

## **BOROUGH OF FENWICK**

### **HISTORIC PRESERVATION REGULATIONS**

Pursuant to Section 7-147c(e) of the Connecticut General Statutes the Historic District Commission of the Borough of Fenwick enacts the Historic Preservation Regulations of the Borough of Fenwick, effective September 30, 1983.

SECTION 1. Purpose. To promote the educational, cultural, economic, and general welfare of the public through the preservation and protection of distinctive characteristics of buildings and places associated with the history of the architecture in the historic district of the Borough of Fenwick.

SECTION 2. Definitions.

a. Altered shall mean changed, modified, rebuilt, removed, demolished, restored, razed, moved, or reconstructed.

b. Building shall mean a combination of materials forming a shelter for person, animals, or property.

c. Commission shall mean the Historic District Commission of the Borough of Fenwick.

d. Demolition shall mean any act or process that destroys in part or in whole a building or structure. The total removal of any exterior wall or of more than 25% of the exterior of any building shall be deemed demolition.

e. District shall mean the Historic District established by the Board of Warden and Burgesses of the Borough of Fenwick pursuant to An Ordinance Creating An Historic District, effective October 1, 1975.

f. Erected shall mean constructed, built, installed, or enlarged.

g. Exterior architectural feature shall mean such portion of the exterior of a structure or building as is open to view from a public street, way, or place including the golf course, beach, neighboring property and any public open space.

h. Public View shall mean visible from any public road or access easement, Long Island Sound or the Connecticut River, or the Fenwick Golf Course.

i. Removal shall mean any relocation of a structure or building on its site to another site, either within a parcel or to another parcel.

j. Structure shall mean any combination of materials, other than a building, which is affixed to the land, and shall include, but not be limited to, fences driveways, flagpoles, gazebos, patios, signs and billboards, tennis courts, hot tubs, spas, and swimming pools.

SECTION 3. When a Certificate of Appropriateness Is Required.

a. No building or structure shall be erected, altered, demolished, or removed within the District until an application for a certificate of appropriateness as to exterior architectural features has been submitted to and approved by the Commission. A

certificate of appropriateness shall be required for alterations and enlargements to parking areas in existence on October 1, 1973 for occupational uses conducted in a home and for signs and billboards. A certificate of appropriateness shall be required regardless of whether or not a building permit is required.

b. A certificate of appropriateness shall not be required for the color of paint used on the exterior of any building or structure; ordinary maintenance or repair of exterior architectural features which does not involve a change in appearance or design; or the erection or alteration of exterior architectural features which the building official certifies is required for the public safety because of a condition which is unsafe or dangerous due to deterioration.

**c. List of Regulated Activities:** Any new construction, demolition, or removal of, or addition to, or alteration of any of the following if in public view.

### **ALL PRINCIPAL BUILDINGS**

#### **OUTBUILDINGS:**

- Garages
- Sheds
- Barns
- Greenhouses
- Gazebos
- Bandstands

#### **ARCHITECTURAL ELEMENTS:**

- Doors & entranceways
- Porches
- Windows frames, sash, & muntins
- Storm doors and windows
- Shutters
- Architectural trim & ornaments
- Removal or replacement of siding & roofing
- Addition of aluminum, vinyl or similar siding
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- Exposed foundations
- Chimneys
- Dormers
- Skylights
- Sunrooms
- Awnings
- Light fixtures
- Gutters

#### **SITE FIXTURES & STRUCTURES:**

- Driveways

- Parking areas
- Walkways
- Decks
- Patios and terraces
- Fences & walls
- Retaining walls
- Hedges intended to, or with the effect of, creating a wall
- Trellises, pergolas, & arbors
- Permanently installed playground equipment (including on residential property)
- Exterior lighting fixtures (including both wired and solar landscape lighting)
- Swimming pools
- Dumpster enclosures & routinely placed dumpsters
- Above ground garden containment
- Above ground storage tanks
- Free-standing birdhouses or bird feeders
- Landscape rocks
- Permanently placed sculpture

#### **PARKING AREAS:**

- Size
- Location
- Paving materials
- Lighting

#### **PUBLIC RIGHT-OF-WAY:**

- Paving materials
- Sidewalks
- Curbs
- Retaining walls
- Guard rails
- Street lights
- Above-ground utility poles and related structures
- Anchored sidewalk furniture
- Permanent statuary & monuments
- Anchored or routinely placed trash receptacles, news stands, and similar sidewalk fixtures
- Free-standing flagpoles
- Designated scenic roads

#### **WATERFRONT STRUCTURES:**

- Wharves
- Docks
- Boardwalks
- Dams

- Bridges
- Seawalls & river bulkheads

#### **MISCELLANEOUS FIXTURES & STRUCTURES:**

- Solar panels
- Wind powered energy devices
- Exterior air condition units, coolers, etc.
- Satellite dishes, ham radio and other specialized antennae
- Temporary structures such as tents, in place for more than 30 days (includes structures that are relocated on the same property or repetitive in the same calendar year)
- Outdoor kitchens or living areas
- Outdoor televisions or projection equipment
- Vending machines in place for more than 30 days

**d. List of Non-Regulated Activities:** The following activities are related construction items which are allowed by right and do NOT require application to the Historic District Commission for a Certificate of Appropriateness.

#### **CONSTRUCTION NOT VISIBLE FROM PUBLIC VIEW**

#### **INTERIOR ALTERATIONS**

#### **ROUTINE MAINTENANCE & REPAIRS:**

- Paint removal that does not damage the structural surface
- Painting and paint color
- Masonry repair & repointing which match existing exactly
- Siding & roofing repairs which match existing exactly
- EXACT (material and design) replacement of existing architectural and site features

#### **LANDSCAPE PLANTING**

#### **TEMPORARY FIXTURES & STRUCTURES:**

- Event tent structures in place less than 30 days
- Construction dumpsters
- Construction trailers
- Construction toilets
- Construction security fencing
- Temporary construction utilities

#### **MISCELLANEOUS FIXTURES:**

- Boats
- Conventional TV antennae
- Standard Postal Service approved mail boxes

- Flag staffs attached to building facades
- Free-standing flag poles not in the public Right-of-Way
- Easily removable (if a single person could readily remove it from the ground without the use of power tools or mechanized equipment) residential playground equipment
- Easily removable (as defined above) site furniture for any use
- Incidental exhaust and through-roof plumbing vents
- Walkway and driveway lights less than 2 feet in height and no brighter than 20 watts (*added 9/18/18*)
- Fill pipes for underground tanks

#### SECTION 4. Application for a Certificate of Appropriateness.

a. The application shall include all of the following information and exhibits unless the Chairperson or the Agent for the Commission informs the applicant that one or more of the following items does not have to be submitted:

1. An original and two (2) copies of a completed form to be supplied by the Commission at the request of the applicant, called "Application for Certificate of Appropriateness."

2. An original and two (2) copies of a plot plan, scale of 1" = 20', certified to the standards of a Class A-2 survey as defined in the Code of Practice for Standards of Accuracy of Surveys and Maps, adopted December 10, 1975 and as amended to date by the Connecticut Association of Land Surveyors, Inc. showing the location of all existing and proposed buildings and structures on the site, boundaries of the property, driveways, walkways, landscaping, including details of plantings, major tree and shrub areas, including paving materials, outdoor lighting and parking areas, certified by a licensed architect or other professional approved by the Commission.

3. An original and two (2) copies of architectural drawings (elevations) of all proposed building facades and relevant site features, at a minimum scale of 1/4" = 1' of the building or structure to be altered, erected, demolished or removed showing the front, rear, and side elevations floor plans (interior details not required) with dimensions and the materials to be used, certified by a licensed architect or other professional approved by the Commission. Sketch drawings that do not provide specificity shall not be sufficient.

4. Where alterations are to be made, an original and two (2) copies of a architectural drawings of the portion or portions of the building or structure to be altered or erected, certified by a licensed architect or other professional approved by the Commission. Sketch drawings that do not provide specificity shall not be sufficient.

5. An original and two (2) copies of a vicinity plan showing the buildings and structures within two hundred feet (200') of the boundaries of the parcel on which the building and structures are located.

6. Three (3) copies of a narrative description of the timing and methods of construction or demolition.

7. In the case of demolition or removal, the applicant must submit three (3)

copies of a narrative and three (3) copies of a graphic description of the proposed appearance of the property after demolition or removal.

8. Electronic copies of all documents, maps, plans, surveys, drawings and similar documents shall also be provided. Such copies shall be submitted as pdf (Portable Document Format) files on CD or DVD media unless the Commission or its Agent agrees to a different electronic format or medium.

9. A scale model or detailed photo simulation of the building to be constructed for all applications involving construction of an entirely new building, any substantive remodel, redesign, or addition, and in any other application when required by the Commission.

10. Any additional information deemed appropriate by the Commission.

b. The Chairperson or the Agent for the Commission shall review the application to determine whether it is complete and whether it involves activities subject to approval by the Commission. No public hearing shall be required for an activity not subject to approval by the Commission or for a modification or extension as described in Section 5.d.

c. Notification of Abutting Property Owners. Each applicant for a Certificate of Appropriateness shall email notification of the application to each of the record owners of abutting land, and land directly across any roadway from the land to which the application relates. The record owner(s) shall be deemed to be the person(s) identified as the owner(s) of the relevant property or properties on the records of the Old Saybrook Tax Collector as of the date the application is submitted. The applicant must make such notification at least eight (8) days before the public hearing/meeting at which the application is scheduled to be heard. Such notification shall include a copy of the legal notice or agenda as appropriate, which the Commission shall provide to the applicant. If the email address of the abutter is unknown, said notice shall be made by regular mail and proof of said mailing shall be evidenced by a certificate of mailing. All proof of notification shall be provided to the Commission at least three (3) days prior to the hearing.

#### SECTION 5. Public Hearing and Decision on an Application.

a. As soon as practical, and in no case later than sixty-five (65) days of the filing of an application, the Commission shall hold a public hearing on the application at a reasonable time and place.

b. The Commission shall cause to be published in a newspaper having a substantial circulation in the Borough of Fenwick a notice of the time and place of the hearing not more than fifteen days nor less than five days before such hearing. .

c. 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.

d. The Commission shall approve, approve with stipulations, approve with recommendations relative to design, arrangement, texture, materials, or similar features, or deny the application within sixty-five (65) days of the filing of the application.

1. A Certificate of Appropriateness is valid for two years from the date of approval and is not transferrable. If work will not be completed within two years of the date of issuance of the Certificate of Appropriateness, the applicant must apply for an extension. Such application must be submitted prior to the expiration date and approved before work may resume. The Commission shall not grant an application for extension if it finds that there has been a substantial change in circumstances which requires a new application or if an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued. Extension applications do not require a public hearing or public notice.

2. After the issuance of Certificate of Appropriateness, the Commission may consider requests for modifications to approved drawings, provided that such modifications are minor in nature and in general conformity with the original application and the Commission's prior ruling. In such cases, the requirements for notice and hearing may be waived, but any modification will require approval by the Commission at a duly called public meeting. If the Commission determines that any requested modification is not minor, the applicant must file an application for Certificate of Appropriateness. An application for modification shall be submitted to the Commission for approval prior to any work being done not in accordance with the approved Certificate. Proceeding on a project which deviates from an approved plan constitutes a violation of these regulations and the approved Certificate of Appropriateness, and is subject to a civil penalty and other enforcement options.

e. The Commission shall keep a permanent record of its resolution, transactions, and determinations, and of the vote of each participating member therein.

f. Failure of the applicant to submit a complete application as defined in Section 4. a. 1-9 shall constitute grounds for denial of the application.

g. If the Commission fails to make a decision on the application within sixty-five (65) days after its filing, the application shall be deemed approved.

h. The Commission shall give written notice of its decision to the applicant within sixty-five (65) days of the filing of the application. A certificate of appropriateness shall constitute evidence of approval of an application.

i. 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 decision.

#### SECTION 6. Renewable Resources.

No application for a certificate of appropriateness for an exterior architectural feature designed for the utilization of renewable resources, such as solar or wind energy systems, shall be denied unless the Commission finds that the feature cannot be installed without substantially impairing the historic character and appearance of the District. The applicant shall prove that the installation of the feature will not substantially impair the historic character or appearance of the district. If the Commission approves the application it may do so with stipulations requiring design modifications and limitations on the location of the feature which do not significantly impair its effectiveness.

#### Section 7. Guidelines for Reviewing Applications for Certificates of Appropriateness.

a. The Commission shall consider these factors, among others, when it reviews applications for certificates of appropriateness:

1. Type and style of exterior windows, doors, light fixtures, signs, aboveground utility structures, and mechanical appurtenances;

2. Type and texture of exterior building materials;

3. Historical value and significance, architectural style, scale, general design, arrangement, texture, and materials;

4. Relationship of the exterior architectural features involved to the buildings and structures in the immediate neighborhood;

5. Style, material, size, and location of signs, and billboards; and

6. The size of parking areas, the visibility of cars therein, and their relationship to adjacent buildings.

b. The Commission shall only act for the purpose of controlling the erection or alteration of buildings or structures which are incongruous with the historic or architectural characteristics of the District. Although the Commission shall not consider interior arrangements or uses, it may suggest new uses for existing buildings or structures.

#### SECTION 8. Criteria for Reviewing Applications for Certificates of Appropriateness.

a. The criteria for reviewing applications for certificates of appropriateness are attached hereto as Appendix A. It is the obligation of the applicant to justify to the satisfaction of the HDC that the proposed activity is consistent with the distinctive characteristics of buildings and places associated with the history of the architecture in the Borough.

#### SECTION 9. Variations.

a. The applicant may seek, and the Commission may grant, a variation from or modification of the provisions of these Regulations where their strict application would result in exceptional practical difficulty or undue hardship for the applicant because of topographical conditions, district borderline situations, or other unusual circumstances concerning only the property for which the granting of the application is sought and not generally affecting the district. The Commission may vary or modify these Regulations or interpret them in a way that would relieve the hardship or difficulty, so long as its actions are in harmony with the general purpose and intent of these Regulations and the general character of the district is conserved and substantial justice is done.

b. When granting variations, or modifications, or in interpreting these Regulations, The Commission may impose reasonable stipulations and conditions as will in its judgment fulfill the purpose of these Regulations.

c. The Commission shall place upon its records and in its notice to the applicant the reasons for its decision.



SECTION 10. Demolition.

a. If a building in an historic district is to be demolished, no demolition shall occur for ninety (90) days from the issuance of a demolition permit if during such time the Commission or the Connecticut Historical Commission is attempting to find a purchaser who will retain or remove such building or who will present some other reasonable alternative to demolition. At the conclusion of the ninety- day (90) period, the demolition permit shall become effective and the demolition may occur.

SECTION 11. Enforcement.

a. If these Regulations or any decision, action, or ruling made pursuant to it is violated, the Commission may, in addition to other remedies, bring suit to have a court restrain the violation, and order that it be corrected or removed.

b. The Zoning Enforcement Officer or the Building Official of the Borough of Fenwick shall enforce these Regulations and may inspect and examine the exterior of any building or structure, provided that the consent of the occupant or owner is given or a warrant obtained in the event such individual goes onto the premises.

c. The Chairperson or Agent of the Commission may require in writing the remedying of any condition in violation of these Regulations or orders made pursuant to it.

SECTION 12. Authority of Commission. The Commission shall be empowered to exercise all the powers, duties, and functions enumerated in Sections 7-147a-7-147k inclusive, as amended, of the general statutes.

SECTION 13. Amendments.

a. In the event that the Commission proposes to amend these Regulations, the Commission shall hold a public hearing on such amendment. The Commission shall cause to be published in a newspaper having a substantial circulation in the Borough of Fenwick a notice of the time and place of the hearing not more than fifteen days nor less than five days before such hearing. Within sixty-five (65) days of the conclusion of the public hearing the Commission shall adopt, adopt with modifications, or refuse to adopt the proposed amendments.

b. The Commission shall cause to be published in a newspaper having a substantial circulation in the Borough of Fenwick a notice of its decision on the proposed amendments.

SECTION 14. Validity.

a. A court ruling that a section, paragraph, provision or part of these Regulations is invalid or unconstitutional, shall not affect the validity of these Regulations as a whole or any part or provision thereof other than the part so declared to be invalid or unconstitutional.

September 19, 1983

First Notice of Public Hearing

September 30, 1983

Date of Public Hearing

September 25, 1983	September 30, 1983
Second Notice of Public Hearing	Date of Passage
September 30, 1983	Effective Date

SECTION 10 b. AMENDED IN A PUBLIC HEARING 8/30/96

SECTION 4, SUB-SECTIONS 1-9 AMENDED IN A PUBLIC HEARING 8/29/98

SECTION 2, SUB-SECTIONS g and h; SECTION 4. SUB-SECTION 2 and 3 Amended in Public Hearing July 2, 2009.

SECTIONS 4a, 4b, 4c, 5b, 5f, 11c, and 13a Amended in Public Hearing December 8, 2012.

SECTIONS 4b and c and 5d Amended Effective February 1, 2016.

SECTIONS 3c and 3d Added Effective April 1, 2016.

SECTION 3c Amended Effective October 1, 2016.

SECTION 3c and 3d Amended Effective December 1, 2017.

SECTIONS 1d, 1h, 3c, 3d, 4.3, 4.4, 4.9, 4.10c, and 8a Amended Effective October 1, 2020.