

Town of Berlin HDC Regulations  
Adopted Mar 3, 2008/Amended Jan 4, 2016

REGULATIONS

TOWN OF BERLIN, CONNECTICUT HISTORIC DISTRICT COMMISSION

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REGULATIONS

Section 1. General. The purpose of these regulations is to provide procedures and guidelines for the following:

- Organization of the Commission
- Administrative Procedures
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- Certificates of Appropriateness
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Section 2. Organization of the Commission

The Commission shall be organized in accordance with the applicable Statutes of the State of Connecticut (Chapter 97, Section 7-147 (a) to 7-147 (l) inclusive, as amended by the General Statutes of Connecticut).

2.1 MEMBERSHIP: The Commission shall consist of five (5) regular and three (3) alternate members, who shall be electors of the municipality in which the district is situated, holding no salaried municipal office. In addition to being electors, at least three (3) regular members and

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one (1) alternate member of the Commission shall also be residents and property owners within the Berlin Historic District, if any persons reside in the district and are willing to serve on such Commission.

2.2 RESIGNATION/REMOVAL: Resignation from the Commission shall be in written form, and shall be transmitted to the Town Clerk, who shall forward a copy to the Mayor and the Town Manager. The Commission may recommend removal of a Commissioner by the Town Council due to lack of attendance at meetings, as set forth in Section 3-11 of the Town Charter.

### 2.3 OFFICERS AND DUTIES

2.3.1. CHAIRMAN -- The Chairman shall preside at all meetings and hearings of the Commission and shall have the following duties:

2.3.1.1 Appoint alternates to fill a vacancy caused by the absence of a regular Commission member at a meeting.

2.3.1.2. Appoint Committees.

2.3.1.3. Appoint a Clerk *pro tem* in the absence of the elected Clerk.

2.3.1.4. Serve as liaison to the Mayor and the Town Manager.

2.3.2. VICE-CHAIRMAN: The Vice-Chairman shall act for the Chairman in his/her absence and shall have the authority to perform duties prescribed for that office.

2.3.3. CLERK: The Clerk (or a secretary under the supervision of the Clerk) shall:

2.3.3.1 Keep the minutes and records of the Commission.

2.3.3.2. Provide notice of all meetings to all Commission members.

2.3.3.3 Arrange proper and legal advertisements of public hearings.

2.3.3.4 Attend to the correspondence of the Commission.

2.3.3.5 Maintain a monthly record of the commission's expenditures on a fiscal year basis.

2.3.3.6 File at least once every year, with both with the Connecticut Historical Commission and the Town Clerk of Berlin, a brief summary of the Commission's actions during that year, including a statement of the number and nature of Certificates of Appropriateness issued, any changes in the membership of the Commission, and any other information deemed appropriate by the Commission.

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2.3.3.7 Prepare an Annual Budget for review and adoption by the Commission and presentation to the Town Manager.

2.3.3.8 Perform such other duties as are normally carried out by a Clerk.

2.4 COMMITTEES-- The following committees may be established by the Commission:

2.4.1. NEW DISTRICT STUDY-- Function: To research and propose additional areas suited for the creation of new historic districts and to coordinate the activities necessary to establish new districts, or to designate historic properties.

2.4.2. CERTIFICATE OF APPROPRIATENESS COMMITTEE--FUNCTION: To review Applications for completeness and accuracy with the Applicant and perform on-site visits as needed prior to the scheduled public hearing on the Application; and then to review and monitor work being performed under an approved Certificate so as to ensure compliance with the Certificate and any stipulations contained therein.

2.4.3. TREE COMMITTEE--FUNCTION: To periodically assess and make recommendations regarding the care, replacement, removal and planting of trees and other vegetation in the District with the goal of preserving and enhancing the District's historic character.

2.4.4. SURVEYS -- FUNCTION: To coordinate any historical-architectural surveys within the Town.

2.4.5. REHABILITATION GUIDELINES -- FUNCTION: To develop and maintain commission Guidelines for the upgrading or renovation of buildings, structures, and sidewalks within the District, and to make these Guidelines known to the public.

2.4.6. PRESERVATION COMMITTEE -- FUNCTION: To identify and make recommendations regarding the preservation of significant historic buildings or structures in the district; and to enlist the assistance of local, federal and state governments, as well as private agencies, foundations, and individuals, in carrying out appropriate preservation initiatives.

Section 3. Administrative Procedures

3.1. MINUTES -- Minutes shall be taken at each meeting of the Commission and shall be made available for public inspection. The minutes shall record votes of each member participating in resolutions, transactions, or determinations. Copies of the minutes shall be filed with the office of the Town Clerk. Additional copies of the minutes shall be distributed to each member of the Commission prior to the regularly scheduled meeting.

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3.2. LEGAL ADVERTISEMENTS -- When required, legal advertisements shall be published in a newspaper having substantial circulation in the Town. Said notices shall appear not more than fifteen calendar days or less than five calendar days before such hearing. Notice of the time and place of such hearings shall be included in the announcement. Legal notices shall also be placed in the office of the Town Clerk at least 24 hours prior to the meeting.

3.3. AGENDA -- An agenda shall be prepared by the Chairman for each meeting. The agenda shall consist of the items listed in the legal notice and any other items that need to be considered by the Commission. A copy of the agenda shall be filed with the Town Clerk not less than 24 hours before any meeting.

3.4. REGULATION ENFORCEMENT -- The Commission shall take action to prevent the violation of any rule or procedure contained herein, or any section of the applicable Statutes of the State of Connecticut. Regulations and orders of the Commission shall be enforced by the Zoning Enforcement Officer, who shall require in writing the remedying of any condition that is found to be in violation.

3.4.1. Definitions.

- 3.4.1.1. Person means any individual, firm, partnership, corporation, Limited Liability Company, association or any other entity.
- 3.4.1.2. Citation shall be a written statement of the relevant conditions and facts giving rise to the violation, including a reference to the specific section(s) of the Historic Regulations or applicable Statutes of the State of Connecticut.
- 3.4.1.3. Court shall mean the Superior Court for the judicial district of New Britain, Connecticut.

3.4.2 Enforcement Action.

3.4.2.1. Pursuant to the Chapter 97, Section 7-147h(b), inclusive, as amended by the General Statutes of Connecticut, the Zoning Enforcement Officer is hereby authorized to issue citations for violations of these regulations and any section of the applicable Statutes of the State of Connecticut. The fine for such violation shall be One Hundred (\$100.00) dollars, payable to the Town of Berlin for each day that such violation continues. Each day the violation continues to exist shall constitute a separate offense. All costs, fees and expenses in connection with actions under this section may, in the discretion of the court, be assessed as damages against the violator, which, together with reasonable attorney's fees, may be awarded to the Historic District Commission which brought such action. Any funds collected as fines pursuant to this section shall be used by the Commission to restore the affected buildings, structures, or places to their condition prior to the violation wherever possible and any excess shall be paid to the Town of Berlin.

3.4.2.2. If any provision of this part or any action taken or ruling made by the Historic District Commission pursuant to the provisions of applicable sections of

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the State Statutes or of any regulation or ordinance adopted under said applicable sections of the State Statutes has been violated, the commission may, in addition to other remedies, institute an action to the superior court in the Judicial District of New Britain, Connecticut, 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 applicable sections of the State Statutes or any regulation or ordinance adopted under the applicable sections of the State Statutes or the substantial restoration of any building, structure, or exterior architectural feature altered or demolished in violation of applicable sections of the State Statutes or any regulation or ordinance adopted under said sections of the State Statutes. Regulations and orders of the Commission issued pursuant to applicable sections of the State Statutes, or to any regulation or ordinance adopted under said sections shall be enforced by the zoning enforcement official or building inspector or by such other person as may be designated by ordinance, who may be authorized to inspect and examine any building, structure, place or premises and to require in writing the remedying of any condition found to exist therein or thereon in violation of any provision of the regulations or orders made under the authority of applicable sections of the State Statutes or of any regulation or ordinance adopted under said sections.

3.5. RULES AND PROCEDURES REVISIONS -- The Commission may amend the Rules and Procedures from time to time as it may feel necessary. Revisions to these Rules and Procedures shall be reviewed at a public hearing. A majority vote of the Commission is required for the adoption of any revision.

3.6. CONFLICT OF INTEREST -- If for any reason(s) a regular Commission member finds him/herself in conflict with a particular issue, for personal or financial reasons, the individual shall abstain from any vote and the Chairman shall appoint an alternate to vote in the place of that member.

3.7. EXECUTIVE SESSIONS: Executive sessions may be convened only by an affirmative vote of two-thirds of the members voting at a meeting, and only when issues concern one or more of the following:

3.7.1. Personnel matters.

3.7.2. Strategy and negotiations with respect to pending litigation or claims.

3.7.3. Selection of a site or the lease, sale, or purchase of real estate until transactions are completed or abandoned.

3.7.4. Public records exempt from disclosure according to the provisions of the Freedom of Information Act, such as preliminary drafts or notes, etc.

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3.8. ANNUAL ACTIVITIES -- The following shall be considered ongoing, annual activities and shall be reviewed by the Commission at its annual meeting:

3.8.1. Compliance Enforcement -- Function: To coordinate activities with the Zoning Enforcement Officer in the area of enforcement of the Commission rulings.

3.8.2. Property Owner Liaison -- Function: To contact and acquaint new property owners with the rules and procedures established by the Commission.

3.8.3. Procedure -- Function: To review and update the Commission's Rules and Procedures on an ongoing basis.

3.8.4 Town Hall Liaison -- Function: To provide communication and coordination with the Mayor and Town Manager's offices as to the Commission's activities and requirements.

3.8.5 Press -- Function: to coordinate news releases to the press.

3.8.6 Elections -- Function: The Commission shall elect officers at its annual meeting.

3.8.7 Preservation Award-- Function: to recognize unusual and/or exemplary efforts to preserve, restore, or enhance historic properties in the District.

Section 4. Meetings and Public Hearings

4.1. Meetings -- The Commission holds three types of meetings. They are: a) public hearings; b) regular monthly meetings; and c) special meetings. Special Meetings are held in order to transact business on an exceptional basis, to permit the Commission to develop rules or procedures for the administration of the district, or to establish guidelines for architectural renovations. All meetings are open to the public.

4.1.1. FREQUENCY; SCHEDULES

4.1.1.1 Regular meetings are held at 7:00 p.m. at Town Hall in accordance with the schedule adopted by the Commission. The schedule of regular meetings for each new calendar year shall be made available to the Town Clerk prior to January 1<sup>st</sup> of each year.

4.1.1.2 Special meetings are held on an as-needed basis. Meeting notices shall be posted with the Town Clerk at least 24 hours prior, stating time, place and business to be transacted. No other business except that posted on the notice shall be considered at special meetings.

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4.1.2. CONDUCT OF MEETINGS

4.1.2.1 Quorum-Three (3) members of the Commission shall constitute a quorum. The concurring vote of at least three (3) members of the Commission shall be necessary to issue a Certificate of Appropriateness. However, a simple majority of those voting at any meeting or hearing at which there is a quorum shall be sufficient for all other actions of the Commission.

4.1.2.2. Order of Business -- The order of business at regular meetings will generally be as follows:

4.1.2.2.1. Roll call.

4.1.2.2.2. Public hearing, if applicable. Close public hearing.

4.1.2.2.3. Deliberation of Public Hearing – action on items from closed public hearing.

4.1.2.2.4. Review and action on minutes of preceding meeting.

4.1.2.2.5. Old Business.

4.1.2.2.6. Report of committees.

4.1.2.2.7. New business.

4.1.2.2.8. Adjournment.

4.2 PUBLIC HEARINGS

4.2.1. Frequency -- Public hearings shall be held:

4.2.1.1. Public Hearings shall be heard for any application for a Certificate of Appropriateness. An application for a Certificate of Appropriateness must be received as per the deadline date set by the **Commission in its yearly calendar posted with the Town Clerk prior to January 1<sup>st</sup> of each year.**

4.2.1.2. At the discretion of the Commission, when significant concerns or questions arise relating to the administration of the district.

4.2.1.3. To adopt or revise the Rules and Procedures of the Commission.

4.2.2 LEGAL ADVERTISEMENTS - Legal advertisements of Public Hearings shall be published in a newspaper having substantial circulation in the Town. Such notices shall

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appear not more than fifteen calendar days, and not less than five calendar days, before such hearing.

4.2.3. CONDUCT OF PUBLIC HEARINGS INVOLVING CERTIFICATES OF APPROPRIATENESS

4.2.3.1. Who may appear -- Any individual may appear in person, by agent, or by attorney at the hearing.

4.2.3.2. Order of Hearing -- Applications are heard in the order in which they are submitted to the Town and as shown on the call for the hearing.

4.2.3.2.1. The Clerk shall read the Legal Notice.

4.2.3.2.2. The Chairman shall give a statement of the Application and shall open the public hearing on that item.

4.2.3.2.3. The applicant or his agent shall appear and give a detailed description of the application as well as present any supporting evidence such as blueprints, drawings, specifications of materials, etc.

4.2.3.2.4. Upon completion of the presentation, the Commission shall have the opportunity to question the applicant.

4.2.3.2.5. After questions by the Commission, the Chairman shall ask for comments in support or against the application from interested parties.

4.2.3.2.6. The Commission shall then have the opportunity to question those in support or against an application.

4.2.3.2.7. After hearing comments from interested parties, the applicant may address comments made by those parties.

4.2.3.2.8. The Commission shall then have the opportunity to address the applicant with any final questions. The Commission will then close that application's portion of the public hearing.

4.4.3.2.9. The Commission will deliberate and take action on the application (approve, deny, continue).

4.2.4. EVIDENCE AT HEARINGS -- The proceedings for each application, in addition to minutes taken by the Clerk, may be recorded by a sound recording device. Attachments to each application shall be recorded by the Clerk as exhibits in numerical order. Additional material or correspondence presented to the Commission during the



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course of the hearing shall be recorded in like manner.

Section 5. Certificates of Appropriateness

No building or structure shall be erected, altered, restored, moved, or demolished within the Historic District until an application for a Certificate of Appropriateness as to exterior architectural features has been submitted to the Commission and approved by said Commission. A Certificate of Appropriateness shall be required whether or not a building permit is required. Nothing in these regulations shall preclude the relocation of a historic structure into or within the District; however, a Certificate of Appropriateness shall be required for such an activity. Public hearings shall be held prior to the issuance of any Certificate of Appropriateness.

As used in the above, "erected" means constructed, built or installed; "altered" means changed, modified, rebuilt, reconstructed, or enlarged; "building" means a combination of materials forming a shelter for persons, animals, or property; "structure" means any combination of materials, other than a building, which is affixed to the land, and shall include, but not be limited to, signs, fences and walls. "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.

The style, material, size, and location of outdoor advertising signs and bill posters within the Historic District shall also be under the control of the Commission.

In addition, no area within the Historic District shall be used or expanded for industrial, commercial, business, home industry, occupational or any other than residential 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 and approved by the Commission.

No Certificate is required for work certified by the Building Inspector as necessary for the immediate public safety because of a situation that is unsafe or dangerous. The Building Inspector shall notify the Commission when such work has been authorized.

If a building or structure is to be demolished, no demolition shall occur for 90 calendar days from 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 such 90-day period, the demolition permit shall become effective and the demolition may occur. Nothing in this paragraph shall be construed to mandate that the owner of such property sell such property, building, or structure.

5.1 APPLICATION

5.1.1 Application forms for a Certificate of Appropriateness shall be available to the public at the Planning and Building Department at Town Hall.

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5.1.2 All applications for a Certificate of Appropriateness shall be accompanied by scaled drawings showing the nature of the work to be performed, as well as a list of materials to be used. With respect to signs, the application shall state the size, material and proposed location(s). A plot plan may be required.

5.1.3 Completed applications shall be submitted to the Town Planner's office by the deadline date as set in the yearly posted calendar of Commission Meeting Dates in order to be acted upon at that meeting.

5.1.3 Applications for rehabilitation, new additions, and accessory structures shall include the following materials:

5.1.3.1. Precise written statement describing proposed changes or design (on the Commission's application form).

5.1.3.2. Written specifications, with measurements.

5.1.3.3. Photographs of building or lot.

5.1.3. 4. Plot plan, if necessary, for additions.

5.1.3.5. Rehabilitation or restoration applications should include historical photographs and statement including physical and/or documentary evidence or depictions of proposed changes, as well as a description of existing materials and their condition, particularly if replacement is proposed.

5.1.3.6. The Commission may require or suggest material samples or color samples for either rehabilitation or new construction.

5.1.4 Applications for the construction of new buildings or structures:

5.1.4.1 All new buildings or structures within the District shall be designed by a licensed architect.

5.1.4.2. All applications for new buildings or structures shall be subject to the requirements of Sections 5.1.3.1. through 5.1.3.6 of these regulations.

5.1.4.3 Applications for construction of new buildings or structures shall include working drawings at a scale of no less than 1/4 inch = one foot, with:

- a. elevations of facades;
- b. site plans; and
- c. indications of materials.

5.1.4.4 New construction applications shall also include a streetscape elevation or

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architectural rendering of the new design in the context of neighboring buildings or structures.

5.1.4.5 Plans for new construction applications shall be specific as to the architectural style, design, arrangement, texture, and material of architectural features; and also as to their relationship to the style and features of other buildings and structures in the immediate neighborhood.

## 5.2 PROCESSING

5.2.1 The Commission shall take action and give notice on each application within 65 calendar days of its filing.

5.2.2 A completed application shall be heard at the next scheduled meeting of the Commission, provided that such application is submitted at least 14 calendar days in advance of that meeting.

5.2.3. Notification shall be sent to each applicant stating the date, time, and place of the public hearing at which his/her application will be heard.

## 5.3 GENERAL STANDARDS FOR DETERMINING APPROPRIATENESS:

Prior to the issuance of a Certificate of appropriateness, the Commission shall consider, in addition to any other pertinent factors, the following as they apply to the application:

5.3.1. Historical and architectural value.

5.3.2. Architectural style.

5.3.3. Scale in relation to the surrounding area and historical accuracy.

5.3.4. General design.

5.3.5. Arrangement.

5.3.6. Texture and materials of the architectural features.

5.3.7 The extent to which additions to, or rehabilitation or alteration of, buildings in the District adhere to standards adopted by the U.S. Secretary of the Interior.

5.3.8 Parking Areas --The Commission shall consider the visibility of cars parked therein, the closeness of such areas to adjacent buildings, and other similar factors.

5.3.9 Variations -- Where, by reason of topography or because of other unusual circumstances, strict adherence to the standards would impose exceptional practical

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difficulty or undue hardship on the applicant, the Commission may vary or modify its standards so as to relieve such difficulty or hardship, provided such variation remains in harmony with the general character of the District.

**5.4 ADDITIONAL STANDARDS FOR DETERMINING THE APPROPRIATENESS FOR NEW BUILDINGS OR STRUCTURES:**

In addition to items 5.3.1 through 5.3.9 above, The Commission shall review the extent to which plans for new buildings or structures show consideration for the following design elements, and shall make a finding that they satisfy the intent of this section, prior to the issuance of a Certificate of Appropriateness:

5.4.1. Qualities of building form including the height, scale, and massing of the structures.

5.4.2 Qualities of the façade, including proportion, doors and windows, architectural style details of embellishment, roof material, directional expression, and degree of complexity.

5.4.3 Relationship to immediate neighbors with respect to architectural compatibility and placement of buildings on the site, including such factors as the rhythm of the buildings from the street and those on adjacent properties, as well as the rhythm of entrance/porch projections.

5.4.4 Relationship to the District as a whole, including materials, texture, architectural details, roof shapes and projections (porches, eills, etc.).

5.4.5 Environmental factors, including paving, fences, lighting fixtures, signs and relationship to open space.

**5.5 ACTIONS BY THE COMMISSION**

5.5.1 APPROVAL -- If the Commission approves an application, a Certificate of Appropriateness shall be issued.

5.5.1.1 The Certificate shall include a stipulation as to the time period during which the proposed work is to be completed. It may also contain additional stipulations such as the types of construction materials to be used.

5.5.1.2 A copy of the Certificate shall be mailed to the applicant. An additional copy, as well as a copy of the application, shall be distributed to the Zoning Enforcement Officer; and a copy, along with the original application and attachments, shall be maintained in the Commission's file.

5.5.1.3 Failure to comply with the stipulations and other terms of the Certificate

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may result in fines, enforcement action, and/or revocation of the issued certificate. In the case of revocation, notice of intent to revoke shall be given to the certificate holder, providing such holder with an opportunity to be heard.

5.5.2 DENIAL -- A Certificate of Appropriateness may be denied by the Commission when, in the opinion of the Commission, the issuance of such a Certificate would be detrimental to the interest, preservation, and/or integrity of the historic district.

5.5.2.1 Written notice of the denial shall be sent to the applicant and the Building Inspector. The notice shall state the specific reason(s) for denying the application.

5.5.2.2 The Commission shall not be required to hear any application for a Certificate of Appropriateness more than once in a period of six months. This shall not apply when the Commission has denied an application without prejudice.

5.5.3. PUBLICATION -- All actions taken on Certificate of Appropriateness by the Commission shall be published in a paper having a substantial circulation within the municipality within fifteen (15) calendar days after such a decision has been rendered.

5.6. APPEALS -- Any individual who has been severally or jointly aggrieved by any decision of the Commission or of any officer thereof may, within fifteen (15) calendar days from the date when such decision was rendered, take an appeal to the Superior Court for the Judicial District of New Britain, Connecticut in accordance with Section 7-147i of the General Statutes of Connecticut, governing historic district procedures.

5.7 SEPARABILITY -- Should a final decision in a case before the court of competent jurisdiction declare any provision of these Rules and Procedures illegal or beyond the authority of the Commission to enact, the remaining provisions shall continue in full force and effect except where it is impossible to do so because of said declaration of illegality.

5.8 These Rules and Procedures and any amendments thereto shall become effective immediately upon the affirmative vote of the Commission.