

# TOWN OF EAST HAMPTON AGENDA REPORT

Town Manager Approval: \_\_\_\_\_



Item to be presented by: Keith Hayden

DATE: February 9, 2010  
SUBJECT: Draft Sidewalk Ordinances  
DEPARTMENT: Public Works

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## RECOMMENDED ACTION

It is recommended that the Town Council adopt a sidewalk ordinance eliminating the town's liability for personal injury or property damage caused by snow or ice on the public sidewalks in town.

## BACKGROUND

A survey of 36 towns was conducted. Of the 36 towns surveyed, 27 have sidewalk ordinances. A copy of the study is attached. Nineteen towns have time frames for snow and ice removal ranging from 4 to 24 hours from triggering events such as the end of the storm, daylight or notification by the town. Seventeen of the 26 towns have language that allowed the DPW to remove the snow and ice if the abutter failed to do so. Nine of these 17 have mechanisms to recover the costs of the removal through liens or civil action. Thirteen towns have fines for non-compliance ranging from \$25 to \$100.

Please refer to the attached letter from the town attorney Jean D'Aquila to Jeffrey O'Keefe dated January 26, 2010.

As noted in the summary;

- 1) East Hampton currently has no ordinance to shift liability to abutters and as such is entirely responsible for snow and ice removal on public sidewalks.
- 2) The town has liability for failure to remove ice and snow.

Other factors to consider:

- 3) The majority of towns surveyed have a similar ordinance.
- 4) The town will continue to repair broken and heaved sidewalks.
- 5) It costs the town approximately \$10,000/year in overtime equipment costs.
- 6) The Town currently clears 6.5 miles of sidewalk.
- 7) There are approximately 1.5 miles of public sidewalks that are not cleared located in Spice Hill and Royal Oaks that the town is liable for.
- 8) The Skyline development and new subdivisions will add additional sidewalks in the near future.
- 9) The machine used to clear the sidewalks is 14 years old and has a replacement cost of \$105,000.
- 10) There is no backup or spare machine to use in the event of a breakdown.

## ALTERNATIVE ACTIONS

If no action is taken and the ordinance is not adopted we will have to clear all sidewalks in town. This will include the 1.5 miles we currently do not clear and all new sidewalks added with new subdivisions.

FISCAL IMPACT

If the town approves a sidewalk ordinance, the town will no longer be liable for any injuries or property damage caused by the presence of ice or snow on a public sidewalk unless the town is the owner of land abutting such sidewalk.

If the Town Council decides not to pursue an ordinance and to continue with the current sidewalk snow removal practices, the town will continue to spend approximately \$12,000 (\$10,000 existing plus \$2,000 for the 1.5 miles we do not currently clear) per year to remove snow from sidewalks in town. This figure will grow as new sidewalks are added. The town should consider the immediate purchase of a new machine (\$105,000) and use the existing machine as a backup.

EH: Clerks Office

AGENDA ITEM: 5A

## **Article IV - Snow and Ice on Sidewalks**

### **273.8 Definitions**

As used in this article, a sidewalk is defined as any gravel, brick, cement, asphalt, or other material constructed or paved as a path or walkway for the use, convenience and safety of the general public and which adjoins public streets.

### **273.9 Standards Adopted**

The provisions of C.G.S. Sec. 7-163a are hereby adopted effective \_\_\_\_\_.

### **273.10 Liability of Town**

Notwithstanding the provisions of C.G.S. 13a-149 or any other general statute or special act, the Town of East Hampton shall not be liable for personal injury or property damage caused by the presence of ice or snow on a public sidewalk unless the Town of East Hampton is the owner or person in possession and control of land abutting such sidewalk. Nothing in this Section shall insulate the Town of East Hampton from liability for its affirmative acts with respect to public sidewalks.

### **273.11 Duty and liabilities of adjacent property owners**

The owner or person in possession and control of land abutting a public sidewalk shall have the same duty of care with respect to the presence of ice or snow on such sidewalk toward the portion of the sidewalk abutting his property as the municipality had prior to the effective date of this article adopted pursuant to the provisions of C.G.S. 7-163a and shall be liable for personal injury or property damage caused by a breach of said duty.

### **273.12 Limitation on actions**

No action to recover damages for injury to the person or to property caused by the presence of ice or snow on a public sidewalk against a person who owns or is in possession and control of land abutting a public sidewalk shall be brought but within two years from the date when the injury is first sustained.

Article V - Snow Removal from Sidewalks

**273.13 Removal of snow from sidewalks required**

**A.**

All owners, entities, or persons in possession and control of property that adjoins any public sidewalk shall remove the snow and ice accumulated on it within 24 hours after the cessation of a snow or ice storm. Ice that has formed on a public sidewalk due to refreezing of standing water or moisture shall be removed or the slippery condition abated within 24 hours of such refreezing of water or moisture.

**B.**

The Public Works Department shall ensure that snow and ice is removed from all sidewalks abutting Town-owned property, except for such sidewalks as are the responsibility of the Board of Education of the Town of East Hampton. Where the property owner, entity, or person in control of property abutting a public sidewalk has failed to remove snow and/or ice within twenty-four hours after the cessation of a snow or ice storm, the Director of Public Works may cause to have such snow and/or ice removed from said sidewalks, with the cost of such removal being charged to the property owner, person, or entity in possession and control of property abutting said public sidewalk. The cost of such removal to be charged to the property owner, person, or entity in possession and control may include the cost of department manpower and equipment and/or the cost of private contractors hired by the Town to facilitate the removal of snow and ice as aforesaid.

Town	Abutter Liable	Time Frame	Trigger	Fine	DPW	Enforcement
Bethel	Yes	6	Daylight	\$50	Yes	Civil Action
Branford	Yes	8	End of Snow		Yes	Lien
Clinton	No					
Colchester	Yes					
Cromwell	Yes	24	End of Snow	\$50	Yes	Fine
East Haddam	Yes	8	Daylight	\$25	Yes	Fine
Ellington	Yes	24	End of Snow	\$25/\$100	Yes	Lien
Farmington	Yes	24	End of Snow	\$100	Yes	Lien
Griswold	No					
Hebron	Yes	8	End of Snow	\$50		Fine
Killingworth	No					
Manchester	Yes	24	End of Snow	Not Specified		Fine
Mansfield	Yes	8	End of Snow	Not Specified	Yes	Fine
Meridan	Yes	6	End of Snow	Not Specified	Yes	Fine
Middletown	Yes	24	End of Snow	\$50	Yes	Fine
Monroe	Yes	4	End of Snow		Yes	Civil Action
Montville	Yes	12	End of Snow		Yes	Lien
New Canaan	Business - Yes, Residential - No	6	End of Snow		Yes	Lien
New Milford	Yes					
Newington	No					
Newtown	No					
North Branford	Yes					
North Haven	Yes					
Norwalk	Yes	6	Daylight	\$99	Yes	Fine
Old Lyme	No					
Old Saybrook	Yes				Yes	
Orange	No					
Portland	Yes	4	Notified by Town		Yes	
Rocky Hill	Yes					
Southington	No					
Stratford	Yes					
Tolland	Yes	24	End of Snow	\$35		
Torrington	Yes					
West Hartford	Repealed 1998					
Wethersfield	Yes	24	End of Snow		Yes	lien
Wilton	Yes	6	Daylight	\$99	Yes	Fine/Lien

Towns surveyed = 36

Yes - 27

No - 9

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Facsimile: (860) 704-0545

January 26, 2010

Jeffery J. O'Keefe, Town Manager  
Town of East Hampton  
20 East High Street  
East Hampton, CT 06424

Keith Hayden, P.E.  
20 East High Street  
East Hampton, CT 06424

Re: Sidewalk Ordinance  
Our File No.: 2666-004

Dear Mr. O'Keefe and Mr. Hayden:

In phone discussions with Mr. Hayden on January 15, he indicated he was in process of drafting an Ordinance for consideration by the Town Council with regard to sidewalk maintenance. I agreed to research and draft a memo or letter that presents the law as it exists now in East Hampton, given that there is currently no Ordinance in place. Please accept this letter in that regard.

**I. The municipality has the duty of maintaining sidewalks absent an ordinance.**

Municipalities normally have the duty of maintaining public sidewalks. CGS Sec. 13a-149 makes municipalities liable for damages caused by a breach of that duty. **Rivers v. City of New Britain**, 288 Conn. 1 (2008).

To prevail on a Sec. 13a-149 claim, a plaintiff must prove four elements: (1) a defect in the sidewalk, (2) that the municipality knew or should have known of the defect, (3) that, with actual or constructive knowledge of the defect, the municipality failed to remedy it within a reasonable time and (4) the defect was the sole proximate cause of the plaintiff's injuries. **DeMatteo v. City of New Haven**, 90 Conn. App. 305, 308 (2005).

The test for liability is not whether the municipality would have discovered the defect had it inspected the particular sidewalk on a reasonable basis. Rather, the test is whether the defect

would have been discovered had the municipality exercised reasonable supervision over its streets and sidewalks as a whole. *DeMatteo*, 90 Conn. App. at 310.

In the normal state of affairs an abutting landowner has no duty to keep a sidewalk in front of his or her property reasonably safe for travel. ***Wilson v. City of New Haven***, 213 Conn. 277, 280 (1989). The abutting owner may not have any positive duty to maintain a sidewalk not within his own property line. However, the abutter may not create or maintain a nuisance on the sidewalk. ***Hanlon v. City of Waterbury***, 108 Conn. 197, 200-01 (1928). Neither will the town's duty save the abutter from liability for injuries that occur on a part of the sidewalk that falls within the abutter's property. ***Tenney v. Pleasant Realty Corp.***, 136 Conn. 325,329 (1949).

## II. — **The municipality may by Ordinance shift the duty to abutters.**

The state statutes allow municipalities by ordinance to shift to abutting owners the duty of care and liability for damages that occur on public sidewalks from ice and snow. CGS Sec.7-163a; *Rivers*, 288 Conn. at 2. The shift in liability has its limits:

(1) By its terms the statute pertains only to snow and ice. It does not pertain to other sidewalk defects. In ***McClendon v. City of Hartford***, 2006 Conn. Super. LEXIS 2160 (Hartford J.D., Elgo, J.), the court granted summary judgment to the abutting owner on common law grounds that it had no duty to keep the sidewalk safe from defects like uneven concrete slabs..

(2) The statute does not shift liability when the municipality either owns or controls the land that abuts the sidewalk.

(3) The municipality remains liable for any affirmative acts with respect to the sidewalk, even if it is not the abutting owner.

(4) *Rivers* held that the municipality remains liable, despite a Sec. 7-163a ordinance, if the state owns the land abutting the sidewalk.

A municipality has statutory power to require abutting owners to remove not only snow and ice but also debris or any other obstruction. CGS Sec. 7-148 (b) (6) (C) (v). This statute allows for the municipality to impose penalties and make the cost of removal a lien on the property; but unlike Sec. 7-163a, this statute does not mention shifting liability for injuries.

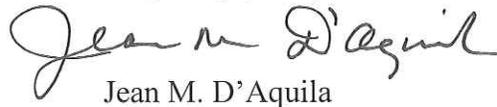
## III. **Summary.**

As East Hampton currently has no Ordinance to shift liability to abutters, it is entirely responsible for ice and snow removal on public sidewalks (and has liability for failure to remove ice and snow).

We will review Mr. Hayden's draft Ordinance next. The goal of that Ordinance is to shift responsibility for ice and snow removal to abutters. As we know, the Town cannot shift liability if the State is the owner of the abutting property or, of course, if the Town is the owner of the abutting property.

For now, please let me know if you have questions concerning any of the above comments. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Jean M. D'Aquila". The signature is fluid and connected, with a large initial 'J' and a distinct 'D'.

Jean M. D'Aquila

JMD/mc

**TOWN OF EAST HAMPTON  
AGENDA REPORT**

Town Manager Approval:  \_\_\_\_\_

Item to be presented by: Jeffery J. O'Keefe

DATE: February 9, 2010

SUBJECT: Water Connection Policy for Village Water System

DEPARTMENT: Town Manager

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RECOMMENDED ACTION

Town Council adopts the water connection policy as recommended by the Water Task Force.

BACKGROUND

Based on input from the last council meeting staff re-drafted the proposed water connection policy to include definitions of the criteria and modified the table to make it easier to understand. The revised policy is attached.

One of the advantages of the completion of the Village Water System upgrades is that additional water capacity is now available to add new users to the system. Over the years a list of those residents and businesses wishing to be added to the system has been developed (see attached). Unfortunately, the additional capacity is not enough to add everyone wishing to be added to the system.

To address this; the Water Task Force has been working on a policy that would help guide the selection of those wishing to be added. A lot of thought and effort went into the establishment of this proposed policy by the Water Task Force.

The proposed connection policy is attached and the Water Task Force is recommending that the council discuss and approve its adoption.

Connections charges, for those wishing to be added to the Village Water System is currently being developed by the water task force.

ALTERNATIVE ACTIONS

Do not adopt policy and/or amend policy based on council discussion

FISCAL IMPACT

None

EH: Clerks Office

AGENDA ITEM: 5B

**WATER CONNECTION POLICY**  
Adopted by Town Council on ????????

The Town of East Hampton, through its Water Pollution Control Authority, is dedicated to being an integral part of and improving public health, safety and welfare for the citizens of the Town. Utilization of the Public Water Systems (PWS) owned and operated by the Town is governed by four principles, in order of priority; 1). Availability of excess public water; Y/N 2). Public health, safety and fire protection. 3). Potential economic development benefits; and 4) cost to install, maintain and operate the new service connection.

Property owners desirous of connecting to one of the Town's PWS are requested to submit an application request to the WPCA. The application will be reviewed and ranked by the Executive Director of the WPCA, the District Health Director, the Town Manager and the Chief Building Official of the Town, with their recommendations going to both the WPCA Board of Directors and Town Council for final approval.

All applicants must first meet a minimum requirement to proceed to have their application reviewed. This minimum requirement is that the proposed new water service must conform to the Towns Water Supply Plan, be located within the service boundaries and the water must be available. Municipal buildings owned by the Town would be considered for connection to the water system, on a case by case basis, even if they reside outside of the service boundaries.

If any applicant meets the initial first requirement then the application will be rated on a weighted 500 point system based on the three criteria below:

<b>CRITERIA</b>	<b>POSSIBLE POINTS</b>			<b>TOTAL SCORE</b>	<b>WEIGHT</b>
Public Health/Safety	5	x	50	250	50%
Economic Benefits	5	x	30	150	30%
Cost to Operate***	5	x	20	100	20%
<b>TOTALS</b>	15			500	100%

\*\*\* A high point value (number) for this category indicates that the proposed applicant(s) system has a low cost to install, low cost to maintain and a lost cost to operate.

Water service connections to the Town Center Water System will be prioritized based upon the following criteria:

- 1) Water service connections for public health and safety reasons are defined by the Town's Director of Health or any State Agency having authority over said public water system. Example: the Director of Health has determined that a private well is not suitable for human consumption and must be connected to a public water system.
- 2) Fire protection is not provided by any public water system owned or operated by the Town. No water service connection would be permitted for this reason.
- 3) Water service connections for economic development or redevelopment purposes must demonstrate consistency with the Town's EDC mission statement i.e. to assist in the creation and growth of small business in East Hampton.
- 4) Properties requiring a **water main extension** for service will be liable for all charges accruing for the extension of the water main; the size and type of mains to be installed will be determined by the Authority. All water main extensions must comply with the latest version of the Town of East Hampton, Water Pollution Control Authority, RULES & REGULATIONS FOR WATER SERVICE.

Property owners will be liable for all charges accruing for the **water service connection** from the water main to the installation of the water meter. All water service connections must comply with the latest version of the Town of East Hampton, Water Pollution Control Authority, RULES & REGULATIONS FOR WATER SERVICE.

The property owner shall own and maintain, at their expense, the **water service connection** and shall keep same in good condition in accordance with the requirements of the Authority

Property owners will be liable for all charges accruing for the **water service**. Water bills for all water service will be metered and rendered monthly. From time to time such rates for water service may be modified by the Town Council of the Town.

Requests for Water Service @ VCWS

Revised 6/18/09 to show those customers with frontage on the water system & CTDPH safe yield  
 Revised 7/15/09 to include "Water Connection Policy"

Location	Date Requested	m/b/l	Est. Demand gpd	Health & Safety "1 - 5"	EDC "1 - 5"	Cost to Serve "1 - 5"	points	points	points	Notes:
<b>Water Main in front of Property</b>										
17 Watrous Street	12/13/05	06A59/8	400	5	5	5	150	100	500	Industry, dieldrin contamination, Sanitary only
29 Watrous Street	12/13/05	06A58/1	750	5	2	5	60	100	410	5 units residence, dieldrin contamination
64 Main Street	8/29/08	02A/47/31	750	3	2	5	60	100	310	5-family no health concerns
21 Skinner Street	1/17/08	02A/49/1-2	?	1	5	5	150	100	300	Scott Energy bldg.
10 Summit Street	1/5/05	06A/6/1/2	850	1	5	5	150	100	300	8480 SQ., .5 Light Ind. + .5 retail
12 Skinner Street	12/15/89	02A/48A/8	200	1	1	5	30	100	180	sf residence
<b>No water main in front of property</b>										
2 Starr Place	12/13/05	06A/59/13	400	5	3	1	90	20	360	Starr Auto, dieldrin, Sanitary only
6 Bevin Blvd	7/1/98	05A/62/56	75	3	5	2	150	40	340	Historical Society, TC approved 2007
3 Bevin Court	12/13/05	06A/62A/22	400	5	1	1	30	20	300	2 family, dieldrin contamination
15 Summit Street	12/13/05	06A/62A/21	200	5	1	0	30	0	280	dieldrin contamination (for sale)
16 Summit Street	12/13/05	06A/59/18	200	5	1	0	30	0	280	dieldrin contamination
19 Summit Street	12/13/05	06A/62A/19	200	5	1	0	30	0	280	dieldrin contamination (for sale)
2 Barton Hill Rd.	7/27/00	02A/47/33A	750	1	5	2	150	40	240	GH, 6000 sq', mus/apart/cl.s rm & banq. hall
3 Barton Hill Rd.	9/5/01	02A/48/31	450	3	1	2	30	40	220	Fire Hse, 8860 sq. (50% garage), bacteria
55 Main Street	3/31/97	02A/47/28	390	1	1	1	30	20	100	American Legion
105 Main Street	3/2/08	06A/57/3	1500	1	1	1	30	20	100	Library/Senior Cntr. Reclassified per DOHS

10 Total Properties	estimated demand	Safe Yield Calculation
	7515	1 well at 20 gpm
	7100	60
	-415	18.00
		21600
		avg day
		14500
		Water available
		7100
		gpd

**TOWN OF EAST HAMPTON  
AGENDA REPORT**

Town Manager Approval: \_\_\_\_\_



Item to be presented by: Jeffery J. O'Keefe

DATE: February 9, 2010

SUBJECT: Middle Haddam Historic District Revised Ordinance

DEPARTMENT: Town Managers Office

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**RECOMMENDED ACTION:**

After taking public input from the public hearing; consider adopting the revised Middle Haddam Historic District Ordinance as recommended by the Historic District Commission members and; as written by the Town's Attorney.

Staff recommends that the revised ordinance be adopted as proposed by the historic district commission members and as written by the Town Attorney.

**BACKGROUND**

Much debate has taken place concerning the revisions proposed by the Historic District Commission members and as written by the Town's Attorney.

The impetus for the revised ordinance was to bring it into alignment with State Statues and to define legally (in a narrative version) the exact boundaries of the District.

There are two matters that have arisen as a result of these proposed changes. The first concerned whether or not the Attachment 211 (which lists the original property owners included in the district) should remain as a part of the revised ordinance. It is important to note that this list was NEVER an exhibit or attachment referenced in the original 1977 Ordinance that was adopted on May 11, 1977 (see attached 1977 Ordinance). This list showed up in the ordinance when the Town embarked on codifying records in 2006 and in all probability should have never been included in the codification process. This is an important point for consideration. The Historic District Commission Members, as well as the Town's attorney, have highlighted the fact that this list has no "legislative" value in remaining in the ordinance. Few opponents argue that the list has intrinsic value in that it highlights their properties in the ordinance and argue that removal could possibly harm the values of the homes listed. The historic district commission members argue that the removal of this list would do no such thing. The list would remain as a reference document (as it always has) for any person interested in buying or selling in the Historic District and would remain an integral part of the Historic District's documents and files. The Town attorney has taken the position that keeping the list in the ordinance itself does no real harm (see attached memo), but could cause the casual reader of the ordinance to be confused, in that the list would not exactly match the descriptions proposed in the new ordinance. Furthermore, if someone wanted to update the "list" because it would continue to be a part of the ordinance itself; it would require a lengthy ordinance process change. This argument holds some merit as to why it should no longer be included in the ordinance.

EH: Clerks Office

AGENDA ITEM: \_\_\_\_\_

5C

The second item of concern has to deal with boundary line of the historic district itself. The original ordinance in 1977 (see attached) and current enacted ordinance both allude to the map submitted as the boundary lines. This map does not place this boundary line in the middle of the Connecticut River and there is no narrative in either ordinance indicating such. The only reference to the boundary line being in the middle of the Connecticut River is in the Study Committee report. The boundary line is highlighted by the map in the ordinance itself and has the boundary line at the shore line. It was updated in May of 2006, to clarify the boundary lines even further. The Town Clerk was directed to research the boundary lines concerns and found nothing, except the Study Committee report, which would support the boundary line being the middle of the Connecticut River (see attached report of Town Clerk). Proponents argue that the original boundary line of the Historic District is the Middle of the Connecticut River and have offered a document (Middle Haddam Historic District Study Committee report) that was submitted to the Town Council in 1977. There is no ordinance on record anywhere in the Towns Clerk files that this Middle Haddam Historic District Study Committee report was ever enacted in its entirety by a Town Ordinance. Additionally, because the river is statutorily regulated by the State; the Historic District Commission would have little say or even any enforcement capabilities of any matters relating to the river itself, though they still would have say in matters effecting any proposed developments on Land. Recognizing this; there appears to be little inherent value to changing the boundary lines in existence since 1977.

If it is decided by this Town Council, that they would like to change the boundary lines to the Middle of the Connecticut River, this proposed Ordinance would need to be redrafted and another public hearing held. But first all homeowners in the District would need to vote on changing the boundary lines of the district. In addition, the State of Connecticut, in all probability, would have to be included in the vote to add half of the river to the Historic District.

#### ALTERNATIVE ACTIONS

None requested at this time

#### FISCAL IMPACT

TOWN OF EAST HAMPTON  
AGENDA REPORT

Town Manager Approval:   
Item to be presented by: Jeffery J. O'Keefe

DATE: January 12, 2009  
SUBJECT: Middle Haddam Historic District Revised Ordinance  
DEPARTMENT: Town Managers Office

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RECOMMENDED ACTION

Review, discuss and schedule public hearing for January 26, 2009 for the adoption of the revised ordinance (see attached) for the Middle Haddam Historic District.

BACKGROUND

On several occasions discrepancies have arisen as to what are the exact boundary lines of the historic district and as to what properties are actually in the district. To better define the boundaries of the Middle Haddam Historic District, the Town taking advantage of the new GIS system, the Town directed Applied Geographic's to develop a map with references to Assessor's map/block/lot designations and designate all of the properties and boundary lines that form the District.

The proposed revisions to the ordinance accomplish the following:

- o It substitutes the new map for the Midstate Regional Planning Agency Map (attachment 1);
- o It amends the two sections of the ordinance (211-1 and 211-14) that refer to the map;
- o It amends 211-14 further to provide, with reference to Assessor's map/block/lot designations, all of the properties that form the boundaries of the District;
- o It deletes Attachments 2 and 3 in the existing Ordinance. Both of these attachments reference lots as designated on the original map and use outdated owner information.

Upon adoption the new map will be sent to the State for their files.

The Middle Haddam Historic District Commission endorsed the revised ordinance at their regularly scheduled meeting on Thursday September 24, 2009.

At the October 13<sup>th</sup> council meeting Council directed the Town Manager to get a legal opinion on whether or not removing the historic properties listed in the current ordinance would have any impact to those property owners who would no longer be listed in the revised ordinance. The Town Attorney's memo discussing this is attached.

ALTERNATIVE ACTIONS

Other direction as determined by the Town Council.

FISCAL IMPACT

None at this time

EH: Clerks Office

AGENDA ITEM: 603

Ordinance to Amend Historic Districts Ordinance

WHEREAS, the Ordinance entitled "Historic Districts" was first adopted by the legislative body of the Town of East Hampton on May 11, 1977; and

WHEREAS, said Ordinance established the boundaries of an historic district known as "Middle Haddam Historic District"; and

WHEREAS, said Ordinance established the boundaries of Middle Haddam Historic District by reference to and incorporation of a map prepared by Midstate Regional Planning Agency dated May 1976; and

WHEREAS, said map did not identify the properties within the boundaries of Middle Haddam Historic District by reference to Assessor's Map, Block and Lot numbers; and

WHEREAS, a new map has been prepared by Applied Geographics, Inc. which does identify said properties within the boundaries of Middle Haddam Historic District by reference to Assessor's Map, Block and Lot numbers; and

WHEREAS, the Town Council wishes to substitute the Applied Geographics, Inc. map for the Midstate Regional Planning Agency map in order to more definitively describe the properties within the boundaries of Middle Haddam Historic District; and

WHEREAS, nothing within this *Ordinance to Amend Historic Districts Ordinance* involves changing the boundaries of Middle Haddam Historic District; and

WHEREAS, certain additional revisions to the existing Ordinance are necessary in order to comply with current statutory requirements.

BE IT THEREFORE RESOLVED that the Town Council of the Town of East Hampton hereby amends the Historic Districts Ordinance, Chapter 211 of the East Hampton Code, by deleting the map prepared by Midstate Regional Planning Agency dated May 1976 and attached to the Ordinance as "211 Attachment 1", and substituting therefore the map prepared by Applied Geographics, Inc. dated August 2009.

BE IT FURTHER RESOLVED that the Town Council of the Town of East Hampton further amends said Ordinance by deleting the following language at the very end of § 211-1: "which map is incorporated herein by reference, and entitled 'Middle Haddam Historic District'" and substituting therefore the following language: "which map is incorporated herein by reference and entitled 'Middle Haddam Historic District Town of East Hampton Connecticut' dated August 2009 and prepared by Applied Geographics, Inc."

BE IT FURTHER RESOLVED that the Town Council of the Town of East Hampton further amends said Ordinance by deleting entirely the existing § 211-14 and substituting therefore the following new § 211-14:

"§ 211-14. Boundaries.

The boundaries of the Middle Haddam Historic District are shown on a map entitled 'Middle Haddam Historic District Town of East Hampton Connecticut' dated August 2009 and prepared by Applied Geographics, Inc. The following properties, identified by Assessor's Map Block and Lot Numbers, form the boundaries of Middle Haddam Historic District and are included within the District, as are all of the properties within said boundaries:

Northerly	01C/9/8A
	01C/9/6
	01C/10/3
	01C/10/11
	01C/10/13
	01C/11/1
	06/11/2A
	06/11/1
	06/12/8
Easterly	06/12/8A
	06/12/7B
	06/12/7A
	02C/12/7
	02C/12/5
	02C/12/2C
	02C/12/4
	02C/12/2
	02C/12/17
	02C/12/18
	02C/21/34-2
	02C/21/34-3
	02C/21/4A

07/21/7  
07/21/7B  
02/18/20A  
02/18/20-2A

Southerly 02/18/21-1C  
02/18/20-2B

Westerly 02/18/20-2A  
02/18/19B  
02C/18/16  
02C/18/1  
02C/19A/2A  
02C/19A/7A  
02C/19A/6  
02C/19A/4  
02C/19A/1  
02C/9/19  
02C/9/18  
02C/9/17  
02C/9/12-5  
02C/9/12-6  
02C/9/12A  
02C/9/12-7  
02C/9/12-8  
02C/9/12-9  
02C/9/12-10”

BE IT FURTHER RESOLVED that the Town Council of the Town of East Hampton further amends said Ordinance by deleting entirely the attachments labeled “211 Attachment 2 Town of East Hampton Historical Classifications of District” and “211 Attachment 3 Town of East Hampton Land Records as Registered in 1976 (prior to October 1) in East Hampton Tax Assessor’s Files”.

BE IT FURTHER RESOLVED that the Town Council of the Town of East Hampton further amends said Ordinance by incorporating the following revisions in order to comply with current statutory requirements:

Amend § 211-3 by deleting the second sentence and substituting the following sentence:  
The Commission shall fix the time and place of its regular meetings and provide a method for calling special meetings, in accordance with the Freedom of Information Act, § 1-210 et seq. of the General Statutes of Connecticut.

Amend § 211-3 by deleting the third sentence and substituting the following sentence:  
It shall adopt rules of procedure not inconsistent with the provisions of § 7-147a et seq. of the General Statutes of Connecticut.

Amend § 211-3 by deleting the last sentence and substituting the following sentence:

The Commission may adopt regulations not inconsistent with the provisions of § 7-147a et seq. of the General Statutes of Connecticut to provide guidance to property owners as to factors to be considered in preparing an application for a certificate of appropriateness.

Amend § 211-4 by adding a definition between "ALTERED" and "BUILDING:"  
APPROPRIATE — Not incongruous with those aspects of the historic district which the historic district commission determines to be historically or architecturally significant.

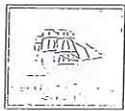
Amend § 211-6 by deleting the last sentence and substituting the following sentence:  
Notice of the time and place of such hearing shall be given by publication in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the Town of East Hampton not more than fifteen days nor less than five days before such hearing.

Amend § 211-8 by adding the following sentences at the end of A:  
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.

Amend § 211-8B by deleting the date of "May 11, 1977" and substituting the date of "October 1, 1973."

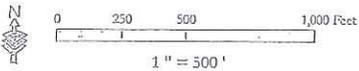
Delete § 211-15.

# MIDDLE HADDAM HISTORIC DISTRICT TOWN OF EAST HAMPTON CONNECTICUT



## Legend

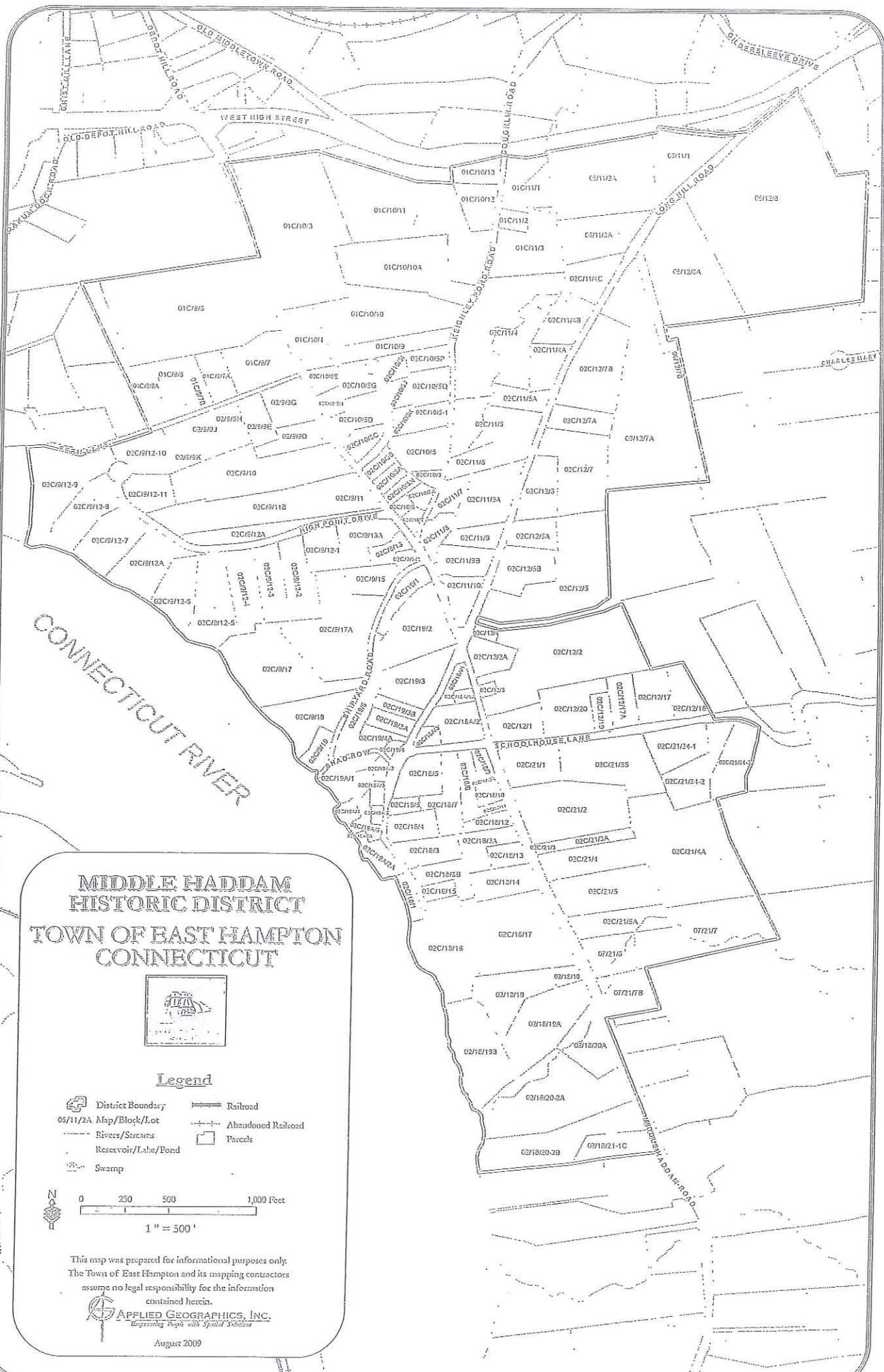
- District Boundary
- 05/11/2A Map/Block/Lot
- Rivers/Streams
- Reservoir/Lake/Pond
- Swamp
- Railroad
- Abandoned Railroad
- Parcels



This map was prepared for informational purposes only.  
The Town of East Hampton and its mapping contractors  
assume no legal responsibility for the information  
contained herein.

**APPLIED GEOGRAPHICS, INC.**  
*Empowering People with Spatial Solutions*

August 2009



# Memo

**To:** Jeffrey J. O'Keefe, Town Manager  
**From:** Sandi Wieleba, Town Clerk  
**Date:** 1/28/2010  
**Re:** Middle Haddam Historic District Ordinance

---

As per your request, I have reviewed the minutes, town attorney opinions and ordinances for the Middle Haddam Historic District. The minute books include the original Middle Haddam Historic Study Committee which was formed in 1976 as well as the original ordinance labeled 14.00 Ordinance Establishing Historic District and Historic Commission for the Town of East Hampton, which was adopted by the Town Council on May 11, 1977. The only reference to the boundaries of the Middle Haddam District is shown on a map entitled, "Middle Haddam Historic District, East Hampton, Conn."

The ordinance was updated in 1981, but it did not alter the boundaries originally set forth in the ordinance and map approved by the Town Council in 1977. Included in the minute books is:

- ✚ Information from the National Register of Historic Places which outlined the benefits of this organization.
- ✚ A "Draft Exp. 12/31/84" National Register of Historic Places Inventory – Nomination Form
- ✚ Two maps – one illustrating Contributing Buildings and Sites and the second illustrating Historic Archaeological Sites

The forms attached to this document were signed by Jan Cunningham; Executive Director of the Greater Middletown Preservation Trust dated April 29, 1983. In the documents was a description of property known as "Church #7, 1864 House #21, possibly ca. 1800" which states " To a great extent, the natural boundaries of the Connecticut River and Hog Hill generally define the boundaries of the National Register district today. The western boundary, however, is extended to the mid-line of the river (Middletown's corporate boundary) to include possible submerged remains of historic archaeological sites associated with shipbuilding". This is the only reference to the middle of the river being included in the historic district.

Another item in my office is a letter from Mark Kozikowski, Assistant Regional Planner from Midstate Regional Planning Agency (see attached) which confirms that only one set of boundaries were approved in 1977 and any reference to new boundaries was inaccurate. The map attached is the same map referenced above.

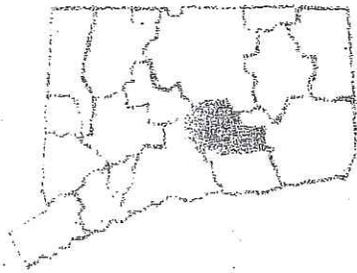
If the Middle Haddam Historic District Commission wishes to amend the ordinance for the Middle Haddam Historic District to include reference to the boundaries being altered, it would need to draft language for inclusion into the codified ordinance. The Town Council would have to hold a public hearing and approve this change.

Please let me know if you need any further information concerning this issue.

cc: Town Council  
Town Clerk ✓

# MIDSTATE REGIONAL PLANNING AGENCY

CROMWELL DURHAM EAST HADDAM EAST HAMPTON HADDAM MIDDLEFIELD MIDDLETOWN PORTLAND



P.O. BOX 139 MIDDLETOWN, CONNECTICUT 06457

TEL. 860 347-7214  
FAX. 860 347-6109  
mrpa@snet.net

May 24, 2006

Mr. Paul Loether, Director  
Historic Preservation & Museum Division  
59 South Prospect Street  
Hartford, CT 06106

Dear Mr. Loether:

On behalf of the Middle Haddam Historic District Commission, the Midstate Regional Planning Agency is submitting a map of the historical properties in the Town of East Hampton, Connecticut. Please replace the existing map filed with the Historic Preservation & Museum Division of the Connecticut Commission on Culture and Tourism. The previous map is incomplete, and the indication of "new boundaries" on the map is inaccurate. Only one set of boundaries were approved in 1977 and have not been altered since.

Enclosed are two copies the map of the Middle Haddam Historic District. One copy is for your division. Please submit the second copy to the National Register of Historic Places. Thank you.

Sincerely,

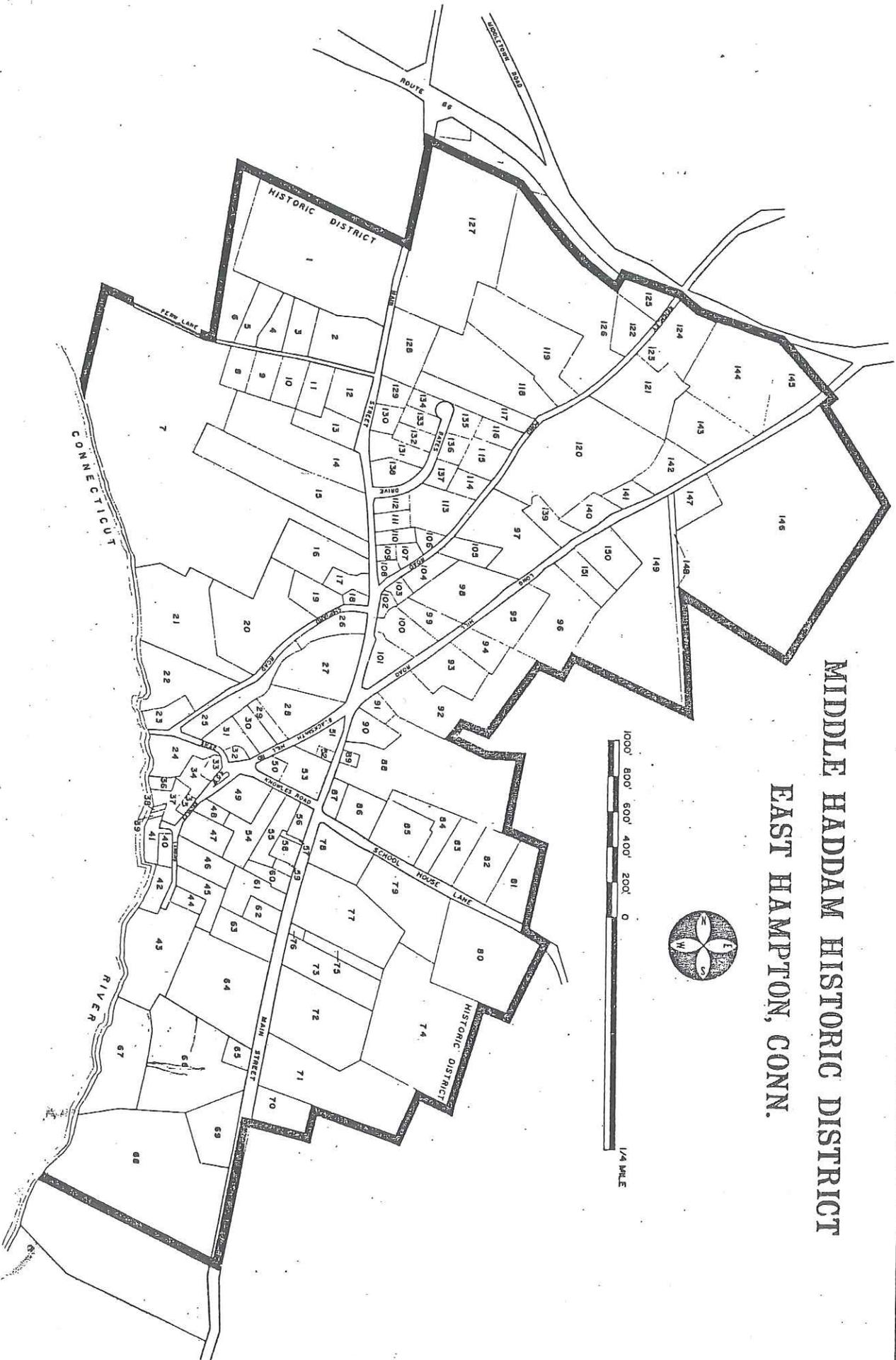
Marek Kozikowski  
Assistant Regional Planner

Enc.

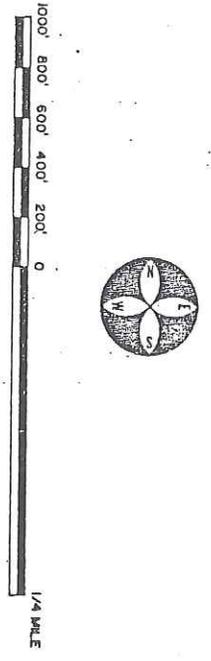
- cc. Gerald A. Peterson, Chairman, Middle Haddam Historic District Commission
- Alan H. Bergren, Town Manager, Town of East Hampton
- Dave Dodes, Town Planner, Town of East Hampton

GEOFFREY L. COLEGROVE  
EXECUTIVE DIRECTOR

AN EQUAL OPPORTUNITY EMPLOYER M/F



MIDDLE HADDAM HISTORIC DISTRICT  
EAST HAMPTON, CONN.



D'Aquila Law Offices, LLC  
547 Main Street - Suite 103  
Middletown, CT 06457  
Phone: (860) 704-0290 Fax: (860) 704-0545

TO: Jeffery J. O'Keefe, Town Manager, via fax no: 267-1027  
FROM: Attorney Jean M. D'Aquila  
DATE: October 21, 2009  
RE: Ordinance to Amend Historic Districts Ordinance

At your request, I have reviewed Ms. Margaret Faber's comment that the attachment to the above ordinance, labeled "211 Attachment 2 Town of East Hampton Historical Classifications of District" not be deleted from the Ordinance.

As you know, "211 Attachment 2" is an inventory of buildings within the district of historic significance by historical period, special architectural details, owners as of the date the inventory was compiled, and with reference to the lot number shown on the original map of the District prepared by Midstate Regional Planning Agency in 1976 ("211 Attachment 1"). As you also know, the proposed revisions to the ordinance include replacing that older map with a more revised version that identifies properties within the District by current Assessor's Map, Block/Lot information.

There is no statutory requirement that such an inventory be a part of the Ordinance. Our thought was that maintaining "211 Attachment 2" (and "211 Attachment 3" for that matter) within the Ordinance while substituting the new map containing different lot references would create confusion. Certainly, removing the inventory from the Ordinance does not mean that the valuable information on the inventory will be lost. The inventory would remain an important reference and source of information for the District and its Commission.

That said, there is also no statutory prohibition against including such an inventory within the Ordinance. If it is the recommendation of the Middle Haddam Historic District Commission ("MHHDC") that the inventory known as "211 Attachment 2" be maintained within the Ordinance, this would be acceptable. The MHHDC would have to keep in mind of course that the map references and owner names within the inventory are outdated as they proceed to perform their duties under the Ordinance.

A final word of caution: Ms. Faber offers that the inventory could be revised with little effort to include the lot numbers as shown on the new map and current street numbers instead of owners' names. While this may be true, it would take another Ordinance revision to incorporate those revisions. If the inventory remains a part of the Ordinance, it can only be amended by the Town Council via the Charter-required amendment process prescribed in Charter Section 2.4 et seq.

14.00 ORDINANCE ESTABLISHING HISTORIC DISTRICT  
AND HISTORIC COMMISSION FOR THE TOWN OF  
EAST HAMPTON  
LEGAL NOTICE

Sec. 1. To promote the educational, cultural, economic and general welfare and to preserve the antique rural atmosphere of the Town through the preservation and protection of buildings and places of historic interest by the maintenance of such as landmarks in the history of architecture and of the Town, and through the development of appropriate settings for such buildings, there is hereby established an Historic District in the Town, to be known as "Middle Haddam Historic District" and the boundaries of HISTORIC DISTRICT are shown on a map delineating the area involved, which map is incorporated herein by reference, and entitled "Middle Haddam Historic District."

PURPOSE

Sec. 2. An Historic District Commission is hereby established which shall consist of five members and three alternate members, none of whom shall hold a salaried public municipal office in said Town, to be appointed within fifteen days of the effective date of this ordinance by the Board of Selectmen in such a manner that one member be appointed for a term expiring on the first day of January 1978, one for a term expiring on January 1, 1979, one for a term expiring on January 1, 1980, one for a term expiring on January 1, 1981, and one for a term expiring on January 1, 1982, one alternate member for a term expiring on January 1, 1978, one alternate member for a term expiring on January 1, 1979, and one alternate member for term expiring on January 1, 1980. All subsequent appointments shall be made by the board of Selectmen and shall be for a term of five years except that an appointment to fill an unexpired term shall be for the duration of said unexpired term only. At all times at least three members and two alternate members of the Commission shall be residents within the Middle Haddam Historic District hereinabove established.

ESTABLISHMENT

OF

COMMISSION

Within a period of thirty days after the appointment of members of the first commission said members shall meet, organize and elect a Chairman, Vice-Chairman and a Clerk from its own members, and within a period not exceeding thirty days after the first of January of each succeeding year commencing in 1978 the members of the Commission shall elect a Chairman, Vice-Chairman and Clerk from its members. Alternate members shall not participate in any election of officers of the Commission. In all other matters, when a member of the Commission is unable to act at a particular time because of absence, sickness, disqualification by

ORGANIZATION

reason of personal interest, or other good reason, he shall notify the Chairman of the Commission and the Chairman shall designate an alternate member to serve in the place of such member. All members and alternates shall serve without compensation.

Sec. 3. The Commission shall have such powers, shall perform such functions and shall be subject to such limitations as shall from time to time be prescribed by the applicable General Statutes of Connecticut. The Commission shall fix the time and place of its regular meetings and provide a method for calling special meetings. It shall determine its own rules of procedure. The presence of four members or alternate members shall constitute a quorum, and no resolution or vote except a vote to adjourn or to fix the time and place of its next meeting shall be adopted by less than three affirmative votes. The Commission may adopt regulations, rules of procedure and orders to carry out the purpose of this ordinance.

POWERS

Sec. 4. No building or structure shall be erected altered, restored moved or demolished within the Middle Haddam 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, way or place. The style, material, size and location of outdoor advertising signs and bill posters within the Middle Haddam Historic District shall also be under the control 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.

CERTIFICATE

OF

APPROPRIATE

Sec. 5. (a) The Commission shall hold a public hearing upon each application for a certificate of appropriateness. Notice of 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 Village of Middle Haddam to be held at least seven days after the filing of an application as required by Section 4. The Commission shall pass upon such application and shall give written notice of its decision to the applicant. Evidence of approval, as referred to in Section 4, shall be certificate of appropriateness issued by the Commission. Failure of the Commission to act within sixty days shall constitute approval

HEARINGS

and no evidence of approval shall be needed. The Commission shall keep a record of all applications for certificates of appropriateness and of all its doings.

(b) In its deliberations the Commission shall not consider interior arrangement or use and shall take no action except for the purpose of preventing the erection, reconstruction, restoration, alteration or razing of buildings in the Middle Haddam Historic District obviously incongruous with the historic aspects of the District. The Commission shall set forth its reasons for approving or denying each application for a certificate of appropriateness in its written notice of its decision to the applicant and in the Commission record of its proceedings.

RESPONSE

Sec. 6. If the Commission determines that the proposed erection, construction, restoration, alteration or razing will be appropriate, it shall issue a certificate of appropriateness. In the passing upon appropriateness the Commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style and general design of the architectural features involved, and the relationship thereof to the exterior architectural style and pertinent features of other 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. A certificate of appropriateness may be refused for any building or structure, the erection, reconstruction, restoration, alteration or razing of which, in the opinion of the Commission would be detrimental to the interest of the Middle Haddam Historic District.

DETERMINING

APPROPRIATENESS

Sec. 7. Where, by reason of topographical conditions, District borderline situations, immediately adjoining existing developments or because of other unusual circumstances, the strict application of any provisions of Section 7-147a to 7-147l, inclusive, of the General Statutes of Connecticut (1963 Supplement) as amended, or of this ordinance 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, modifications or interpretation

VARIATIONS

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 variances, the Commission may impose such reasonable and additional stipulations and conditions as will in its judgment better fulfill the purpose of said sections.

Sec. 8. If any action or ruling taken by the Commission pursuant to the provisions of Sections 7-147a to 701471, inclusive, of the General Statutes of Connecticut (1963 Supplement), as amended, or pursuant to the provisions of this ordinance has been violated, the Commission may, in addition to other remedies, institute an action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, razing, maintenance or use to restrain, correct or abate such violation or to prevent the occupancy of such building, structure or land. Regulations and orders of the Commission issued pursuant to said sections of the General Statutes of Connecticut (1963 Supplement), as amended, or of this ordinance, shall be enforced by the Building Inspector of the Town of East Hampton, hereinafter referred to as the Building Inspector. The Building Inspector 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 the regulations or orders made under the authority of said sections of the General Statutes of Connecticut (1963 Supplement), as amended, or of this ordinance. The owner or agent of any building or premises where such a violation as been committed or exists, or the lessee or tenant of an entire building or entire premises where such violation has been committed or exists, or the owner, agent, lessee or tenant of any part of the building or premises in where such violation has been committed or exists, or the agent, architect, builder, contractor, or any other person who commits, takes part or assists in such violation, shall be fined not more than one hundred dollars for each day that such violation continues. However, if the offence is willful, the person convicted thereof shall be fined not more than one hundred fifty dollars for each day that such violation continues, and the circuit court for the District wherein such violation continues, or exists shall have jurisdiction of all such offenses, subject to appeal as in other cases. Each day that a violation continues to exist shall constitute a separate offense.

PREVENTING

ILLEGAL

ACTS

Sec. 9. Any person or persons severally or jointly aggrieved by any decision of the Commission or of any officer thereof may, within fifteen days from the date when such decision

APPEALS

was rendered, take an appeal to the Court of Common Pleas for Middlesex County, which appeal shall be made returnable to such court in the same manner as that prescribed for civil actions brought to such court. Notice of such appeal shall be given by leaving a true and attested copy thereof in the hands of or at the usual place of abode of the Chairman or Clerk of the Commission within twelve days before the return day to which such appeal has been taken. Procedure upon such appeal would be the same as that defined in Section 8-8 of the General Statutes of Connecticut (Revision of 1958) as amended.

Sec. 10. Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior feature in the Middle Haddam Historic District which does not involve a change of design thereof nor to 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; nor to prevent the construction, reconstruction, alteration or demolition of any such feature under a permit issued by the building inspector prior to the effective date of establishment of the District.

EXEMPTED

ACTS

Sec. 11. The boundaries of the Middle Haddam Historic District shall be as shown on a map, "Middle Haddam Historic District, East Hampton, Conn." attached hereto and incorporated and made a part of this ordinance.

BOUNDARIES

Sec. 12. This ordinance shall take effect 15 days after its publication in a newspaper having recognized circulation in the Town of East Hampton.

BOARD OF SELECTMEN

\_\_\_\_\_  
Eaton E. Smith, Chairman

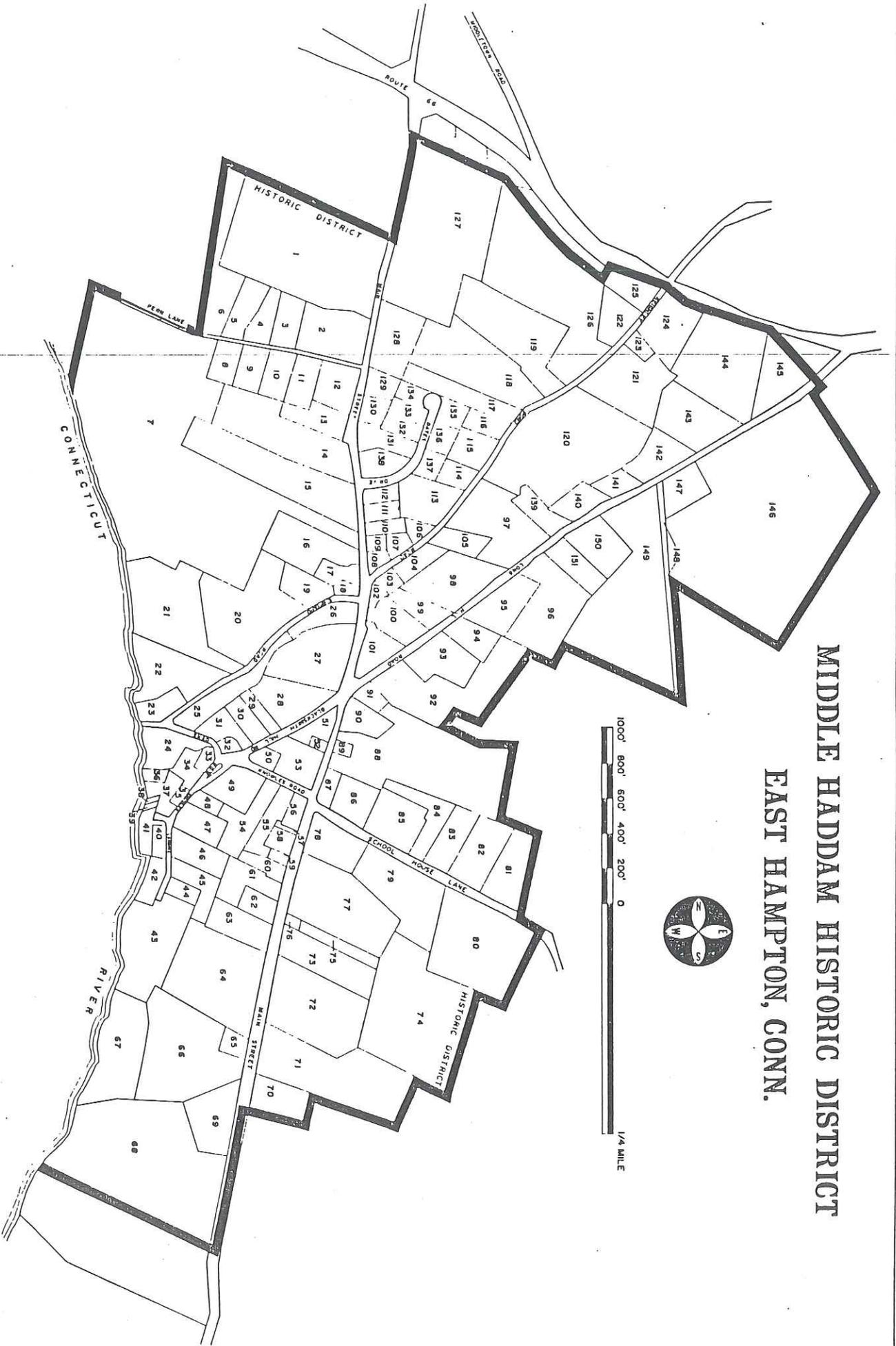
\_\_\_\_\_  
Robert L. McKinney

\_\_\_\_\_  
Edward S. G. Hicks, Jr.

\_\_\_\_\_  
Mary Ann Barton

\_\_\_\_\_  
Robert N. Ostergren

# MIDDLE HADDAM HISTORIC DISTRICT EAST HAMPTON, CONN.



PREPARED BY: MIDSTATE REGIONAL PLANNING AGENCY MAY 1976

O'Keefe, Jeff

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**From:** James Royster [jinoyster@sbcglobal.net]  
**Sent:** Tuesday, September 29, 2009 10:40 AM  
**To:** O'Keefe, Jeff  
**Cc:** Sirois, Cathy; Engel, Melissa  
**Subject:** Proposed Historic District Ordinance changes

Dear Mr. O'Keefe:

With reference to the Town Council's proposed changes to the Middle Haddam Historic District ordinance, as transmitted to me by your office via email on September 8, 2009, this is to inform you that the Middle Haddam Historic District Commission reviewed those proposals at its regular meeting on September 24, 2009, and voted to inform the Town Council that the commission has no additional comments or suggestions in connection with those proposed revisions.

Very truly yours,

James Royster  
Chair, MHHDC

9/29/2009

# Historic District Commission

Middle Haddam, Connecticut 06456

November, 1981

At a meeting of the East Hampton Board of Selectmen on September 4, 1981, a revised Historic District Ordinance was passed.

This Ordinance was revised to conform to revisions in the State Statute No. 80-314, as follows:

1. Sec. 2a - Members and alternates must be electors.
2. Sec. 2b - Votes of each member shall be recorded.
3. Sec. 4b - Clarifies order. Certificate of Appropriateness shall be issued prior to building permit.
4. Sec. 4c - Application to demolish building must state how property shall be left.
5. Sec. 5a - Notice requirement changed to conform with other public hearing requirements.
6. Sec. 6b - Certificate of Appropriateness necessary for parking for industrial, commercial, business, home industry or occupational parking.
7. Sec. 6c - Commission recommends adaptive reuse of buildings.
8. Sec. 7 - Commission must place on record reasons for variances.
9. Sec. 8b - Penalties changed from maximum \$100/day to minimum \$10/day and maximum \$100/day, willful violations changed from maximum \$150/day to minimum \$100/day, maximum \$250/day. Provides that fines be applied to restore buildings, structures and places to condition prior to the violation.

A copy of this ordinance follows, along with an instruction sheet for completion of Applications for Certificate of Appropriateness.

Homeowners are reminded that an Application for Certificate of Appropriateness is required before commencing the erection of a building or structure or any alteration of an exterior architectural feature, whether or not a building permit is required.

Tamzen MacKeown, Chairman  
Minor G. Kretzmer, Jr., Vice Chairman  
Lois E. McCutcheon, Clerk  
Curtiss S. Johnson, Jr.  
Theodore Hintz, Jr.  
Graydon B. Rich, Alternate  
John Nilsen, Alternate  
Jan Cunningham, Alternate

**MIDDLE HADDAM  
HISTORIC DISTRICT  
ORDINANCE**

## SECTION 1 - PURPOSE

To promote the educational, cultural, economic, and general welfare and to preserve and protect the distinctive characteristics of buildings and places associated with the history of the town or indicative of a period or style of architecture, there is hereby established an Historic District in the town, to be known as "Middle Haddam Historic District", and the boundaries of Historic District are shown on a map delineating the area involved, which map is incorporated herein by reference, and entitled "Middle Haddam Historic District".

## SECTION 2a - MEMBERSHIP AND RECORDS

This Historic District Commission established under the provisions of this act shall consist of five regular and three alternate members, who shall be electors of the town in which the district is situated holding no salaried municipal office. At least three members and two alternates of the Historic District Commission shall reside in the Historic District. Such alternate members shall, when seated as provided in this section, have all powers and duties of a member of the Commission. If a regular member of said Commission is absent or has a conflict of interest, the Chairman of the Commission shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

The Board of Selectmen shall make appointments to the Commission as follows: One member to be appointed for a term expiring January 1, 1982, one for a term expiring January 1, 1983, one for a term expiring January 1, 1984, one for a term expiring January 1, 1985, and one for a term expiring January 1, 1986, and one alternate member for a term expiring January 1, 1983.

one alternate member for a term expiring January 1, 1984, and one alternate member for a term expiring January 1, 1985. All subsequent appointments shall be made by the Board of Selectmen and shall be for a term of five years except that an appointment to fill an unexpired term shall be for the duration of said unexpired term only. The Commission shall elect annually a chairman, a vice-chairman, and a clerk from its own number. Each member and alternate shall continue in office until his successor is duly appointed. All members and alternates shall serve without compensation. Any member or alternate may be appointed for an additional term or terms.

SECTION 2b - The Historic District Commission shall keep a permanent record of its resolutions, transactions, and determinations and of the vote of each member participating therein.

#### SECTION 3 - DUTIES

The Commission shall have such powers, shall perform such functions and shall be subject to such limitations as shall from time to time be prescribed by the applicable general statutes of Connecticut. The Commission shall fix the time and place of its regular meetings and provide a method for calling special meetings. It shall determine its own rules for procedure. The presence of four members or alternate members shall constitute a quorum, and no resolution or vote except a vote to adjourn or to fix the time and place of its next meeting shall be adopted by less than three affirmative votes. The Commission may adopt regulations, rules of procedure and orders to carry out the purpose of this ordinance.

#### SECTION 4a - DEFINITIONS

As used in this ordinance: "act" means the provisions of Sections 7-147a through 7-147k of the general statutes, as the same may be amended from time to time. "altered" means

changed, modified, rebuilt, removed, demolished, restored, razed, moved, or reconstructed: "erected" means constructed, built, installed, or enlarged; "exterior architectural features" means such portions of the exterior of a structure or buildings as is open to view from a public street, way, or place; "building" means a combination of materials forming a shelter for persons, animals, or property; "structure" means any combination of materials, other than a building, which is affixed to the land, and shall include, but not be limited to, signs, fences, and walls; "municipality" means the Town of East Hampton.

#### SECTION 4b - CERTIFICATE OF APPROPRIATENESS

No building or structure shall be erected or altered within an historic district until after an application for a Certificate of Appropriateness as to exterior architectural features has been submitted to the Historic District Commission and approved by said Commission.

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

SECTION 4c - The Historic District Commission may request such plans, elevations, specifications, material and other information including, in the case of demolition or removal, a statement of the proposed condition and appearance of property after such demolition or removal, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application. The style, material, size, and location of outdoor advertising signs and bill posters within an historic district shall also be under the control of such Commission.

The provisions of this section shall not be construed to extend to the color of paint used on the exterior of any building or structure.

SECTION 5a - CERTIFICATE OF APPROPRIATENESS - HEARING APPROVAL NOTICE

The Historic District Commission shall hold a public hearing upon each application for a Certificate of Appropriateness unless the Commission determines that such application involves items not subject to approval by the Commission. The Commission shall fix a reasonable time and place for such hearing. Notice of the time and place for 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 twice, at intervals of not less than two days, the first not more than fifteen days nor less than ten days, and the last not less than two days before such hearing.

SECTION 5b- Within not more than sixty 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. 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 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.

SECTION 6a -CONSIDERATIONS IN DETERMINING APPROPRIATENESS

If the Commission determines that the proposed erection, alteration or parking will be appropriate, it shall issue a

Certificate of Appropriateness. In passing on appropriateness as to exterior architectural features, buildings or structures, the Commission shall consider, in addition to other pertinent factors, the type and style of exterior windows, doors, light fixtures, signs, 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. 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.

SECTION 6b - No area within an historic district shall be used for industrial, commercial, business, home industry, or occupational parking whether or not such area is zoned for such use, until after an application for a Certificate of Appropriateness as to parking has been submitted to the Commission and approved by said Commission. The provisions of this section shall apply to the enlargement or alteration of any such parking area in existence on May 11, 1977.

SECTION 6c - In its deliberations, the Historic District Commission shall act only for the purpose of controlling the erection or alteration of buildings, structures, or parking which are incongruous with the historic or architectural aspects of the district. The Commission shall not consider interior arrangement or use. However, the Commission may recommend adaptive

reuse of any buildings or structures within the district compatible with the historic architectural aspects of the district.

#### SECTION 7 - 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 provisions of 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 this ordinance or to interpret the meaning of this act so as to relieve such difficulty or hardship; provided such variance, modifications, or interpretation shall remain in harmony with the general purpose and intent of this act so that the general character of the district shall be conserved and substantial justice done. In granting variances, the Commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, better fulfill the purpose of this act. In addition to the filing required under the Act, the Commission shall, for each variance granted, place upon its records and in the notice to the applicant the reasons for its determination.

#### SECTION 8a - JUDICIAL RELIEF

If any provision of this act or any action taken or ruling made by the provisions of this ordinance or of any regulation or ordinance adopted under this act has been violated, the Commission may, in addition to other remedies, institute an action in the Superior Court for the judicial district wherein such violation exists, which court shall have jurisdiction to restrain such violation and to issue orders directing that the violation be corrected or removed. Such order may direct the

removal of any building, structure, or exterior architectural feature erected in violation of this act or any bylaw or ordinance adopted under this act or the substantial restoration of any building, structure, or exterior architectural feature altered or demolished in violation of this act or any regulation or ordinance adopted under this act. Regulations and orders of the Commission issued pursuant to this act, or to any regulation or ordinance adopted under this act, shall be enforced by the building inspector, 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 this act or of any regulation or ordinance adopted under this act.

#### SECTION 8b - VIOLATIONS

The owner or agent of any building, structure, or place where a violation of any provision of this ordinance has been committed or exists, or the lessee or tenant of an entire building, entire structure, or place where such violation has been committed or exists, or the owner, agent, lessee, or tenant of any part of the building, structure, or place in which such violation has been committed or exists, or the agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation or who maintains any building, structure, or place in which any such violation exists, shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each day that such violation continues; but if the offense is willful, the person convicted thereof shall be fined not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00) for each day that such violation continues. The superior court for the judicial district wherein such violation continues or exists

shall have jurisdiction of all such offenses, subject to appeal as in other cases. Each day that a violation continues to exist shall constitute a separate offense. All costs, fees, and expenses in connection with actions under this section may, in the discretion of the court, be assessed as damages against the violator, which, together with reasonable attorney's fees, may be awarded to the Historic District Commission which brought such action. Any funds collected as fines pursuant to this section shall be used by the Commission to restore the affected buildings, structures, or places to their condition prior to the violation wherever possible. Any excess shall be paid to the municipality in which the district is situated.

#### SECTION 9 - APPEALS

Any person or persons severally or jointly aggrieved by any decision of the Commission or of any officer thereof may, within fifteen days (15) from the date when such decision was rendered, take an appeal to the Superior Court for the Judicial District of Middlesex County, which appeal shall be made returnable to such court in the same manner as that prescribed for other civil actions brought to such court. Notice of such appeal shall be given by leaving a true and attested copy thereof in the hands of or at the usual place of abode of the chairman or clerk of the Commission within twelve days before the return day to which such appeal has been taken. Procedure upon such appeal would be the same as that defined in Section 8-8 of the General Statutes.

#### SECTION 10 - EXCEPTIONS

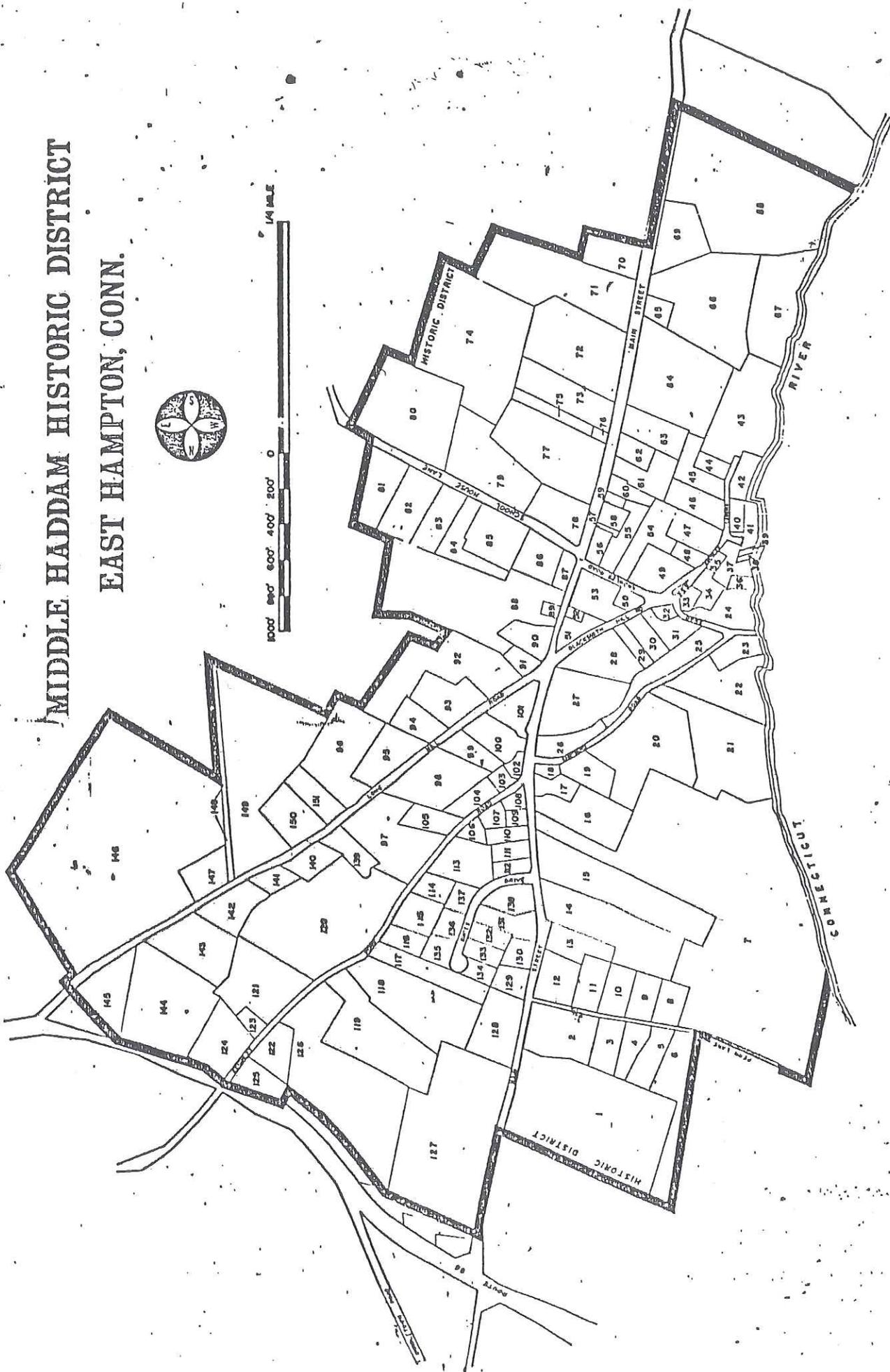
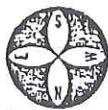
Nothing in this act shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the historic district which does not involve a change in

the appearance or design thereof; nor to prevent the erection or alteration of any such feature which the building inspector or a similar agent certifies is required by the public safety because of a condition which is unsafe or dangerous due to deterioration; nor to prevent the erection or alteration of any such feature under a permit issued by a building inspector or similar agent prior to the effective date of establishment of such district.

SECTION 11 - The boundaries of the Middle Haddam Historic District shall be as shown on a map, "Middle Haddam Historic District, East Hampton, Conn." attached hereto and incorporated and made a part of this ordinance.

SECTION 12 - This ordinance shall take effect on SEPTEMBER 4, 1981.

# MIDDLE HADDAM HISTORIC DISTRICT EAST HAMPTON, CONN.



# Historic District Commission

Middle Haddam, Connecticut 06456

## INSTRUCTIONS FOR PREPARATION OF APPLICATION FOR CERTIFICATE OF APPROPRIATENESS

1. Applications available at Middle Haddam Post Office.
2. Applications required whether or not a building permit is required, but prior to obtaining a building permit.
3. Applications must be received by the Commission fifteen (15) days prior to regular meeting to allow sufficient time for publication of legal notices if a public hearing is to be held.
4. Meeting of the Commission are held on the first Wednesday of each month at 7:30 p.m. at Middle Haddam Post Office.
5. Fill out application in full, being sure to include the following:
  1. Date of application
  2. Full and complete description of proposed work
  3. Full and complete description of all materials to be used
  4. Exhibits:
    - a. Photo of proposed work area
    - b. Architect's drawing or to-scale plan of proposed work with dimensions
    - c. Plot plan with siting of present and proposed structures
  5. When existing materials are to be replaced, a written description is adequate.
6. Mail application to:

Middle Haddam Historic District Commission  
P. O. Box 210  
Middle Haddam, Connecticut 06456

Code: \_\_\_\_\_

Town of East Hampton, Connecticut  
MIDDLE HADDAM HISTORIC DISTRICT COMMISSION

APPLICATION FOR CERTIFICATE OF APPROPRIATENESS

Application Number \_\_\_\_\_

Application Date \_\_\_\_\_

Date of Receipt by Commission \_\_\_\_\_

Application is hereby made for the issuance of a Certificate of Appropriateness under an "Ordinance Establishing An Historic District and Historic Commission for the Town of East Hampton" effective June, 1977, as amended, and enacted pursuant to the enabling authority contained in Public Act No. 430 of the 1961 session of the Connecticut Assembly, for proposed work as described in detail below and as set forth on accompanying exhibits.

[Please Print]

Applicant \_\_\_\_\_ Telephone \_\_\_\_\_

Applicant's Address \_\_\_\_\_

Address of Proposed Work \_\_\_\_\_

Owner \_\_\_\_\_ Telephone \_\_\_\_\_

Agent or Contractor \_\_\_\_\_ Telephone \_\_\_\_\_

Approximate Date of Original Structure \_\_\_\_\_

General Description of Proposed Work:

List of Materials to be Used:

\*List of Attached Exhibits:

\*It is recommended that the applicant submit plans, photographs, drawings, sketches or other such exhibits to aid the commission in its evaluation of the application.

\_\_\_\_\_  
Signature of Applicant