. ~~[When the ballot is by voting machine, the legislative body shall provide for written ballots by mail for property owners eligible to vote. When voting is by written ballot, the ballots shall be sent by first class mail to those persons eligible to vote not later than seven days before they must be returned.]~~ The ballots shall be returned to the ~~[town]~~ MUNICIPALITY clerk. ~~[The legislative body shall provide that such ballot shall be endorsed by the person casting such ballot and that such endorsement shall be attested to by an appropriate commissioner or notary public in such a manner as will insure the secrecy of the ballot. The legislative body may also adopt such other requirements as it deems necessary to assure that the balloting is secret and that only persons eligible to vote pursuant to subsection (b) of this section are permitted to vote.]~~ BALLOTS SHALL BE RETURNED TO THE CLERK OF THE MUNICIPALITY BY THE CLOSE OF BUSINESS ON THE DAY SPECIFIED.

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(i) If [seventy-five percent] A MAJORITY of all [such owners voting thereon vote affirmatively by such ballots] BALLOTS CAST ARE AFFIRMATIVE, THE LEGISLATIVE BODY OF THE MUNICIPALITY shall by MAJORITY VOTE take one of the following steps: (1) Reject the report of the committee, stating its reasons therefor; (2) accept the report of the committee and an ordinance, to carry out the provisions of [section 7-147a to 7-147k, inclusive] THIS ACT; (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 and [a further] AN AMENDED report to the legislative body within ninety

SEC. 7-147b. PRELIMINARY STEPS (CON'T)

days of such return. THE HISTORIC DISTRICT STUDY COMMITTEE NEED NOT HOLD A SECOND PUBLIC HEARING AFTER THE ONE PROVIDED FOR IN SUBSECTION (d) OF SECTION 7-417b DESPITE CHANGES IN ITS REPORT FOLLOWING SUCH HEARING UNLESS THE BOUNDARIES OF THE PROPOSED DISTRICT WILL BE CHANGED. THE LEGISLATIVE BODY OF THE MUNICIPALITY NEED NOT CAUSE BALLOTS OF THE PROPERTY OWNERS WITHIN A PROPOSED DISTRICT TO BE CAST FOLLOWING THE BALLOTING PROVIDED FOR IN SUBSECTION (g) OF SECTION 7-147b DESPITE CHANGES IN THE PROPOSED ORDINANCE FOLLOWING SUCH BALLOTING UNLESS THE BOUNDARIES OF THE PROPOSED DISTRICT WILL BE CHANGED.

(j) Any ordinance or amendment thereof WHICH ALTERS DISTRICT BOUNDARIES, enacted pursuant to [subsection (f) to (h) inclusive] THIS ACT, shall contain a legal discription of the area to be included with the historic district. [And the names of the owner of such property to whom notice was given pursuant to subsection (e)] THE LEGISLATIVE BODY WHEN IT PASSES SUCH ORDINANCE SHALL CONVEY TO THE MUNICIPALITY CLERK A COPY OF THE REPORT TO THE HISTORIC DISTRICT STUDY COMMITTEE. Such ordinance or amendment thereof, shall be recorded in the land records of the [town] MUNICIPALITY in which [such real property] THE HISTORIC DISTRICT is located and indexed by the [town] MUNICIPALITY clerk in the grantor index under the names of the owners of record of [such] property within such area WITHIN SIXTY DAYS OF THE PASSAGE OF SUCH ORDINANCE OR AMENDMENT.



SUBSECTION (a)

1. In many towns the executive branch of the local governments makes appointments. Appointments by the legislative body may be cumbersome where such body is the town meeting. This language allows the municipality to devise the exact means of choosing historic district study committee members. It would be emphasized that power to establish a district remains in the hands of the legislative body as provided in Sec. 7-147a.
2. There is currently no provision in the statute for replacement of a study committee member who would or could no longer serve. This caused a problem in Willington where a member resigned. In order to provided a clear cut method of replacement that would insulate the work of the committee from attack in the courts, the chief executive officer of the municipality has been given the power to make such replacement.

SUBSECTION (b)

1. The difference between the language in this subsection and subsection (f) which concerns a "final report" have been harmonized and much of the language of subsection (f) has been included in this section since the report herein mentioned should be a preliminary draft of the "final report". Added to the report requirements are a statement of the "architectural merit" of buildings as well as their historic significance. This is usually present in the report anyway, but the change will make this explicit. The requirement of information on the significance of the district as a whole should help focus the purpose of establishing a district, and is also usually contained in committee reports. An attempt has been made to clarify the contents of the report before the committee gets to the point where the report is to be submitted to the legislative body.

SUBSECTION (c)

1. Language relative to submission of the report to selectman or warden and burgesses is considered superfluous in light of the fact that the report goes to the chief executive officer of the town if there is no planning or zoning commission.
2. "Comments and recommendations" is more exact than "consideration and recommendations" and would allow those involved to give advice which might not necessarily be in the form of recommendations.
3. The question has arisen as to whether comments and recommendations could be made concerning a proposed ordinance. This power is now clearly granted to the commission, which could have such power to guard against ordinances which may be struck down in the courts or are otherwise unwise.
4. The clause concerning reading of recommendations and comments at the public hearing is moved to subsection (d) which relates to public hearings and is therefore a more logical place for that clause.

SUBSECTION (d)

1. By not allowing a hearing before ninety days, the study committee is assured that all comments and recommendations are received before the hearing, and substitution of "receipt" for "transmission" makes this subsection consistent with the previous subsection.
2. Consideration was given to eliminating the requirement of reading comments and recommendations at the public hearing because it is something easily overlooked that may later subject the whole process to attack. It is possible that such items could be filed with the municipal clerk for purpose of public notice. However, the language is retained to provide the public with a basis of discussion and a means to speak to such comments and recommendations.

SUBSECTION (e)

1. Use of the word "mailed" is more exact than "given" in the context of notice going through the post office and would prevent disturbance of the timetable if an individual was not "given" notice because such notice was lost in the mail.
2. Because there is no way to tell what a "fair and accurate synopsis" of a report is, this alternative is eliminated. A synopsis creates another point where a district could be invalidated. Property owners should probably receive a full report so they know exactly what the consequences of an historic district are. An alternative method of distribution is provided to avoid the costs of mailing bulky reports.
3. The requirement that the comments and recommendations be sent to the property owners is eliminated to simplify the commission's task and reduce costs. Owners will be informed on these items because they will be read at the hearing. The other requirements eliminated-map boundaries, ordinance - are included in the report by definition in subsection (b).

SUBSECTION (f)

1. "Final report" is eliminated because it is confusing since there is really no difference between it and the report the committee has been working on all along except that it is finished. The language change attempts to make clear that the committee can alter the report following the public hearing without requiring a second hearing before submission to the legislative body.
2. The clause on the contents of the report is eliminated because this language is now inserted in subsection (b) which concerns the contents of the study committee report whether it is a final report or not.
3. The comments and recommendations of all those entitled to comment will now go to the legislative body and not just those of the Connecticut Historical Commission. This is done in the belief that the legislative body should have the fullest range of information possible.

SUBSECTION (g)

1. The sixty day limit on review of the report is insituted to prevent and unreasonable delay by the legislative body in holding the referendum on historic district status, and to insure that the referendum will not be too long after the public hearing.
2. This section is a combination of section 7-147b (g) and section 7-1471 both of which concern balloting of property owners and should appear under section 7-147b (g) if a logical sequence is sought. The underlined portions of this subsection are derived from section 7-1471 and those portions not underlined are from section 7-147b (g).
4. The words "each owner" and the last sentence of this subsection have been added to clarify the fact that an individual can have no more than one vote even if he owns more than one property to be included within the district. Although in most communities owners of multiple properties have voted only once, this has not always been the case because the legislation as it now stands is unclear. While it may be true that an owner of several properties has more at stake than an owner of a single property, such a rule might be open to constitutional attack on equal protection grounds, and in some cases subject the fate of a district to the whim of a single owner. Subdividing land in anticipation of a vote on an historic district would be a serious abuse of a rule allowing several votes to multiple property owners.
5. The words "adoption of an historic district ordinance" are deleted in favor of the words "adoption of historic district status" to emphasize that the property owners are voting on the concept of historic district controls and not any particular ordinance, thus allowing the legislative body to change the proposed ordinance, except as to boundaries without going through the balloting process a second time (see subsection (i) infra).
6. Eligibility to vote has been expanded and most non-profit corporations will be enfranchised under the following subsections of Section 12-81, which relate to tax exemptions, (7) property used for scientific, educational, literary, historical or charitable purposes; (8) college property; (10) property belonging to agricultural or horticultural societies; (11) property held for cemetery use; (13) houses of religious worship; (14) property or religious organizations used for certain purposes; (15) houses used by officiating clergyman as dwellings; (16) hospitals and sanatoriums; (17) bling persons (18) property of veterans' organizations (19) veteran's exemptions; (20) servicemen and veterans having disability ratings; (21) disabled veterans with severe disability (22) surviving spouse or minor child of servicemen and veterans; (23) serviceman's surviving spouse receiving federal benefits; (24) surviving spouse and minor child of veteran receiving compensation from veterans' administration; (25) surviving parent of deceased serviceman or veteran; (26) parents of veterans; (29) property of American National Red Cross (49) nonprofit camps or recreational facilities for charitable purposes. These groups have been added because they have as much at stake when submitting to design restrictions as any property owner who pays taxes. Subsection (21) of section 12-81 which provices a tax exemption to disabled veterans with severe disability is included since veterans with lesser disabilities are already allowed to vote despite the exemption under 12-81 (20).

SUBSECTION (g) (CON'T)

12-81 (27) has been deleted because the last member of the Grand Army died in 1956. The Random House Dictionary of the English Language (1969).

7. The requirement that a for-profit corporation be liable for taxes of \$1000 before it is eligible to vote rather than be liable on an assessment of \$1000, as is the case for individual owners, has been eliminated because it serves no certain purpose.

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SUBSECTION (h)

1. The provision for a secret ballot, enacted in 1978, is retained. Most historic districts have been established using a secret ballot procedure.
2. References to voting by machine are deleted. See subsection (g) infra.
3. The provision that notice be mailed to each owner entitled to vote is removed as redundant. Mailing of the ballots 15 days before they are due constitutes notice in any event.
4. Publication of a legal notice in a newspaper is given a three day "window" to lessen the chance that balloting will be rendered defective because of a publication problem on the one day on which the notice must presently appear.

SUBSECTION (i)

1. The proportion of ballots required to permit the ordinance to be considered by the legislature body of the municipality is changed from 75% to 50%. This brings balloting on historic districts more in tune with the majoritarian tradition in American political life.
2. The subsection intends to make clear that unless boundaries are to be changed the study committee need not hold a second public hearing if it makes alteration in its report following the public hearing required by this section, and that a second balloting need not be held following that provided for by this section if the legislative body alters the proposed ordinance unless it has changes the boundaries.

SUBSECTION (j)

1. Listing of property owners' names needlessly clutters the ordinance. Town clerks will be able to read names and addresses from the report of the study committee.

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SEC. 7-147c. HISTORIC DISTRICT COMMISSION

(a) Once an historic district has been established in a municipality, the historic district study committee shall cease to exist and thereafter an historic district commission shall perform all the functions of the historic district study committee relative to establishing new districts and otherwise administering the provisions of (Section 7-147a to 7-147k, inclusive.) THIS ACT.

(b) The historic district commission [established under section 7-147c] may from time to time by following the procedure set out in [subsections (b) to (f), inclusive, of this section] SECTION 7-147b, suggest [proposed amendments to any ordinance adopted hereunder or suggest additional ordinance to be adopted hereunder] THAT AN HISTORIC DISTRICT BE ENLARGED OR THAT ADDITIONAL DISTRICTS BE CREATED. WHERE ADDITIONAL PROPERTY IS TO BE INCLUDED WITHIN AN EXISTING DISTRICT ONLY OWNERS OF PROPERTY TO BE ADDED TO THE DISTRICT SHALL VOTE PURSUANT TO SUBSECTION (g) of SECTION 7-147b.

(c) THE LEGISLATIVE BODY OF THE MUNICIPALITY MAY ENACT AMENDMENTS TO THE HISTORIC DISTRICT ORDINANCE OR ORDINANCES ESTABLISHED PURSUANT TO THIS ACT BY MAJORITY VOTE WITHOUT REGARD TO SECTION 7-147b 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 ITS COMMENTS AND RECOMMENDATIONS HAVE BEEN RECEIVED OR SIXTY DAYS HAVE ELAPASED WITHOUT SUCH RECOMMENDATIONS. THE HISTORIC DISTRICT COMMISSION MAY SUGGEST SUCH AMENDMENTS.

(d) The historic district commission established under the provisions of [Said section] THIS ACT shall consist of five members who shall be electors of [such] THE municipality IN WHICH THE DISTRICT IS

SITUATED holding no salaried municipal office ~~and~~ whose term of office ~~and~~. THE ORDINANCE MAY PROVIDE THAT ONE OR MORE OF THE MEMBERS OF THE HISTORIC DISTRICT COMMISSION OR ALTERNATES SHALL RESIDE IN AN HISTORIC DISTRICT. 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 a like manner for terms of five years. VACANCIES SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT FOR THE UNEXPIRED TERM. The commission shall elect annually a chairman, a vice chairman and a clerk from its own number. Ordinances adopted hereunder may provide for the appointment in like manner of alternate members not exceeding in number the principal members. In case of inability to act, because of absence, sickness or self-interest on the part of a member of the commission, his place shall be taken by an alternate member designated by the chairman. EACH MEMBER AND ALTERNATE SHALL CONTINUE IN OFFICE AFTER EXPIRATION OF HIS TERM UNTIL HIS SUCCESSOR IS DULY APPOINTED. ALL members shall serve without compensation. ANY MEMBER MAY BE APPOINTED FOR ANOTHER TERM OR TERMS.

(e) The <sup>HISTORIC DISTRICT</sup> ~~commission~~ shall adopt rules of procedure not inconsistent with the provisions of ~~the~~ (said sections) THIS ACT. THE <sup>HISTORIC DISTRICT</sup> ~~commission~~ MAY ADOPT REGULATIONS NOT INCONSISTENT WITH THE PROVISIONS OF THIS ACT TO PROVIDE GUIDANCE TO PROPERTY OWNERS AS TO GENERAL OR SPECIAL FACTORS TO BE CONSIDERED IN PREPARING AN APPLICATION FOR A CERTIFICATE OF APPROPRIATENESS.

(f) THE <sup>HISTORIC DISTRICT</sup> ~~commission~~ SHALL KEEP A PERMANENT RECORD OF ITS RESOLUTIONS, TRANSACTIONS AND DETERMINATIONS AND OF THE VOTE OF EACH MEMBER PARTICIPATING THEREIN.

(g) ALL ORDINANCES CREATING AN HISTORIC DISTRICT ADOPTED UNDER AUTHORITY OF THIS ACT, AMENDMENTS THERETO, MAPS OF HISTORIC DISTRICTS CREATED HEREUNDER AND ANNUAL REPORTS AND OTHER PUBLICATIONS OF THE HISTORIC DISTRICT COMMISSION AND ROSTERS OF MEMBERSHIP THEREIN SHALL BE TRANSMITTED TO THE CONNECTICUT HISTORICAL COMMISSION.

HISTORIC DISTRICT  
(h) The commission may, subject to appropriation employ clerical and technical assistance or consultants AND INCUR OTHER EXPENSES APPROPRIATE TO THE CARRYING ON OF ITS WORK and may accept money gifts and expend the same for such purposes.

(i) A MUNICIPALITY MAY ESTABLISH ONLY ONE HISTORIC DISTRICT COMMISSION.

(b) An individual property owner whose property is not located within the boundaries of an established municipal historic district as established in accordance with subsections (f) through (i), inclusive of section 7-147b, and whose property is located within the confines of such municipality may petition the historic district commission for inclusion in such existing historic district, provided his individual property, site or building is listed as historically or architecturally significant in the preservation plan of the state historical commission. The historic district commission, following the procedure set out in subsections (b) through (i), inclusive, of section 7-147b, shall cause ballots to be taken, in accordance with the provisions of section 7-147l, of the owners of record of all real property included in such historic district upon approval of seventy five per cent of the owners of record or all real property included in such historic district, such property shall be included in the historic district.

#### SUBSECTION (a)

1. This section has been divided up into nine subsections for purposes of clarification. In its present form Sec. 7-147c contains several different thoughts in a single paragraph. The revision attempts to give each thought its own subsection to make it easier to read and understand.

#### SUBSECTION (b)

1. The language concerning "amendments" is eliminated because it was unclear whether it referred to technical amendments involving the enlargement or reduction of district size. The new language makes it clear that the commission can suggest enlargement or reduction of a district. Upon enlargement only owners of the additional property may vote because those who are already in the district had a chance to vote on the concept of aesthetic controls when the district was first established. It would not further the purpose of the voting requirement to have those who had already consented overwhelm the vote of owners of the additional property, and might encourage creation of separate districts where the political climate was such that the commission might worry about overturning the existing district.



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## HISTORIC DISTRICT COMMISSION (CON'T)

### SUBSECTION (b) (CON'T)

The new verbiage is phrased such that an owner who has property within the existing district and within the area proposed to be included could vote a second time since he has a second property interest at stake.

### SUBSECTION (c)

1. This subsection concerns the manner of adopting technical amendments and eliminates the complex procedure required for enlargement of a district. Although the legislative body of the municipality is free to make such amendments the requirement that they first be submitted to the historic district commission will assure that the commission will be apprised of any changes. The language is partially borrowed from Mass. Gen. Laws. Ann Chap 40C 3 (1968). The commission may initiate its own amendment proposals.

### SUBSECTION (d)

1. Many states either require or recommend by statute that commission include professional representation from the fields of architecture, architectural history, real estate and law. Eg. La. Rev. Stat. 25:736 (1975); Mass. Gen. Laws. Ann. Chap. 40C 4 (1968); Advisory Council on Historic Preservation Guidelines for State Historic Preservation Legislation (1972). Since many Connecticut towns do not have resources to tap professionals, such a requirement would be foolish. The Connecticut Historical Commission recommends that a lawyer and architect be on the commission if possible. Connecticut Historical Commission A Handbook: Standards and Criteria for Establishing an Historic District (1977). The Connecticut Historical Commission is probably most able to make recommendations in this area and it was thought best not to cast language permanently into the statute. A requirement that a certain number of commission members reside in the district was also considered but this is perhaps best left to the political genius of each municipality.

The language which allowed the terms of office of commission members to be fixed by ordinance is eliminated because the next sentence of the statute had always specified those terms.

The statute now specifically covers the case of vacancies.

There is now a provision for the possibility that a member's or Alternate's term may expire before a replacement is appointed. This should insulate commission action from attack during such interims.

Reappointments are now specifically allowed.

### SUBSECTION (g)

This subsection is designed to improve communications between the state and local level by providing the Connecticut Historical Commission with information on what is happening at the local level. By knowing the needs and problems of local commissions it is hoped

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HISTORIC DISTRICT COMMISSION (CON'T)

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SUBSECTION (g)

the Connecticut Historical Commission will be able to better serve local groups. At the local level little objection was found to this requirement provided state control of local affairs is not tightened.

SUBSECTION (h)

Local commissions should have greater flexibility in what they spend their appropriations for, since such appropriations are obtained from the local government. The added language is from Mass. Gen. Laws. Ann Chap 40C (1968).

SUBSECTION (i)

This subsection is added to prevent a splintering of authority for control over historic districts and the conflict that might result in varying interpretations of appropriateness or in altering district boundaries.

SEC. 7-147d CERTIFICATE OF APPROPRIATENESS

[(PARKING AREAS)] (a) No building or structure shall be erected OR altered [(restored, moved or demolished)] within an historic district until after an application for a certificate of appropriateness as to exterior architectural features has been submitted to the commission and approved by said commission. SUCH APPLICATION MAY BE IN SUCH FORM AS THE COMMISSION MAY REASONABLY DETERMINE. MUNICIPAL AND STATE PROPERTY SHALL BE SUBJECT TO THE REQUIREMENT TO OBTAIN A CERTIFICATE OF APPROPRIATENESS.

(b) NO BUILDING PERMIT FOR CONSTRUCTION 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 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 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 THEREAFTER, AS MAY BE REASONABLY DEEMED NECESSARY BY THE COMMISSION TO ENABLE IT TO MAKE A DETERMINATION ON THE APPLICATION.

(d) [(for the purposes of sections 7-147a to 7-147k, inclusive, "exterior architectural features" shall include such portion of the exterior of a structure as is open to view from a public street, way or place.)] INCLUDED WITH THE CONTROL OF THE HISTORIC DISTRICT COMMISSION ARE SUCH ITEMS AS THE TYPE AND STYLE OF WINDOWS, DOORS, LIGHT FIXTURES, SIGNS, ABOVEGROUND UTILITY STRUCTURES, MECHANICAL APPURTENANCES, THE KIND AND TEXTURE OF BUILDING MATERIALS. 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 BUT SHALL INCLUDE COLOR INHERRENT IN BUILDING MATERIALS EXPOSED TO VIEW.

(e) No area within an historic district shall be used for industrial, commercial, business, home industry or occupation 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.

COMMENTS -SEC. 7-147d

SUBSECTION (a)

1. The fact that an application for a certificate of appropriateness need take no special form is specified, and its content is left to the discretion of the commission.
2. No position has been taken as to whether the statute should specify that towns may charge a fee for an application for a certificate of appropriateness.
3. Nothing in the present statute mentions review of changes to municipal property in a district. This change places municipal property on an equal footing with that of other owners in terms of the appropriateness of proposed changes. PA 57 in 1972 provided that State owned property could be altered or erected only after a certificate of appropriateness had been obtained. This act was vetoed.

SUBSECTION (b)

It makes no sense for the building inspector and the historic district commission to work at cross purposes.

(a) The historic district commission shall hold a public hearing upon each application for a certificate of appropriateness (as to exterior architectural features, or as to parking) 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 THE HEARING AND 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 at least seven 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 [one hundred and twenty] SIXTY 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, and when a certificate of appropriateness is denied it shall PLACE UPON ITS RECORDS AND IN THE NOTICE TO THE APPLICANT THE REASONS FOR ITS DETERMINATION. IN THE NOTICE TO THE APPLICANT THE COMMISSION MAY MAKE RECOMMENDATIONS IF ATIVE TO DESIGN, ARRANGEMENT, TEXTURE, MATERIAL, AND SIMILAR FEATURES.

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 [one hundred and twenty] SIXTY days shall constitute approval and no other evidence of approval shall be needed. (The commission shall keep a record of all applications for certificates of appropriateness and of all its doings under sections 7-147a to 7-147k, inclusive.) [(b) In its deliberations under sections 7-147a to 7-147k, inclusive, the commission shall not consider interior

SECTION 7-147e. (CON'T) APPLICATION FOR CERTIFICATE HEARING APPROVAL

arrangement or use and shall take no action under said sections except for the purpose of preventing the erection, reconstruction, restoration, alteration or razing of buildings or parking in any area in the historic district obviously incongruous with the historic aspects of the district.

COMMENTS - SECTION 7-147e.

The title of this section is altered because this section does not involve applications for certificates as does the previous section. This section is concerned primarily with the hearing stage.

SUBSECTION (a)

1. If the commission determines that it has no jurisdiction over the item upon which the property owner has requested a certificate of appropriateness there is no reason why a hearing should use up the time of all parties involved.
2. The commission should be required to fix a time and place which are reasonable for the hearing.

SUBSECTION (b)

1. The quorum and majority vote requirements give some minimal procedural guidelines which a commission may or may not adopt and is intended as a model.
2. A statement of reasons for denial of a certificate of appropriateness will help insure fairness and build a record for appeal. This is similar to what is required of zoning boards of appeal under Conn. Gen. Stat 8-7 (1977).
3. Allowing the commission to make recommendations will help the commission influence design in the district.
4. The requirement that the commission keep records of applications is superseded by section 7-147c (f).

5. Present subsection (b) is essentially put into the next section concerning considerations in determining appropriateness, where elements which should not be considered are more logically placed so as to display the contrast.

(a) If the commission determines that the proposed erection, ~~(construction, restoration)~~ alteration ~~(razing)~~ or parking will be appropriate it shall issue a certificate of appropriateness. In passing upon appropriateness as to exterior architectural features the commission shall consider in addition to any other pertinent factors the historical and architectural value and significance, architectural style, HEIGHT, 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. 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. IN THE CASE OF NEW CONSTRUCTION OR ADDITIONS TO EXISTING BUILDINGS OR STRUCTURES THE COMMISSION SHALL ALSO CONSIDER THE APPROPRIATENESS OF THE SIZE AND SHAPE OF THE NEW BUILDING OR STRUCTURE BOTH IN RELATION TO THE LAND AREA UPON WHICH THE BUILDING OR STRUCTURE IS SITUATED AND TO BUILDINGS AND STRUCTURES IN THE VICINITY, AND THE COMMISSION MAY IN APPROPRIATE CASES IMPOSE DIMENSIONAL AND SET-BACK REQUIREMENTS IN ADDITION TO THOSE REQUIRED BY ZONING OR OTHERWISE. A certificate of appropriateness may be refused for any building or structure the erection OR ~~(reconstruction, restoration)~~ alteration ~~(or razing)~~ of which or any parking which in the opinion of the commission, would be detrimental to the interest OF THE ~~(historic)~~ district. (b) IN ITS DELIBERATIONS UNDER THIS ACT THE COMMISSION SHALL NOT CONSIDER INTERIOR ARRANGEMENT OR USE AND ACT ONLY FOR THE PURPOSE OF CONTROLLING THE ERECTION OR ALTERATION OF BUILDINGS, STRUCTURES OR PARKING IN ANY AREA IN THE HISTORIC DISTRICT OR ARCHITECTURAL INCONGRUOUS WITH THE HISTORIC ASPECTS OF THE DISTRICT. THE COMMISSION MAY KEEP ITSELF APPRISED OF THE USE OF BUILDINGS AND STRUCTURES WITHIN



THE DISTRICT AND MAY RECOMMEND ADAPTIVE REUSE COMPATIBLE WITH THE OR ARCHITECTURAL HISTORIC ASPECTS OF THE DISTRICT.

SEC. 7-147f

SUBSECTION (a)

1. Addition "height" and "scale" are to sharpen commission focus on the size of changes in exterior architectural features as well as their design.
2. "Buildings" is added for the sake of consistency since the committee is evaluating the changes in features of buildings as well as structures.
3. The problems involved when new construction is put in a district are somewhat different than those which exist when design changes are made in existing buildings and therefore additional criteria which may be brought to bear are included. The considerations are those used in Mass. Gen. Laws Ann. Chap. 40C (1968).

- 4 . The elements listed in this section for assessing appropriateness are no means exhaustive, Savannah, Ga., Ordinance 9 (6) (1973) lists sixteen criteria. See, Terry J. Tondro, "An Historic Preservation Approach to Municipal Rehabilitation of older neighborhoods 8 Conn. L. Rev 248 (1975). Such specific criteria might be incorporated in the "Guidelines" of the Connecticut Historical Commission, if not in the statute itself.

SUBSECTION (b)

1. This is essentially a transplant of section 7-147e (b) except that the commission may specifically keep track of changes in use if it so desires and recommend compatible uses. While not giving the commission any coercive power as far as use is concerned, the change should facilitate promotion of compatible uses.

Not all historic district statutes permit a change in use without a certificate of appropriateness. Idaho Code 67-4609 (19 ) is an example where such a requirement exists. The regulation of use in historic district has been held constitutional. In M&N Enterprises, Inc, V. City of Springfield, 111 Ill. App. 2d 444, 250 NE 2d 289 (1969), the owner of property in a four block historical area around the Lincoln Home wanted to put a Motel on his property. The Court stated that "when property has an enhanced value by reason of planning and zoning for historical preservation, the ordinances to implement the planning can hardly be said to be confiscatory or unreasonable or unconstitutional simply because the owners seek to use it for commercial purposes to exploit the visitors and tourists attracted in part at least, by the creation of the Historical District."

(a) ANY HISTORIC DISTRICT COMMISSION ESTABLISHED UNDER THIS ACT MAY BE EMPOWERED BY ORDINANCE TO PERFORM THE FOLLOWING: MAKE PERIODIC REPORTS TO THE LEGISLATIVE BODY; PROVIDE INFORMATION TO PROPERTY OWNERS AND OTHERS INVOLVING THE PRESERVATION OF THE DISTRICT; SUGGEST PERTINENT LEGISLATION; INITIATE PLANNING AND ZONING PROPOSALS; COOPERATE WITH OTHER REGULATORY AGENCIES AND CIVIC ORGANIZATIONS AND GROUPS INTERESTED IN HISTORIC PRESERVATION; RENDER ADVICE ON ALL APPLICATIONS FOR ZONING VARIANCES AND SPECIAL EXCEPTIONS WHERE THEY AFFECT HISTORIC DISTRICT; RENDER ADVICE WITH REFERENCE TO SIDEWALK CONSTRUCTION AND REPAIR, TREE PLANTING, STREET IMPROVEMENTS, AND ALSO THE ERECTION OR ALTERATION OF PUBLIC BUILDINGS NOT OTHERWISE UNDER ITS CONTROL WHERE THEY AFFECT HISTORIC DISTRICTS; FURNISH INFORMATION AND ASSISTANCE IN CONNECTION WITH ANY CAPITAL IMPROVEMENT PROGRAM INVOLVING HISTORIC DISTRICTS; CONSULT WITH THE NATIONAL TRUST FOR HISTORIC PRESERVATION AND OTHER EXPERT GROUPS.

(b) THE HISTORIC DISTRICT COMMISSION SHALL FILE WITH THE CONNECTICUT HISTORICAL COMMISSION AT LEAST ONCE EVERY YEAR A BRIEF SUMMARY OF ITS DOINGS 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.

#### SUBSECTION (a)

This subsection is primarily borrowed from La. Rev. Stat. 25:743 (1975) designed to give historic district commissions the opportunity to participate in a wider range of decision making. The inclusion of historic districting in town plans and greater coordination with zoning commissions is needed to prevent municipal agencies from working at cross purposes.

#### SUBSECTION (b)

This subsection will help the Connecticut Historical Commission understand the needs of local commissions and aid in the improvement of the historic preservation process in the state.

Where, by reason of topographical conditions, district borderline situations [immediately adjoining existing developments] or because of other unusual circumstances SOLEY WITH RESPECT TO A PARCEL OF LAND WHERE OWING TO CONDITION: ESPECIALLY AFFECTING SUCH PARCELL BUT NOT AFFECTING GENERALLY THE DISTRICT IN WHICH IT IS SITUATED, the strict application of any provision of [Sections 7-147a to 7-147k, inclusive] THIS ACT 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.

COMMENTS SECTION 7-147 h

- . This sections contains the substance of present section 7-147g. The title "Variances" is inserted because in expresses more clearly the common understanding of the meaning of the section.
- . "Immediately adjoining existing developments" is eliminated because it is already encompassed by the words "district borderline situations" and does not appear to add anything to the statute.
- . "Soley with respect to a parcel..." is added because it brings into focus the major principle behind hardship ( that it relates to the difficulties of a particular parcel). The language makes the historic district concept of hardship consistent with that applied in zoning under Conn. Gen Stat 8-6. Many States have similar provisions EG. La. Rev. Stat 25:739 (19 ); Mass Gen. Laws Ann Chap. 40C 10(c) (1968).

(a) IF ANY PROVISION OF THIS ACT OR ANY action or ruling taken by the commission pursuant to the provisions of (Sections 7-147a to 7-147k, inclusive) THIS ACT or any bylaw or ordinance adopted there under has been violated the commission may in addition to other remedies institute an action for proceeding to prevent such unlawful erection, construction, reconstruction, alteration, razing, maintenance or use or parking or to restrain correct or abate such violation or to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises ) IN THE SUPERIOR COURT FOR THE COUNTY 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 INCLUDING THE REMOVAL OF ANY BUILDING, STRUCTURE OR EXTERIOR ARCHITECTURAL FEATURE ERECTED IN VIOLATION OF THIS ACT OR ANY BYLAW OR ORDINANCE ADOPTED THEREUNDER OR THE SUBSTANTIAL RESTORATION OF ANY BUILDING, STRUCTURE, OR ARCHITECTURAL FEATURE ALTERED OR DEMOLISHED IN VIOLATION THEREOF. Regulations and orders of the commission issued pursuant to (said sections) THIS ACT, or to any bylaw or ordinance adopted thereunder, shall be enforced by the zoning enforcement official or building inspector or by such other person as may be designated by (vote of the legislative body) 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) THIS ACT or of any bylaw or ordinance adopted thereunder.

(b) The owner or agent of any building, STRUCTURE, or (premises) PLACE where a violation of any provision of (said sections) THIS ACT or of any bylaw or ordinance adopted thereunder has been committed or exists, or the lessee or tenant of an entire building, ENTIRE STRUCTURE or (premises) PLACE where such violation has been committed or exists, or the owner, agent, lessee or tenant of any part of the building, STRUCTURE or (premises) 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

(premises) 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. (and) the [court of common Pleas] SUPERIOR COURT for the county [or judicial district] wherein such violation continues or exists shall have jurisdiction of all such offences, subject to appeal as in other cases. Each day that a violation continues to exist shall constitute a separate offence. (c) ALL COSTS, FEES AND EXPENSES IN CONNECTION WITH ACTIONS UNDER THIS SECTION MAY IN THE DISCRETION OF THE COURT BE ASSISSED AS DAMAGES AGAINST THE VIOLATOR TOGETHER WITH REASONABLE ATTORNEY'S FEES WHICH MAY BE AWARDED TO THE HISTORIC DISTRICT COMMISSION WHICH BROUGHT SUCH ACTION. THE MONEYS 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 GO TO THE MUNICIPALITY IN WHICH THE DISTRICT IS SITUATED.

#### COMMENTS SECTION 7-147i

1. This section includes the essentials of current section 7-147h.

#### SUBSECTION (a)

- .. This specific language concerning what kind of relief could be obtained in a court proceeding is confusing when it uses words like "use" and "conduct" and the specifics may limit the kind of relief that a commission may seek. The new language adopts the open style of 22a-44 which relate to actions brought by inland wetlands commissions. The Superior Court is specifically given jurisdiction over such actions. The specific language following the word "violation" attempts to capture the essence of the deleted section with greater clarity but not limiting the possible relief to the specifics mentioned this language is derived from Mass Gen. Laws Ann Chap. 40C 13 (1968).

#### SUBSECTION (b)

1. The major change here is to make the language consistent by using the words "building, structure, or place" throughout. The word place relates back to section 7-147a while the word "premises" is eliminated because it appears here for the first time.

SUBSECTION (c)

1. The fate of fines and costs are made specific by this new language. It is similar to the fate of such monies under 22a-44 which realtes to actions brought by inland wetlands commissions.
2. An alternative formulation for costs which may be fairer to some extent is found in Mass Gen Laws Ann Chap. 40C 12 (1968): "Costs shall not be allowed against the commission unless it shall appear to the court that the commission acted with gross negligence, in bad faith or with malice in the matter from which the appeal was taken. Costs shall not be allowed against the party appealing rom such determination of the commission unless it shall appear to the court that the appellant acted in bad faith or with malice in making the appeal to the court".

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 {Court of Common Pleas} SUPERIOR COURT {of the county} FOR THE DISTRICT in which such municipality is located, which appeal shall be made returnable 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.

COMMENTS-SECTION 7-147 j

1. This is current section 7-147i. There was consideration of an historic district review panel somewhat like the zoning board of appeals, but this was rejected by everyone commenting on the idea as unnecessary and cumbersome. Such a body should be kept in mind in case the nature and number of appeals from commission decisions should change. Mass. Gen. Laws, Ann. Chap. 40C 12 (1977 sup.) provides that "A city or town may provide in its ordinance or by law or in any amendment thereof, for a review procedure whereby any applicant aggrieved by a determination of the commission may, within twenty days after the filing of the notice of such determination with the city or town clerk, file a written request with the commission for a review by a person or persons of competence and experience in such matters, designated by the regional planning agency of which the city or town is a member".

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SECTION 7-147k EXEMPTED ACTS

42

Nothing in [Section 7-147a to 7-147k, inclusive] THIS ACT shall be construed to prevent the ordinary maintenance or repair or any exterior ARCHITECTURAL feature which does not involve a change [OF] IN THE OUTWARD APPEARANCE OF design thereof, nor prevent the ERECTION [construction, reconstruction] OR alteration [or demolition] of any such feature which the building inspector or a similar agent certifies is required by the public safety because of an unsafe or dangerous condition; nor to prevent the ERECTION [construction, reconstruction] OR alteration [or demolition] or any such feature under a permit issued by a building inspector or similar agent prior to the effective date of establishment of such district, PROVIDED THAT IF A BUILDING IS TO BE DEMOLISHED UNDER THE PROVISIONS OF THIS SECTION NO DEMOLITION SHALL OCCUR FOR NINETY DAYS FROM ISSUANCE OF A CERTIFICATE OF APPROPRIATENESS IF DURING SUCH TIME THE COMMISSION OR THE CONNNECTICUT HISTORICAL COMMISSION IS ATTEMPTING TO FIND A PURCHASER WHO WILL RETAIN SUCH BUILDING OR 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 CERTIFICATE OF APPROPRIATENESS SHALL BECOME EFFECTIVE AND THE DEMOLITION MAY OCCUR.

COMMENTS SECTION 7-147k

1. This section is currently section 7-147j. The added language concerning demolition is intended to further the purposes of preservation by giving the State Historical Commission and the local historic district commission an opportunity to save a building slated for demolition. The language is from raised committee bill no 1517, General Assembly, January Session 1977.
2. It should be noted that some states exempt historic properties from health and building codes if such requirements hinder preservation. Idaho Code 67-4618 (19 ).



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SECTION 7-147.1 PRIOR DISTRICTS UNAFFECTED

The provisions of [sections 7-147a to 7-147j inclusive] THIS ACT, shall in no way impair the validity of any historic district previously established under any special act OR GENERAL ENABLING STATUTE.

COMMENTS - SECTION 7-147.1

1. This section is basically the same as current section 7-147k. (Sec. 7-147m Balloting on prior districts. In any town which, prior to July, 1963, had established or was considering an historic district, fifteen per cent of the owners of record of real property within such district or proposed district may not later than January 1, 1964, petition the legislative body of such town, in writing, for a balloting thereon. Upon receipt of such petition, the legislative body shall cause a ballot to be taken of all such owners as provided in subsection (g) of section 7-147b. No such district shall continue or be established thereafter unless seventy-five percent of all owners of record of real property within such district or proposed district voting thereon consent by such balloting to the continuance or creation of such district. The provisions of this section shall not apply in any town which follows the procedure set forth in said subsection (g) of section 7-147b) .

COMMENTS

1. This section ought to be repealed because it no longer serves any purpose.