

## **Chapter 96**

### **HISTORIC DISTRICTS**

#### **GENERAL REFERENCES**

**Zoning — See Ch. 170.**

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#### **§ 96-1. Purpose.**

It is the purpose of this chapter, through the establishment herein of the Tolland Green Historic District, to preserve and protect the distinctive characteristics and appearance of the Tolland Green and of the buildings which surround it while respecting the rights and wishes of those who own property within the district. It is the intent of this chapter that the requirements set forth herein be construed with these purposes in mind and be administered with common sense.

#### **§ 96-2. District boundaries.**

The Tolland Green Historic District shall consist of the area shown on the map attached hereto as "Boundaries of the District."<sup>1</sup> It includes the properties described in the report of the Historic District Study Committee as well as the historic Tolland Green itself. The boundaries of the Historic District shall include the properties described to a depth of 300 feet or to the rear property line, whichever is less.

#### **§ 96-3. Historic District Commission.**

- A. **Membership.** There is hereby established an Historic District Commission. The Commission shall consist of five members and three alternate members, all of whom shall be electors of the Town holding no salaried Town office. At least one of the regular members and one of the alternate members shall be residents of the Historic District if there are such residents willing to serve. In addition, at least one other regular member shall be either a resident of the district or shall be an officer, director or other representative of a nonresidential private property owner within the district. The members of the Commission shall be appointed by the Town Council, and the regular members shall be appointed in such a manner that the term of one member shall expire each year from the effective date of this chapter establishing the Commission; and the Town Council shall also appoint three alternate members to the Commission, whose terms shall expire three years, two years and one year from said effective date. Thereafter, the Town Council shall appoint successors to regular and alternate members to terms of five years, except that an appointment to fill a vacancy shall be for the duration of the unexpired term of a regular or alternate member.

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1. Editor's Note: The map and boundary description are on file in the Town offices.

Any member or alternate may be appointed for another term or terms. All members shall serve without compensation. Each member and alternate member shall continue in office until his successor is duly appointed.

B. Powers and duties. The Commission shall have the following powers and duties:

- (1) To hear and decide applications for certificates of appropriateness.
- (2) To hear and decide applications to vary or modify strict adherence to the requirements of this chapter.
- (3) To designate application forms and procedure and to set an application fee not to exceed the costs of publication of necessary legal notices.
- (4) To make periodic reports to the legislative body.
- (5) To provide information to property owners and others involving the preservation of the district.
- (6) To suggest pertinent legislation.
- (7) To initiate planning and zoning proposals.
- (8) To cooperate with other regulatory agencies and civic organizations and groups interested in historic preservation.
- (9) To comment on all applications for zoning variances and special exceptions where they affect historic districts.
- (10) To render advice only on sidewalk construction and repair, tree planting, street improvements, storm drainage devices, curbs, street parking and traffic flow.
- (11) To furnish information and advisory assistance in connection with any capital improvements program involving the Historic District that is not otherwise subject to this chapter.
- (12) To consult with groups of experts.
- (13) To exercise any other powers granted to historic district commissions pursuant to the Connecticut General Statutes, § 7-147a through 7-147k, not inconsistent with the terms of this chapter.

**§ 96-4. Certificate of appropriateness.**

- A. No building or structure shall be erected, altered, restored, moved or demolished within the Tolland Green 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. "Exterior architectural features" shall include such portion of the exterior of a structure as is open to view from a public street. For the purposes of this chapter, exterior architectural features which are located on the side or to the rear of buildings or structures and are only incidentally visible from a public street shall not be considered "open to view." No industrial, commercial, business or home industry or occupation parking areas shall be newly created without a certificate of appropriateness from the Commission. The

style, material, size and location of permanent outdoor signs, fences, monuments, flagpoles and streetlighting within the Tolland Green Historic District shall also be under the review of the 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 or to temporary structures, tents or signs placed on the Green in conjunction with events or activities sanctioned by the Town Council.

- B. 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 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 15 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. Within not more than 65 days after the filing of an application, 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 basis 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 shall be by certificate of appropriateness issued by the Commission. Failure of the Commission to act within said 65 days shall constitute approval, and no other evidence of approval shall be needed.

#### **§ 96-5. Standards and exemptions.**

- A. No certificate of appropriateness need be issued for alterations or structures which are of such a minor nature as to not significantly impact the building involved or the district. Such minor items shall, at a minimum, include the following list, which may be added to by the Commission from time to time.
  - (1) Mailboxes.
  - (2) Trellises for the support of plants or vegetation. In addition, no certificate is necessary for shrubbery, trees or vegetation of any kind.
- B. In reviewing applications for certificates of appropriateness, the Commission shall not disapprove modern materials or methods of construction so long as the final result remains visually appropriate and does not unduly obscure architectural detail. In that the Tolland Green contains a mixture of buildings from different periods in history, the Commission shall consider the age and character of the individual building involved. 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, aboveground 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 that is under its jurisdiction, 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 passing upon a demolition request, the Commission shall consider the historical significance of the building or structure involved, its relationship to the district as a whole and whether its importance is outweighed by public health and safety concerns.

- C. In its deliberations, the Commission shall act only for the purpose of controlling the erection, demolition 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.
- D. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior feature in the Tolland Green Historic District which does not involve a change of design thereof nor prevent the construction, reconstruction, alteration or demolition of any such feature which the Building Inspector certifies is required by the public safety because of an unsafe or dangerous condition or under a permit issued by the Building Inspector prior to the effective date of establishment of the district.

#### **§ 96-6. Variances.**

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 chapter would result in exceptional practical difficulty or undue hardship upon the owner of any specific property, the Commission, in passing upon the 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 that 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. The Commission shall, for each variation granted, place upon its records and in the notice to the applicant the reasons for its determinations.

**§ 96-7. Enforcement.**

- A. If any action taken or ruling made by the Commission or any part of this chapter has been violated, the Commission may, in addition to other remedies, institute an action in the Superior Court for the judicial district of Tolland, 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 this chapter. This chapter shall be enforced by an enforcement official, who is hereby 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 this chapter. The enforcement official shall be appointed by the Commission and shall serve at its pleasure. In clear cases where no Commission action is necessary, he is authorized to waive application to the Commission for such ruling.
- B. The owner or agent of any building, structure or place where a violation of any provision of this chapter 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 \$10 nor more than \$100 for each day that such violation continues; but if the offense is willful, the person convicted thereof shall be fined not less than \$100 nor more than \$250 for each day that such violation continues. The Superior Court for the Judicial District of Tolland shall have jurisdiction of any 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 Commission. 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 Town of Tolland.

**§ 96-8. Appeals.**

Any person or persons severally or jointly aggrieved by any decision of the Commission may, within 15 days from the date such decision was rendered, take an appeal to the superior court in accordance with Connecticut General Statutes, § 7-147i, as it may be amended.

