

**(Proposed) LOCAL HISTORIC PROPERTY ORDINANCE  
TOWN OF DURHAM HISTORIC PROPERTIES STUDY COMMITTEE  
(August 3, 2016)**

**Section 1: Purpose.**

- (a) The Town of Durham, seeking to promote the educational, cultural, economic and general welfare of the public through the preservation and protection of the distinctive characteristics of individual buildings and places of historical or architectural significance, hereby accepts the Study Report of the Historic Properties Study Committee, dated [date] and endorses the Study Committee's recommendation to designate the following property as a Historic Property in conformance with the standards and criteria formulated by the Connecticut Commission on Culture and Tourism, and pursuant to Connecticut General Statutes, Chapter 97a, Sections 7-147p through 7-147y, inclusive, as amended, and incorporates all the powers and duties described therein.
- (b) The designated Historic Property is located at 105 Middlefield Rd. in Durham, contains 13.09 acres more or less, and includes a historic wood-frame residence commonly known as the Thomas Lyman House. The property is identified by the Town of Durham Assessors as "Parcel W0258900" and labeled Parcel 12 on Map 15 of the Town of Durham tax maps.
- (c) The property boundaries are defined by Quit Claim Deed, recorded on July 27, 2015, Volume 269, page 389 of the Durham Land Records, and detailed below:

**EXHIBIT A**

Property Description

**FIRST PIECE:** A certain piece or parcel of land containing about one and one half (1-1/2) acres of land and known as the Homestead of the late Frances S. Banks, including the homestead standing thereon. Said parcel of land being bounded on the North by land formerly of August Otte, later of Aviano; on the East and South by other land now or formerly of Homer L. Johnson, and on the West by the highway leading from Durham to Middlefield and formerly called "Crooked Lane."

**SECOND PIECE:** Known as the New Orchard Lot and containing about one and one-half (1-1/2) acres of land and bounded on the North and West by land now or formerly of Aviano and on the East by the Third Piece hereinafter described, being a triangular piece.

**THIRD PIECE:** A certain parcel of land containing about four (4) acres and used as a pasture, bounded on the North by land now or formerly of Aviano; on the East by land now or formerly of William A. Parsons and land now or formerly of William H. Bahrenburg, Jr., and on the South by land now or formerly of Homer L. Johnson, and on the West by the Second Piece or New Orchard Lot, so-called.

**FOURTH PIECE:** Being all interest in a certain passageway or approach to the Old Barn now no longer standing on the property.

For title to the above parcels see deeds recorded in Vol. 49, Page 146, Vol. 48, Page 403, and Vol. 45, Page 404, Durham Land Records.

**FIFTH PIECE:** A certain piece of land bounded Northerly by land formerly of the Frances S. Banks estate and known as the Homestead and partly by the Pasture Lot, both herein conveyed; Easterly by land formerly of the Frances S. Banks estate and known as the Long Lot, and now or formerly owned by William H. Bahrenburg, Jr.; Southerly by land formerly of Lafayette Rush and now or formerly of William H. Bahrenburg, Jr., and Westerly by land formerly of Frances S. Banks estate and known as the Homestead property and by the highway leading to Middlefield, formerly known as "Crooked Lane," including all right, title and interest in the property at one time known as the Front Lot and the Barn Lot and including the yards, laneways, and parcel of land where the old barn stood, and all situated southerly, southeasterly and easterly of the Homestead at one time owned by Frederick Lyman, but later owned by Frances S. Banks.

For title to the said Fifth Parcel of land, see deed recorded in Vol. 35, pages 14 and 15 of the Durham Land Records.

There is excluded however from the above description a parcel of land 25 feet wide on the south side and conveyed to William H. Bahrenburg, Jr., by deed recorded in Vol. 44, Page 372 Durham Land Records, being a part of the Fifth Piece.

## **Section 2: Definitions.**

As used in this ordinance, the following definitions shall apply.

"Altered" means changed, modified, rebuilt, removed, demolished, restored, razed, moved or reconstructed;

"Building" means a combination of materials forming a shelter for persons, animals or property;

"Certificate of appropriateness" means the documented approval of proposed work on the Historic Property after review by the Historic District Commission;

"Erected" means constructed, built, installed or enlarged;

"Exterior architectural features" means such portion of the exterior of a structure or building as is open to view from a public street, way or place;

"Historic property" means any individual building, structure, object or site that is significant in the history, architecture, archaeology and culture of the state, its political subdivisions or the nation and the real property used in connection therewith, and specifically the land and buildings listed above;

“Historic property commission” means the municipal commission established and authorized under this ordinance pursuant to CGS Chapter 97a, Sections 7-147p through 7-147y, inclusive;

"Municipality" means the incorporated Town of Durham and its various departments, agencies, commissions, and officials.

"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.

### **Section 3: Historic Properties Commission.**

(a) The Town of Durham authorizes the existing Durham Historic District Commission to perform the duties and responsibilities of the Historic Properties Commission pursuant to Connecticut General Statutes, Chapter 97a, Section 7-147r through 7-147y, inclusive.

(b) The Historic Properties Commission may from time to time, in accordance with section 7-147q, initiate the designation of additional historic properties or the enlargement of the boundaries of an existing historic property.

### **Section 4: Certificate of Appropriateness.**

(a) No building or structure located within the boundaries of an Historic Property shall be erected or altered until after an application for a Certificate of Appropriateness as to exterior architectural features has been submitted to the Historic Properties Commission and approved by such commission.

b) No earthworks or site of recognized historic or archaeological importance within the boundaries of an Historic Property shall be altered until after an application for a Certificate of Appropriateness has been submitted to the Historic Properties Commission and approved by said commission.

(c) No building permit for erection of a building or structure or for alteration of an exterior architectural feature within the boundaries of an Historic Property and no demolition permit for demolition or removal of a building or structure within the boundaries of an Historic Property 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.

(d) The style, material, size and location of any outdoor advertising signs or bill posters within the boundaries of an historic property shall also be under the control of such commission.

(e) 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.

(f) No area within the boundaries of an Historic Property 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.

### **Section 5: Procedures for Application and Review.**

(a) The Historic Properties 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.

(b) In reviewing and acting upon applications for Certificates of Appropriateness, the Historic Properties Commission shall follow the procedures set forth in section CGS Chapter 97, Section 7-147e for use by historic district commissions in reviewing applications for certificates of appropriateness affecting historic districts.

(c) Except as otherwise provided in this part, in reviewing and acting upon applications for certificates of appropriateness, the Historic Properties Commission shall apply the same standards and take into account the same considerations as set forth in CGS Chapter 97a, Section 7-147f for use by historic district commissions in reviewing applications for certificates of appropriateness affecting historic districts.

(d) In passing upon the appropriateness of alterations to earthworks or sites of historic or archaeological importance, the commission shall consider, in addition to any other pertinent factors, their value and significance, size, design, arrangement, texture and materials. In its deliberations, the Historic Properties Commission shall act only for the purpose of controlling the erection or alteration of buildings, structures, objects, sites or parking that are incongruous with the historic or architectural aspects of the Historic Property.

(e) Where, by reason of topographical conditions or location or because of other unusual circumstances, the strict application of any provision of this part would result in exceptional practical difficulty or undue hardship upon the owner of the Historic Property, the commission in passing upon applications shall have power to vary or modify strict adherence to the provisions of this part, provided such variance or modification shall remain in harmony with the general purpose and intent of this part so that the historic and architectural aspects of the Historic Property shall be conserved. In granting variances or modifications, the commission may impose such reasonable stipulations and conditions as will, in its judgment, better fulfill the purposes of this part. The commission shall, for each variance or modification granted, place upon its records and in the notice to the applicant the reasons for its determinations.

### **Section 6: Actions to Prevent Illegal Acts; Appeals; Exempted Acts; Demolition.**

(a) If any provision of this municipal ordinance or of CGS Chapter 97a, Sections 7-147p through 7-147y, inclusive, or any action taken or ruling made by the Historic Properties Commission pursuant to the provisions of this part or any regulation or ordinance adopted

pursuant to this part, has been violated, the Historic Properties Commission shall have, in addition to other remedies, those remedies available to historic district commissions as provided in CGS Chapter 97a, Section 7-147h.

(b) Any person or persons severally or jointly aggrieved by any decision of the Historic Properties Commission or of any officer thereof may appeal such decision in the same manner and according to the same procedure as set forth in CGS Chapter 97a, Section 7-147i for appeals from the decisions of the historic district commissions.

(c) Nothing in this part shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature within the boundaries of an Historic Property 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 designation of such Historic Property.

(d) If a building within the boundaries of an Historic Property is to be demolished, no demolition shall occur for ninety days from issuance of a demolition permit if during such time the historic properties commission or the Connecticut Commission on Culture and Tourism is attempting to find a purchaser who will retain or remove such building or who will present some other reasonable alternative to demolition. During such ninety-day period the municipality may abate all real property taxes. At the conclusion of such ninety-day period, the demolition permit shall become effective and the demolition may occur. Nothing in this section shall be construed to mandate that the owner of such property is under any obligation to sell such property or building.

### **Section 7: Statutory References.**

Any references herein to any section of the Connecticut General Statutes shall be deemed to refer to such statutes as the same may be amended from time to time.