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**VILLAGE DISTRICTS VS. HISTORIC DISTRICTS**

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You asked for background on village districts and local historic districts and a discussion of the advantages and disadvantages of using the two approaches to promote economic development.

**SUMMARY**

State law allows municipalities to establish village districts and local historic districts, and either approach can be used to promote economic development. A municipality can simultaneously use both approaches, and at least one municipality is doing so. Both involve greater local control over the design and construction, or rehabilitation of buildings. But they differ in with respect to the steps a town municipality must follow to create them.

A municipality can establish a village district by amending its zoning regulations. The law specifies the scope of the regulations and requires that all development in the village district be designed to be compatible with other uses in the immediate neighborhood. It requires that all applications for new construction and substantial reconstruction in the district that are visible from the road be subject to review by an architect selected by the commission. Traditional zoning does not usually incorporate such reviews.

Establishment of a local historic district requires the passage of an ordinance following a study of the proposed district and the vote of property owners in the affected area in which at least two-thirds vote in favor of creating the district. If the district is authorized, the municipality must establish a historic district commission, which can adopt regulations.

If the district is created, the erection of new buildings and demolition of existing buildings require a certificate of appropriateness from the commission, as does the alteration of exterior architectural features of existing buildings. The law specifies the factors the commission must and may consider in making its decision. The commission can seek a restraining order if anyone violates its rulings or regulations. The court can order the

removal of any building or architectural feature erected in violation of the law or the substantial restoration of a building or feature that was altered or demolished in violation of the law. Violators are subject to a fine.

The major advantages of the village district approach are (1) it may be easier to establish a village district than a local historic district and (2) establishing a village district can give the municipality a broader range of powers with regard to development within the district. On the other hand, there are state and national groups that can help develop historic districts, while there are no comparable advocates for village districts. In addition, because the historic district law was adopted in 1961, it has developed a substantial body of case law defining its scope. In contrast, we are aware of no case law regarding the village district law, which was adopted in 1998.

## **LAW REGARDING VILLAGE DISTRICTS AND HISTORIC DISTRICTS**

### ***Village Districts***

**Creation.** CGS § 8-2j authorizes zoning commissions to adopt regulations to create village districts and protect their distinctive character, landscape, and historic structures. If a municipality establishes a district, the regulations must provide that:

1. proposed buildings and modifications to existing buildings be harmonious with their surroundings and their terrain, and to the use, scale, and architecture of nearby buildings to which they are functionally or visually related;
2. spaces and structures visible from the road be designed to enhance the visual amenities in the area around the proposed building or modification;
3. the characteristics of residential or commercial property, such as its color and materials, be evaluated for their compatibility with the local architectural motif, and the maintenance of views, historic buildings, monuments, and landscaping; and
4. removal of or disruption to historic, traditional, or significant structures or architectural elements be minimized.

**Compatibility Objectives.** Under the law, all development in the district must be designed to meet various compatibility objectives. Among other things (1) the arrangement and orientation of any proposed building or site improvement must be similar to those in the immediate neighborhood; and (2) exterior signs, lighting, and accessory structures must support a uniform architectural theme and present a harmonious relationship to the neighborhood.

**Architectural Review.** Under the law, all applications for new construction and substantial reconstruction in the district that are visible from the road must undergo architectural review. An architect or architectural firm, contracted by the commission and designated as its consultant for the application, must conduct the reviews and submit its recommendations to the commission within 35 days after the commission receives the application. The consultant's report must be entered into the public hearing record and the commission must consider it in making its decision. But, the consultant's failure to report on time does not affect any other time limit imposed by zoning regulations.

A few municipalities have established village districts, including Brooklyn, Madison, and Middletown. The Middletown regulation (Middletown Planning and Zoning Code Sec. 39d) is

available online at <http://www.middletonplanning.com/pzcode39d.html>. A number of other municipalities are considering forming village districts, including Kent, Norwalk, and Washington.

### **Local Historic Districts**

**Creation.** A municipality may create a local historic district under CGS § 7-147a *et seq.* to promote the educational, cultural, economic, and general welfare of the public through the preservation and protection of the distinctive characteristics of buildings and places associated with the history of the municipality, state, or nation, or a particular architectural style or period. There are currently more than 110 local districts in 66 municipalities. Federal law provides for the establishment of national historic districts, but such districts only provide limited benefits for owners of property in the district and do not regulate private developments there.

In order to establish a local district, the municipality must first appoint a study committee, which must develop (1) an analysis of the historical significance and architectural merits of the buildings in the proposed district and the significance of the district as a whole; (2) a general description of the area to be included in the district, including a list of buildings by age; (3) a map showing the boundaries of the proposed district; and (4) a proposed ordinance to create the district. Copies of the report must be sent to the state historical commission and relevant local agencies and officials for their comment.

The study committee must hold a public hearing on the proposed district and report to the municipality's legislative body within 65 days of the hearing. The town clerk, within 65 days of receiving this report, must send a ballot out to all of the property owners in the district. If two-thirds of the property owners voting vote in favor of creating a district, the municipality must (1) enact an ordinance to create the district, (2) reject the committee's report, stating its reasons for the rejection; or (3) return the report to the study committee with recommended amendments.

If the district is created, the study committee goes out of existence and the municipality must form a five-member historic district commission to administer it. At least one of the members must live in the district, if there are residents willing to serve. The commission can adopt regulations, so long as they are consistent with state law. The zoning enforcement officer, building official, or other person designated by the ordinance is responsible for enforcing these regulations.

**Certificates of Appropriateness.** The mechanism the commission uses to regulate development in the district is the certificate of appropriateness. The following actions require a certificate of appropriateness from the historic district commission: (1) the erection of a new building or alteration of existing building within the district, (2) the issuance of a building permit for such actions, and (3) the issuance of a demolition permit for a building in the district. In the case of alterations, the review must address the exterior architectural features of the building. A certificate of appropriateness is also needed for the use of land for non-residential parking. This requirement also applies to the alteration or expansion of any such existing parking within the district. These provisions are not meant to prevent ordinary maintenance that does not change the appearance of an exterior architectural feature, compliance with a building inspector's order regarding public safety, or actions taken under a building permit issued before the district is established.

The commission must hold a hearing on the certificate application and make its decision within 65 days of the filing of the application. Inaction by the commission constitutes approval.

In making its decision, the commission must consider a wide range of factors, including the type and style of windows and doors, signs, and the type and style of building materials. It may consider other factors, such as the design and significance of the affected architectural features and their relationship to the style and features of other buildings in the immediate neighborhood. A certificate may include stipulations requiring design modifications so long as they do not significantly impair the feature's effectiveness. In reviewing parking lots, the commission must consider the size of the lot, visibility of cars, and the lot's proximity to nearby buildings. The commission's decision can be appealed to the courts.

The commission can seek a restraining order if anyone violates its rulings or regulations. The court can order the removal of any building or architectural feature erected in violation of the law or the substantial restoration of a building or feature that was altered or demolished in violation of the law. Violators are subject to a fine of \$10 to \$100 per day of violation; if the violation is willful, the penalty is a fine of \$100 to \$250 per day.

The commission can grant variances when, due to unusual circumstances, strict application of the law would result in exceptional practical difficulty or undue hardship on the owner of a particular parcel.

## **ADVANTAGES AND DISADVANTAGES OF THE TWO APPROACHES**

Municipalities can use both approaches to make an area more attractive for businesses, shoppers, and residents by preserving its historic features, making the appearance of its buildings in the district more coherent, and increasing the district's sense of place. The two approaches are not mutually exclusive. Madison, which has a village district in its center, is developing a local historic district that will overlap it.

If the municipality is seeking to promote economic development by taking advantage of an area's historic character, the historic district approach may be the more suitable option. While historic preservation is a major purpose of the village district law, establishment of a village district does not guarantee that construction and alterations in the district will be historically accurate.

### ***Advantages of Village Districts***

Village districts may be easier to form than local historic districts, since the former requires only the adoption of municipal regulations while the latter requires a vote of two-thirds of the affected property owners as well as a study and a vote by the municipality's legislative body. According to a number of historic preservation advocates and municipal planners, it can be difficult to get the vote of the affected owners if they believe that creating a district would unduly limit their ability to develop their property. On the other hand, getting the support needed to create a historic district may increase the commitment of the affected parties to maintain it.

In several ways, the law gives municipalities greater powers with regard to village districts than they have with regard to historic districts. While historic district commissions have jurisdiction over physical changes to existing buildings within the district, the ordinance creating a village district can also cover (1) maintenance of public views; (2) design, paving materials, and placement of public roads; and (3) other elements the commission considers

appropriate to maintain and protect the district's character. Village district regulations can cover open spaces as well as buildings, while historic district regulations only cover the latter.

The village district regulations can be integrated into the existing zoning regulations. The commission could allow for example, a new development that does particularly well in its architectural review might be given zoning incentives. The commission could allow the developer to build a taller building or a building that covers a larger proportion of the lot than the zoning regulations normally allow.

### ***Advantages of Historic Districts***

The main advantage to creating Historic Districts is that there are several groups that provide technical resources and assistance to groups while there are no such groups that serve as advocates and resources for people interested in village districts that want to form them the group providing technical resources include Connecticut and National Trusts for Historic Preservation. The fact that so many Connecticut municipalities have already adopted local districts also means that a group seeking to form a new district would be able to draw upon their experiences. In addition, as noted above, the historic district law has been in existence for a longer period of time than the village district law. There is a body of case law on what historic districts can and cannot do, while this is not the case for village districts.

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